

**Regular City Council Meeting
November 7, 2016**

1. Agenda Only

Documents:

[AGENDA ONLY 2016-11-07.PDF](#)

2. Agenda And Packet

Documents:

[AGENDA AND PACKET 2016-11-07.PDF](#)

3. Addendum To Order 59 (Tab 6)

Documents:

[ADDENDUM TO ORDER 59.PDF](#)

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK(A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
NOVEMBER 7, 2016

The Portland City Council will hold a regular City Council Meeting at 5:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

Portland Cub Scout Pack 66 will present the Pledge of Allegiance.

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) October 17, 2016, Regular City Council Meeting Minutes

PROCLAMATIONS:

Proc 14-16/17 **Proclamation Honoring Police Officers Kate Phelan and Zach Grass
(Tab 2) as Police Officers of the Month for September 2016 – Sponsored by
Mayor Ethan K. Strimling.**

APPOINTMENTS:

CONSENT ITEMS:

Order 77-16/17 **Order Declaring the Portland Downtown Light Up Your Holidays
(Tab 3) Festival – Sponsored by Jon P. Jennings, City Manager.**

This order declares Portland Downtown Light Up Your Holidays Festival to be held Fridays, November 25, December 2, 9, 16, 2016; Saturdays, November 26, December 3, 10, 17, 2016; and Sundays, November 27, December 4, 11, 18, 2016; and Thursday, December 8, 2016. Friday, November 25 is the Monument Square Tree Lighting. Thursday, December 8 is Merry Madness.

The Monument Square Tree Lighting will be held on Friday, November 25, 2016, from 5:00 to 6:45 p.m. The tree lighting ceremony will be held in Monument Square and on Congress Street.

Public Assembly Facilities Division and the Police Department will provide a special bus travel lane on Congress Street during the tree lighting setup and removal to allow bus access on the closed portion of Congress Street between Elm Street and Preble Street.

Horse-drawn wagon rides in the downtown and Old Port area will begin November 25 and go through December 18 on Fridays from 4:00-8:00 p.m., Saturdays from 2:00-6:00 p.m., and Sundays from 1:00 p.m. to 5:00 p.m.

This year two VIP sponsor rides have been added. Friday, December 2 from 2:00-4:00 p.m. and Saturday December 10 from 12:00-2:00 p.m. pick up and drop off will be at the intersection of Exchange and Middle Streets.

Merry Madness will be held on Thursday, December 8 from 4:00-6:00 p.m. The event will take place on Federal Street between Temple and Exchanges Streets. A large free-standing tent will be erected on Federal Street. Portland House of Music will expand their alcohol service to the tent area where wine can be consumed by adults 21 years or older. Participants would purchase the wine inside the Portland House of Music and then be allowed to take it to the tent area.

Street closures are included in the agenda backup material.

Five affirmative votes are required for passage after public comment.

LICENSES:

Order 78-16/17 (Tab 4)

Order Granting Municipal Officers' Approval of Forq LLC d/b/a Fork Food Lab. Application for a Class III & IV Beer and Wine Restaurant at 270 Lancaster Street – Sponsored by Michael Russell, Permitting and Inspections Director.

Application filed on 10/6/2016. Applicant holds a current Food Service Establishment License and is upgrading to include beer and wine.

Five affirmative votes are required for passage after public.

Order 79-16/17 (Tab 5)

Order Granting Municipal Officers' Approval of Minato, LLC d/b/a Izakaya Minato. Application for a Class I License with Outdoor Dining on Public Property at 54 Washington Avenue – Sponsored by Michael Russell, Permitting and Inspections Director.

Application submitted on 9/22/16. New City and State applications. Current location of Falmouth Flowers and Gifts.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 59-16/17 (Tab 6)	Order Appropriating Funds from the Sale of City-Owned Bayside Property on Somerset Street – Sponsored by Jon P. Jennings, City Manager.
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The Finance Committee reviewed this item at its October 27, 2016 meeting and voted 3-0 to forward this item to the City Council with a recommendation for passage.

In June 2016 the Federated Companies, LLC purchased parcels of property from the City in the Bayside neighborhood. This order appropriates One (1) Million Dollars towards the move of Public Works out of the Bayside neighborhood to Canco Road and One (1) Million Dollars towards the funding of RFP #5116 – Proposal for Public Administration Systems Software.

This item must be read on two separate days. It was given a first reading on September 19, 2016. At the October 5, 2016, Council meeting this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

Order 59A-16/17 (Tab 7)	Order Approving the Agreement with Tyler Technologies, Inc. for Public Administration Systems Software – Sponsored by Jon P. Jennings, City Manager.
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In March, 2016, the City released a Request for Proposals for public administration systems software. City Employees have been using a system purchased in 1996, which has been a source of frustration and has caused various inefficiencies for both city employees and the public. The company that the City bought the system from is presently called Sungard Naviline. Sungard Naviline was recently purchased by Fidelity Investments and did not present the City with a proposal. Support for its financial software may be discontinued.

While the Information Technology Department has provided solutions to problems that have cropped up over the years, assisting employees in completing their work and winning the City's appreciation for its creative strategies, the implementation of a modern software system would allow coordinated platforms and a more efficient use of time.

The budget process, the production of finance reports, grant reporting, payments of bills and payment of the City payroll could all be accomplished more quickly and accurately with modern software across all these functions.

In summary, the adoption of new public administration software is a significant investment which is long overdue. The one-time cost of the software alone is approximately \$500,000, despite a 60% discount. This discount was increased significantly during negotiations due in part to the attractiveness of the City as a premier client based within 15 miles of Tyler's Falmouth and Yarmouth headquarters. When implementation and data conversion costs are added in, the one-time cost totals \$2,038,000. While these costs are usually paid up front, Tyler has agreed to phase this cost over three years. They have also discounted annual maintenance by 20%, resulting in a manageable impact on the operating budget. Spreadsheets in the backup material, as well as a copy of the draft contract, detail both the one-time and annual costs of this initiative.

Five affirmative votes are required for passage after public comment.

**Order 67-16/17
(Tab 8)**

Amendment to Portland City Code Chapter 6 Buildings and Building Regulations Re: Building Energy Use Disclosure Ordinance – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair.

During their meeting on September 21, the Energy and Sustainability Committee voted 2-1 (Hinck and Thibodeau in favor, Suslovic opposed) to recommend the draft Building Energy Use Disclosure ordinance to the full City Council for adoption. This ordinance would require the owners of non-residential buildings with more than 20,000 square feet and residential buildings with 50 or more units to measure the amount of energy and water the buildings consume on an annual basis and report it to the City.

It would also require the City to measure and report the energy and water consumption of all municipal buildings with more than 5,000 square feet. If enacted, the ordinance would provide building owners with valuable data to assist them in decision making about energy efficiency.

The ordinance would provide participants in the real estate market with valuable information that will help them understand the cost of energy in a building or unit they may wish to purchase or rent. It will also help the City plan for energy conservation and climate protection.

This item must be read on two separate days. It was given a first reading on October 5, 2016. At the October 17, 2016, Council meeting this item postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 73-16/17
(Tab 9)**

Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray.

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat.

Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City. Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect one project currently under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

This item must be read on two separate days. It was given a first reading on October 17, 2016. Staff is requesting that this item be postponed to November 21, 2016, Council Meeting.

**Order 74-16/17
(Tab 10)**

**Amendment to Portland City Code Chapter 14 Land Use, Article V.
Site Plan Re: Street Trees – Sponsored by the Planning Board,
Elizabeth Boepple, Chair.**

The Planning Board met on September 13, 2016 and voted 7-0 to forward this item to the City Council with a recommendation for passage.

The proposed text amendment would allow applicants to meet the site plan street tree requirements through a number of alternatives where planting street trees along the frontage of the development site is not feasible.

Alternatives include planting trees on public land in the neighborhood; provision of measures to enhance street tree survival; preservation/planting of trees on the site near the right-of-way; green features; and a contribution to the Tree Fund. The amendment also includes provisions to encourage the preservation of mature existing street trees.

This item must be read on two separate days. It was given a first reading on October 17, 2016. Five affirmative votes are required for passage after public comment.

**Order 75-16/17
(Tab 11)**

**Amendment to Portland City Code Chapter 14 Land Use, Article X.
Alternative Energy Re: Solar Energy Generation – Sponsored by the
Planning Board, Elizabeth Boepple, Chair.**

On September 26, 2016, the Planning Board voted 7-0 to forward this item to the City Council with a recommendation for approval.

The proposed new ordinance introduces a streamlined permitting framework to allow: a) installation of smaller solar energy systems with just a building permit and minimal limitations; and b) installation of larger systems (including community solar farms and City initiatives) subject to site plan review to ensure that performance standards are addressed. The size of the solar energy system would be measured in terms of the physical land area over which the system projects. The ordinance is relatively permissive and also takes account of any potential impacts.

This item must be read on two separate days. It was given a first reading on October 17, 2016. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 80-16/17
(Tab 12)**

**Order Approving License to Eight Middle Land Company LLC -
Sponsored by Jon P. Jennings, City Manager.**

The Department of Planning and Urban Development is forwarding a request from Eight Middle Land Company, LLC seeking the City Council's acceptance of a building foundation license under the City's right-of-way. The footings and foundation will extend into the license area on Middle and Hancock Streets.

On May 26, 2015 the Planning Board approved the Level III Mixed Use Retail and Office Building at 16 Middle Street. The Planning Board voted unanimously (6-0) to approve the application with waivers and conditions.

Five affirmative votes are required for passage after public comment.

**Order 81-16/17
(Tab 13)**

Order Approving Collective Bargaining Agreement with Professional and Technical City Employee Association (Pro-Tec) - Sponsored by Jon P. Jennings, City Manager.

The collective bargaining agreement with the Professional and Technical City Employee Association expired on July 2, 2016. The Association is comprised of approximately 140 Professional and Technical employees.

The City staff has reached a tentative agreement for a three-year contract. Terms of the three-year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018. The general wage increases are consistent with guidance received by the City Council on July 6, 2016 and again on September 19, 2016.

The members of Pro Tech have ratified the three-year tentative agreement.

This item must be read on two separate days. This is its first reading.

**Order 82-16/17
(Tab 14)**

Order Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors – Sponsored by Jon P. Jennings, City Manager.

City staff has reached a tentative one (1) year agreement with American Federation of State, County and Municipal Employees (AFSCME) Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from the City Council on August 1, 2016.

The parties have tentatively agreed to a one (1) year contract extension with a general wage increase of 2% effective July 3, 2016. In consideration of the above, the union has tentatively agreed to the City's proposed Direct Deposit and paperless pay stub system.

The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately \$39,500.00.

The members of AFSCME Local 481-07 Supervisors have ratified the one-year tentative agreement.

This item must be read on two separate days. This is its first reading.

**Order 83-16/17
(Tab 15)**

Order Accepting a Housing and Urban Development Lead Hazard Control Grant and Appropriating \$1,814,867 for Lead Abatement in Cumberland County Residential Housing – Sponsored by Jon P. Jennings, City Manager.

This order seeks the City Council's authorization to appropriate \$1,814,867 in HUD Lead Hazard Control and Healthy Home Supplemental Funding to abate lead in 88 residential units throughout Cumberland County. Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50 Environmental Protection Agency Renovation, Repair and Painting certified workers. The grant will be for three years and will expire in 2019.

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AMENDMENTS:

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

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The members of Pro Tech have ratified the three-year tentative agreement.

This item must be read on two separate days. This is its first reading.

**Order 82-16/17
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The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately \$39,500.00.

The members of AFSCME Local 481-07 Supervisors have ratified the one-year tentative agreement.

This item must be read on two separate days. This is its first reading.

**Order 83-16/17
(Tab 15)**

Order Accepting a Housing and Urban Development Lead Hazard Control Grant and Appropriating \$1,814,867 for Lead Abatement in Cumberland County Residential Housing – Sponsored by Jon P. Jennings, City Manager.

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AMENDMENTS:

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Tabl 11-17-16

IN COUNCIL REGULAR MEETING OCTOBER 17, 2016 VOL. 133 PAGE 27

ROLL CALL: Mayor Strimling called the meeting to order at 5:00 P.M. (Councilors Thibodeau and Ray absent).

ANNOUNCEMENTS: Councilor Suslovic announced that Portland Jet Port is the first in the Nation to recycle the De-Icing Materials. This process has Federal Aviation Administration approval.

RECOGNITIONS:

PRESENTATIONS:

State of the Schools Address – Marnie Morrione, Portland School Committee, Chair

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by councilor Duson and seconded by Councilor Suslovic for approval of the October 5, 2016, Special City Council Minutes. Passage 7-0.

PROCLAMATIONS:

Proc-13-16/17 Proclamation Honoring Timothy Welch, Aviation & Transportation Department as Employee of the Month for October – Sponsored by Mayor Ethan K. Strimling.

APPOINTMENTS:

Order 68-16/17 Order Appointing Dylan Matthews As Constable for 2016 Re: Ordinance Enforcement Officer for the Police Department – Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Suslovic and seconded by Councilor Mavodones to pass Order 68 as an emergency. Passage 7-0.

Order 69-16/17 Order Appointing Members to Various Boards and Committees – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Costa and seconded by Councilor Suslovic to amend Order 69 by adding Stephen Bither as an alternate. Passage 7-0.

Motion was made by Councilor Costa and seconded by Councilor Suslovic for as amended. Passage 7-0.

IN COUNCIL REGULAR MEETING OCTOBER 17, 2016 VOL. 133 PAGE 28

Order 70-16/17 Order Appointing the Directors of The Portland Widows' Wood Society –for the 2016-2017 Term - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Hinck and seconded by Councilor Duson for passage. Passage 7-0.

CONSENT ITEMS:

LICENSES:

Order 71-16/17 Order Granting Municipal Officer's Approval of Tomaso's Canteen d/b/a Tomaso's Canteen. Application for a Class A Lounge at 18 Hampshire Street – Sponsored by Michael Russell, Director of Permitting and Inspections Department.

Motion was made by Councilor Suslovic and seconded by Councilor Mavodones for passage. Passage 7-0.

BUDGET ITEMS:

COMMUNICATIONS:

Com 3-16/17 Communication Re: Revisions to Rules and Regulations for Use of the Sewer System – Sponsored by Jon P. Jennings, City Manager.

RESOLUTIONS:

Resolve 2-16/17 Resolution Condemning Violence and Hate Speech, Expressing Solidarity with Muslims and All Those Targeted for Their Ethnicity, Race or Religion – Sponsored by Councilor Hinck and Co-Sponsored by Mayor Ethan K. Strimling, and Councilor Justin Costa.

Motion was made by Councilor Hinck and seconded by Councilor Brenerman for passage. Passage 7-0.

UNFINISHED BUSINESS:

Order 58-16/17 Order Approving Two-Party Agreement between the City of Portland and the Maine Department of Transportation Re: Forest Avenue and Dartmouth Street – Sponsored by Jon P. Jennings, City Manager. This item was given first reading on October 5, 2016.

IN COUNCIL REGULAR MEETING OCTOBER 17, 2016 VOL. 133 PAGE 29

Motion was made by Councilor Suslovic and seconded by Councilor Brenerman for passage. Passage 7-0

Order 65-16/17 Order Approving and Allocating Cumberland County HOME Consortium Funds – Sponsored by the Housing Committee, Jill Duson, Chair.

Mayor Strimling recused himself, as a former director and ½ percent owner in Learning Works which benefited from the Home Consortium Funds.

Motion was made by Councilor Duson and seconded by Councilor Brenerman for passage. Passage 6-0, (Strimling recused).

Order 66-16/17 Amendment to Zoning Map Re: Congress Square as Recreation Open Space (ROS) – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

Motion was made by Councilor Brenerman and seconded by Councilor Duson passage. Passage 7-0.

Order 67-16/17 Amendment to Portland City Code Chapter 6 Buildings and Building Regulations Re: Building Energy Use Disclosure Ordinance – Sponsored by the Energy and Sustainability Committee, Councilor Jon Hinck, Chair. This item was given first reading on October 5, 2016.

Motion was made by Councilor Hinck and seconded by Councilor Costa to postpone Order 67 to November 7th City Council meeting.

Motion was made by Councilor Suslovic and seconded by Councilor Brenerman to postpone Order 67 to the November 21, 2016 City Council meeting. Motion failed 3-4 (Duson, Hinck, Cost, Strimling).

Motion was made by Councilor Hinck and seconded by Councilor Costa to postpone Order 67 to the November 7, 2016 City Council meeting. Passage 7-0.

ORDERS:

Order 72-16/17 Order Approving a License to Portland Norwich Group LLC - Sponsored by Jon P. Jennings, City Manager.

Motion was made by Councilor Duson and seconded by Councilor Mavodones for passage. Passage 7-0.

IN COUNCIL REGULAR MEETING OCTOBER 17, 2016 VOL. 133 PAGE 30

Order 73-16/17 Moratorium Re: City Parks and Public Grounds in the R-6 Zone on the Portland Peninsula – Sponsored by Councilor Belinda Ray.

This is its first reading.

AMENDMENTS:

Order 74-16/17 Amendment to Portland City Code Chapter 14 Land Use, Article V. Site Plan Re: Street Trees – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

This is its first reading.

Order 75-16/17 Amendment to Portland City Code Chapter 14 Land Use, Article X. Alternative Energy Re: Solar Energy Generation – Sponsored by the Planning Board, Elizabeth Boepple, Chair.

This is its first reading.

Order 76-16/17 Amendment to Portland City Code Chapter 6, Building & Building Regulations Re: Tenant Housing Rights Sponsored by the Housing Committee, Councilor Jill C. Duson Chair and Councilor David Brenerman, Vice Chair.

This is its first reading.

Motion was made by Councilor Duson and seconded by Councilor Brenerman to suspend the rules and postpone the seconded reading to November 21, 2016. Passage 7-0.

BREAK FOR DINNER:

7:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

Motion was made by Councilor Suslovic and seconded by Councilor Costa to adjourn. Passage 7-0, 7:05 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Proc 14- 16/17
Tab 2 11-7-16

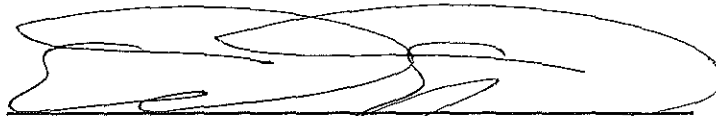
**PROCLAMATION
HONORING**

OFFICER KATHRYN PHELAN & OFFICER ZACHERY GRASS

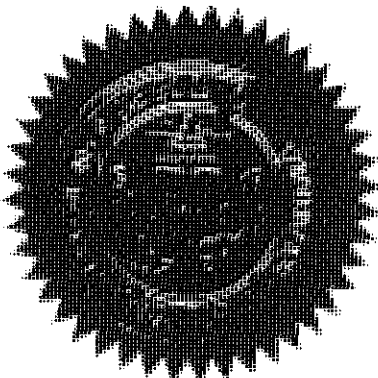
- WHEREAS, **Officers Phelan and Grass** joined the Police Department in the summer of 2014; and
- WHEREAS, **Officers Phelan and Grass** made positive contacts with business owners while enhancing visual police presence during the busy summer months as foot beat officers; and
- WHEREAS, **Officers Phelan and Grass** effectively enhanced the Police Department's social media footprint using instagram to connect with our community; and
- WHEREAS, **Officers Phelan and Grass** served as mentors for the summer cadet program as well as assisting patrol whenever needed; and
- WHEREAS, **Officers Phelan and Grass** are recognized for their commitment to public safety and awarded for maintaining safe streets and positive communication with our residents and visitors alike.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Ethan K. Strimling, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim honor and recognition to Officer Kathryn Phelan and Officer Zachery Grass as Officers of the Month for September 2016.

Signed and sealed this 7th day of November 2016



**Ethan K. Strimling, Mayor
City of Portland, Maine**



*Order 77-16/17
Tab 3 11-4-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**DECLARING THE PORTLAND DOWNTOWN
LIGHT UP YOUR HOLIDAYS FESTIVAL**

ORDERED, the following dates are hereby declared the Light Up Your Holidays Festival, to be organized by Portland Downtown:

November 25, 26, 27 and December 2, 3, 4, 8, 9, 10, 11, 16, 17 and 18; and

BE IT FURTHER ORDERED, that the Light Up Your Holidays Festival area shall be Monument Square, Monument Way, Federal Street Extension and adjacent sidewalks; and, on November 25, 2016 only, the closed section of Congress Street from Preble to Elm Streets and on December 8, 2016 only, Federal Street between Temple and Exchange Streets and the sidewalk adjacent to the Portland House of Music; and

BE IT FURTHER ORDERED, that the following activities shall be held in the Monument Square, One City Center sidewalk area and Monument Way:

November 25, 2016: Tree Lighting Ceremony in Monument Square and on Congress Street - 5:00 to 6:45 PM (rain, snow or shine); and

Horse-drawn Wagon rides Fridays, November 25, December 2, 9 and 16 (4:00 PM to 8:00), Saturdays, November 26 and December 3, 10, and 17 (2:00 PM-6:00 PM) and Sundays, November 27 and December 4, 11 and 18 (1:00 PM-5:00 PM), as well as on Thursday, December 8 (5:00 PM to 9:00 PM); and

BE IT FURTHER ORDERED, that the Federal Street Extension shall be closed to vehicular traffic from 4:30 PM to 7:00 PM and posted "No Parking" from 2:00-7:00 PM on Friday, November 25, 2016, and Congress Street shall be closed to vehicular traffic between Preble and Elm streets from 11:00 AM to 9:00 PM to allow the construction and use of a stage set up on Congress Street for the Monument Square Tree Lighting; and

BE IT FURTHER ORDERED, on December 8, 2016, the Organizers will host Merry Madness and will be allowed to place a large tent on Federal Street between Temple Street and Exchange Street where music will be played and refreshments including alcohol may be consumed in an area admitting only persons 21-years-old and older, after being purchased inside Portland House of Music, with on-site security to check identification. Federal Street between Temple and Exchange Streets will be closed from noon to 8 PM and posted "No Parking", and the Portland House of Music sidewalk shall also be closed

required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

TO: Jon Jennings, City Manager
FROM: Sally DeLuca, Director of Parks, Recreation & Facilities Management
DATE: October 24, 2016
RE: **Council Agenda Item – Portland Downtown "Light Up Your Holidays" Festival**

I am requesting that the following order be placed on the next City Council agenda (Nov 7):

Order declaring Portland Downtown's, "**Light Up Your Holidays**" Festival, to be held Fridays (**November 25, December 2, 9, 16, 2016**), Saturdays (**November 26, December 3, 10, 17, 2016**), and Sundays (**November 27, December 4, 11, 18, 2016**), and Thursday (**December 8, 2016**). **Friday, November 25 is the "Monument Square Tree Lighting;" Thursday, Dec. 8 is "Merry Madness."**

The Public Assembly Facilities Division is working with Portland Downtown on several upcoming Holiday Festival events where street closures and use of downtown parks/squares/streets are needed. A Festival Declaration is needed. Included in this request are:

- Monument Square Tree Lighting, November 25
- Horse Drawn Wagon Rides, Nov 25 – Dec 18 (Fridays, Saturdays and Sundays only). These rides are free to the public. This year Portland Downtown has added VIP Sponsor rides on two dates (12/2 and 12/10).
- Merry Madness, December 8

Traffic plan for METRO Buses during the Tree Lighting Ceremony (Fri., Nov. 25), will be similar to last year: Public Assembly Facilities Division and the Police Dept. plan to provide a special bus travel lane on Congress Street during the Tree Lighting setup and removal, to allow bus access on that closed portion of Congress Street (between Elm Street and Preble Street).

Further details of these events are described below.

Monument Square Tree Lighting: On Friday, November 25, 2016, from 5:00 to 6:45pm, the annual tree lighting ceremony will be held in Monument Square and on Congress Street (with stage, entertainment and vendors). Organizers have asked to place a 20x24' stage on Congress Street (between Preble and Elm Street) facing Monument Square. This would necessitate the closure of that section of Congress Street to vehicular traffic from Noon to 9pm, Friday, Nov. 25.

A special METRO bus travel lane through the closure is planned (street available for buses only from 12:30 – 3pm, and then again from 7:30 – 9pm). Organizers will work on that with METRO.



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

For security, the tree lighting ceremony will also necessitate closing Federal Street Extension to vehicular traffic (from 4:30 – 7pm) and the street will need to be posted “No Parking” 2 - 7pm.

Vendors will set up on the sidewalks, in Monument Square and on the closed section of Congress Street. The festival area includes Congress Street (Preble to Elm Street) and all of Monument Square, Federal Street Ext., and the nearby sidewalks (One City Center sidewalk area and Monument Way), from Center Street to Temple Street and both sides of Congress Street in that area.

This year, the event Presenting Sponsor, Hood, will be setting up an inflatable snow globe (approximately 35' x 35') in Monument Square. The back of structure will abut Monument Way. Hood will serve free egg nog samples from the snow globe and two 10x10 EZ-UP canopies.

Horse Drawn Wagon Rides: Beginning Friday, November 25, PD will sponsor horse-drawn wagon rides in the downtown and Old Port area. Rides will begin and end in Monument Square. They will occur Fridays (4-8pm), Saturdays (2-6pm) and Sundays (1-5pm) between November 25 and December 18. Rides will also be offered during Merry Madness on Thursday, December 8th. Rides are free to the public. The festival area for these events includes Monument Square, Federal Street Ext. sidewalks, One City Center sidewalk areas, and Monument Way (and any adjacent sidewalks). This year we have added two VIP sponsor rides: Friday, December 2nd from 2pm to 4pm Saturday, December 10th from 12pm to 2pm. The pick-up and drop-off location will be at Tommy's Park where Exchange Street intersects with Middle Street. We will have Emergency No Parking Signs for 3-4 parking spaces so that the horse & wagon will have an easy place to pull in and out of (on Exchange Street).

Merry Madness: Portland Downtown plans to hold its annual "Merry Madness" on Thursday, December 8 (4 – 6pm). This event is paired with businesses who keep their stores open late (10pm) for holiday shoppers. Organizers have requested permission to host the event this year on Federal Street (between Temple & Exchange). Refreshments (including wine) as well as music will be on hand. A large free-standing tent would be erected on Federal Street. PD has requested permission for the Portland House of Music (there on Federal Street) to expand its alcohol service to the street (21+ Tent Area), where wine would be consumed by adults (21+) in a confined, secured area (the large tent). Participants would purchase and receive their wine inside PHoMusic but would be permitted to walk with it outside to the enclosed Tent area. The PHoMusic currently holds an Auditorium License (alcohol and outdoor entertainment/dining). Festival Grounds for the December 8 Merry Madness event include the Federal Street area – Temple to Exchange (where the Tent is located), as well as the sidewalk areas beside Portland House of Music, and the adjacent Federal Street sidewalks. Portland Downtown will talk with area Federal Street businesses to accommodate any deliveries, etc. to that closed section of street. PD will also work with city staff to provide a safe and monitored alcohol service area, and will acquire any necessary licenses for refreshments and outdoor music. Time frame for the event itself: 4 – 6pm. Time for street closure: Noon – 8pm. Street posted “No Parking.”



Sally L. DeLuca
Director
Department of Parks, Recreation & Facilities

Andrew J. Downs
Director
Public Assembly Facilities Division

Costs incurred by City Departments, (Police, Fire, Public Works and Public Assembly Facilities Division) for the Tree Lighting Ceremony will be in-kind, except for additional Police support needed for the bus travel lane, which will be charged to the organizer, Portland Downtown. PD will also pay license fees for the various events to the City's Business Licensing Office and associated permit costs at the Inspections Office.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Portland Downtown for the use of the above-described area for said events and the "Tree Lighting Ceremony" and "Merry Madness" subject to the following conditions:

- Portland Downtown shall indemnify the city and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Light Up Your Holidays events (and include Liquor Liability coverage for "Merry Madness"),
- Portland Downtown shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the Light Up Your Holidays events,
- Conditions for use of grounds and requirements for food service, vending sales, stages, tents, and other items specified in a permit issued from Public Assembly Facilities Division, shall be adhered to,
- Major expenses incurred by City Departments for the Tree Lighting Ceremony and Closure of Congress Street for that event on Friday, Nov. 25: (Permit Fees for use of grounds, staff assistance – including Police, Public Works for barricades and signage, and Fire Dept.), shall be in-kind, however, additional staff costs to maintain bus service within the closed section of Congress Street, shall be paid for by the organizer. Business Licensing Office fees and Permit fees at the Inspections Office would also be paid by the organizer, Portland Downtown,



Sally L. DeLuca
Director

Department of Parks, Recreation & Facilities

Andrew J. Downs
Director

Public Assembly Facilities Division

- Merry Madness event (Thurs. Dec. 8): associated costs from City Departments will be paid by the organizer, Portland Downtown. Some of those costs include: Police services (needed at Federal Street), Inspection Services for Tent Permit, and Business Licensing fees, and
- Food Vendors participating in the Light Up Your Holidays Festival shall be licensed by the Business Licensing Office. Under no circumstances may alcoholic beverages be sold or permitted on City of Portland right-of-ways or public property during said events, other than what is approved by City Council (i.e. Merry Madness event / Area of Federal Street).

The City Manager is also authorized to waive any fees, and issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PAFD Event Coordinator



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (4 pages)
 212 Canco Rd. ~ Portland ~ ME ~ 04103
 207-808-5400
 Ted Musgrave tvn@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
2. a security deposit required 3. insurance required
(There may be fees due and applications required from other City Departments)

TODAY'S DATE		10-11-16 Revised: 10-20, 10-22		ORGANIZATION NAME		Portland Downtown	
ORGANIZATION ADDRESS		549 Congress St.		CITY	Portland	STATE	ME
				ZIP	04101		
CONTACT NAME(S)		Casey Gilbert Adam MacDonald Sally Newhall		TITLE: Executive Director TITLE: Marketing & Communications Coordinator TITLE: Events Coordinator			
HOME #	WORK 772-6828		CELL	FAX		774-4640	
EMAIL	casey@portlandmaine.com		EMAIL	adam@portlandmaine.com			

PARK AREA OR PUBLIC SPACE REQUESTED		Congress Street CLOSED (beside Public Library – both lanes); Federal Street Ext.; Monument Square (Tree Lighting) Federal Street – between Temple and Exchange: CLOSED (for Merry Madness)					
EVENT DAY & DATE(S)		Friday, November 25, 2016 (Tree Lighting Ceremony) Friday, Saturdays, and Sundays November 25 - December 18 (Horse & Wagon Rides); Shop For A Cause November 26; Thursday Dec. 8 (Merry Madness)		RAIN DAY & DATE(S)		None, rain or shine	
EVENT START TIME (i.e. set-up start time)	See below	EVENT END TIME (i.e. when event cleanup is complete)	See below	ACTUAL START & END TIME OF EVENT		5:00pm – 6:45 pm (Tree lighting ceremony) 4pm – 6pm (Merry Madness)	

EVENT NAME	EXPECTED ATTENDANCE
Light Up Your Holidays Festival (Tree Lighting Ceremony in Monument Square, Horse & Wagon Rides, Merry Madness)	3000 - 4000

DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe Event in detail.

On Friday, November 25, 2016, from 5:00 – 6:45pm, there will be the traditional tree lighting ceremony in Monument Square and on Congress Street (with stage, entertainment and vendors). The ceremony is held rain, shine or snow.

ELEC. at black box is needed. Christmas Tree will be in place there beside the box. New this year: our Presenting Sponsor, Hood, will be setting up a 35' x 35' inflatable snow globe in the corner of Monument Square closest to Monument Way and Others Café. Hood will serve free egg nog samples to event attendees.

For the 9th year in a row, organizers have asked that they be allowed to place a 20x24' stage on Congress Street (between Preble and Elm Street) that would face out to Monument Square. This would necessitate the closing of that section of Congress Street to vehicular traffic from 9am to 9pm, Friday, November 25th.

For crowd control, the tree lighting ceremony will also necessitate **closing Federal Street Extension** to vehicular traffic from 4:30 – 7pm) and posted "No Parking" 2pm - 7pm. Vendors will be set up on the sidewalks and on Monument Square (they will also be parked on Federal Street Ext.).

This festival area is to include Congress Street (Preble to Elm Street) and all of Monument Square, Federal Street Ext., and the nearby sidewalks (One City Center sidewalk area and Monument Way), from Center Street to Temple Street, and both sides of Congress Street in that area. Police assistance is needed for the closing of Congress Street (during the Tree Lighting Ceremony)

Also on the evening of **Friday, November 25**, horse-drawn wagon rides will begin downtown, **4-8pm** (pick up and drop off location: Monument Square). Wagon rides will continue Fridays, Saturdays, and Sundays: **November 26, 27; December 2 Walk** and **3rd, 4th, 9th, 10th, 11th, 16th, 17th, 18th**. The festival area for these events is to include **Monument Square, One City Center sidewalk area and Monument Way**. Festival time for the horse-drawn wagon rides will run from approximately: **Friday, 4-8pm; Saturdays: 2pm – 6pm; Sunday: 1 – 5 pm**. These rides are free to the public. One wagon on Fridays + Sundays. Two wagons on Saturdays.

Additionally, we have added the following times for VIP Sponsor rides: **Friday, December 2nd from 2pm to 4pm Saturday, December 10th from 12pm to 2pm** The pick-up and drop off location for VIP Sponsor rides will be at **Tommy's Park** at our Visitor Information Booth. We will be requesting emergency no parking signs for 3-4 parking spots at the intersection of Exchange and Middle Street adjacent to the park for ease of pick-up and drop-off.

Shop For A Cause (Saturday, November 26th) – Portland Downtown would like to request the use of Tommy's Park on Saturday from approximately 10am to 4pm. Machias Savings Bank – a Light Up Your Holidays event sponsor – will set up a 10x10 tent and/or table to give away free promotional products.

Merry Madness (Event 4-6pm)

We are requesting use of Federal Street from 12pm – 8pm for Merry Madness on Thursday, December 8th. We will be setting up a TENT (set-up beginning at 9am) in front of the Portland House of Music. Wine/wineglasses available to purchase inside tent. With approval from City Council, organizer requests that patrons be able to bring wine and beverages out to the street – enclosed 21+ TENT area. If needed, for street closure, we can provide access to the Post Office Parking lot and only block the west side of Federal Street (closest to Temple Street).

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT? No

Please check: _____ FEE _____ PLEDGES

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN?

Area garages and street parking will be sufficient for events.

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:		X	
* Do you wish to set up a tent(s) ? (A canopy or tent larger than 10x10 needs to be approved by PAFD Office and a Tent Permit issued from Inspections Division; please call Inspections – 874-8703 - for information on their application process / PLEASE give them at least a 2-week notice). PAFD will contact Inspections once the tent location is approved so that the Tent Permit Application may go forward. State size(s): ??????? Exact Location(s) of Tent Placement Requested: Federal Street (Merry Madness) In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233.	X MERRY MADNESS		
* Will you be setting up tables and/or chairs ? How many tables: chairs:	X		
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:	X RADIO STATION VAN		
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from PAFD) List food and drink: A Temporary Food Service License (from the Business Licensing Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice (874-8557).	X – FREE EGG NOG (TREE LIGHTING) X – WINE (MERRY MADNESS)		
Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.) ?		X	
Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band? DJ? If so, your event requires a concert license from the Business Licensing Office (874-8557). (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks	X		

	& Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm - 8pm).			
*	Will your event require electricity ? Electricity is available at some of the parks &	X		
*	Are you planning on bringing a Grill for a Barbecue ?		X	
	Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at PAFD Office, 212 Canco Rd.	X		
*	Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from PAFD Office. Barricades and signs are borrowed from Public Works, Customer Service.	X		
*	Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gffenton@gpmetrobus.com) to discuss.	X		
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance.	X		
*	Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.)	X – DELIVER SANTA		
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) For renting porta-restrooms, event organizers must rent from the company contracted with the city.		X	

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X ON FILE		
♦	If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr,' or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to PAFD: email to tvm@portlandmaine.gov .			

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Organizer will rent facilities.
If renting units, event organizer **MUST** rent from the city's contracted company: Associated Septic / Royal Flush 207-799-1980

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Event Organizers must not use Spray Paint or Spray Chalk when marking city property.
Children's Art Chalk can be used with permission from PAFD Office.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares, plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES	TYPE INITIALS	CTG	DATE	10/20/16
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ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event. Nothing in this Agreement constitutes a waiver of any defense, immunity or limitation of liability that may be available to the CITY, or its officers, agents or employees under the Maine Tort Claims Act (Title 14 M.R.S.A. 8101 et. seq.), and shall not constitute a waiver of other privileges or immunities that may be available to the CITY.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	CTG	DATE	10/20/16
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FEE SCHEDULE – UPDATED JULY 1, 2015

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$50/hour	Impact/Street Closure Fee (variable based on impact): \$0-\$500
Event with registration or pledges & attendance 25 – 300: \$100/hr	Admin/Staff Fee (support for events): \$30/hour
Event with registration or pledges & attendance 301+: \$200/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Public Space/Park Security Deposit/Sound Security Deposit: \$100,000	

CREDIT CARD INFORMATION

Visa or MasterCard Number		Exp Date (Mon/Yr)	
---------------------------	--	-------------------	--

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- ♦ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

Permit Fee for use of area: \$50 - \$200 per hour (i.e. a 3 hour event at \$50 totals \$150) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$50 is non-refundable)	\$	N/A	Vest/Cone Deposit: \$10 per/item	\$	?
Number of Hours of Use:		PD EVENT	Barricade Deposit: \$25 per/item		
Admin/Staff Fee (support for events): \$30/hour	\$		Public Space / Park Security Deposit:	\$	N/A
Key Deposit: \$50 per key	\$		Sound Security Deposit \$100 - \$1000		
Impact/Street Closure Fee (variable based on impact): \$100-\$500	\$	N/A	Other (Porta-Restroom User Fee: \$25, etc.)	\$	

FOR OFFICE USE ONLY

DATE REC'D APPLICATION	10-20-2016	DATE REC'D INSURANCE	On file	PERMIT FEE AMT REC'D	\$ N/A	SECURITY DEPOSIT	\$?
PAYMENT TYPE							
VISA	\$	MC	\$	CK #		CASH AMT	\$

Mr. Jon Jennings
City Manager
City of Portland
389 Congress Street
Portland, ME 04101



October 11, 2016

Dear Jon,

Portland Downtown requests permits and Festival Declarations for the following 2016 holiday events:

Annual Monument Square Tree Lighting on Friday, November 25th, 5:00 – 6:45PM (Rain, snow or shine)

- Use of Congress Street (both lanes) between Preble St. and Elm St. to erect and take down a 24' x 20' stage from 12:00 pm to 9:00PM.
- We request Police Assistance to let buses in as needed between 12:30 pm and 3:30 pm and 7:30 pm and 9 pm.
- Police assistance is requested to help staff the barricaded sections between the hours of 5PM and 7PM (no vehicles allowed at this time).
- We request to close Federal Street Ext. from 5PM to 7PM and to put up No parking signs on the meters from 2PM to 7PM.

Merry Madness – Thursday, December 8th, 4-6 PM (Rain, snow or shine)

- In conjunction with the Portland House of Music, we request permission for liquor licensing to have alcohol in a tent outside of Portland House of Music. All alcohol will be served inside of Portland House of Music by their staff. Guests may then walk outside to partake in the music and fun outside under the tent (21+ only permitted in tent area). Each guest will receive one pour per ticket. Only one pour allowed per guest. We will have security on-site for ID check.
- We request to close Federal St. (both lanes) between Temple St and Exchange St. from 12 pm – 8 pm. The sidewalk at PHoMusic will also need to be closed to pedestrians. We will work with area businesses to get their input and impact from the event.



Horse-drawn Wagon Rides- Pick up and drop off in Monument Square.

- Fridays: November 25th - December 16th 4PM - 8PM
- Saturdays: November 26th - December 17th 2PM - 6PM
- Sundays: November 27th - December 18th 1PM - 5PM
- Thursday, December 8th: Merry Madness, 5 PM - 9 PM

New this year will be two VIP sponsor rides – available only to our event sponsors:

- Friday, December 2nd from 2pm to 4pm
- Saturday, December 10th from 12pm-2pm

Pick-up and drop-off location will be at Tommy's Park. We will secure 3-4 parking spaces for the horse & wagon for ease of pick up and drop off.

In keeping with the Portland Downtown mission, we manage a variety of events throughout downtown all year long. These events would not be possible without the partnership between the City and Portland Downtown. The in-kind services that the City provides demonstrate that partnerships like ours help make cities more vibrant and successful.

Thank you for considering this request. If you have any questions, please call me at (207) 772-6828.

Sincerely,

Casey Gilbert
Executive Director

cc Ted Musgrave, City of Portland

*Order 78-16/17
Tab 4 11-7-16*

ETHAN STRIMLING (MAYOR)
BELINDA RAY (1)
SPENCER THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Forq LLC d/b/a Fork Food Lab. Application for a Class III & IV Beer and Wine Restaurant at
270 Lancaster Street.**

Letter of Intent

Forq LLC d/b/a Fork Food Lab

72 Parris Street

Portland, ME 04101

Dear Mayor Strimling and Members of the City Council,

Fork Food Lab is a community kitchen and food startup incubator that received our food service establishment license on 7/21/16. We intend to open a tasting room in September that is operated by Fork Food Lab, but features all of our food maker's products. Adding a class III/IV beer & wine license to this establishment is why I write you today.

We are excited to be launching this creative establishment that will allow our small member companies to grow brand awareness, compete, and package it all into a unique experience that will drive traffic to West Bayside.

Regards,

A handwritten signature in dark ink, appearing to read "C.V. Spillane". The signature is fluid and cursive, with a small mark at the end that could be a stylized "S" or "L".

Cornelius "Neil" Spillane

Member, Forq LLC

Portland, Maine



Yes. Life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Fork Food Lab Phone: (207) 400-5145
Location Address:	270-272 Lancaster St. Zip: 04101
If new, what was formerly at this location:	N/A
Mailing Address:	72 Parris St. Portland ME Zip: 04101
Contact Person:	Neil Spillane Phone: (207) 400-5145
Contact Person Email:	neil @ Forkfood.com
Manager of Establishment:	Neil Spillane Date of Birth: 2/2/87 Phone: (207) 400-5145
Owner of Premises (Landlord):	Forq LLC (Fork Food Lab)
Address of Premises Owner:	Same as above Zip:

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Forq LLC		72 Parris St. Portland ME Zip: 04101	
Contact Person:	Neil Spillane	Phone:	(207) 400-5145
Principal Officers	Title	Date of Birth	Residence Address
Cornelius "Neil" Spillane	CEO	2/2/87	78 Winter St. Portland ME 04102
Eric Holstein	COO	6/26/86	99 Silver St. Apt. #1-3 Portland ME, 04101

About Your Establishment

Class of Liquor License:	<u>III / IV Beer & Wine Restaurant</u>	
Type of food served:	<u>Appetizers, Main dishes, Desserts</u>	
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor	
Projected percentage of sales:	Generated from Food: <u>90%</u>	Generated from Alcohol: <u>10%</u>
Hours & days of operation:	<u>TBD</u>	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y ☐ N
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	<u>9/20/16</u>
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y ☐ N
If Yes, please list business name(s) and location(s):	
<u>Forg LLC was awarded a FSE 20 seat license on 7/21/16 : License #6311</u>	
Is any principal officer under the age of 21?	☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y ☐ N
If Yes, please explain:	

I Cornelius Spillane do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature C. Spillane Title CEO Date 8/1/16

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov.

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER: _____ **CLASS:** _____

DEPOSIT DATE _____

AMT. DEPOSITED: _____ **BY:** _____

CK/MO/CASH: _____

PRESENT LICENSE EXPIRES N/A

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) —(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Fork LLC</u>			2. Business Name (D/B/A) <u>Fork Food Lab</u>		
DOB: _____			DOB: _____		
DOB: _____			Location (Street Address) <u>270 Lancaster St.</u>		
Address <u>270 Lancaster St.</u>			City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>		
City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>			Mailing Address <u>72 Parris St.</u>		
Telephone Number <u>(207) 400-5145</u>			Business Telephone Number <u>207-400-5145</u>		
Fax Number <u>N/A</u>			Fax Number _____		
Federal I.D. # <u>47-3499438</u>			Seller Certificate # _____		

EMAIL ADDRESS: info@Forkfood.com

3. If premises is a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: _____

8. If business is NEW or under new ownership, indicate starting date: 7/21/16

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 270 Lancaster St Portland ME 04101

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Cornelius "Neil" Vincent Spillane II	2/2/87	Brunswick, ME
Eric Booth Holstein	6/26/86	Hastings-on-Hudson, NY
Justin Alfond	1/8/75	Dexter, ME

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Cornelius Spillane: Hamden, CT	Brunswick, ME	Portland, ME
Eric Holstein: Cambridge, MA	Hastings-on-Hudson, NY	Brooklyn, NY
Justin Alfond: Portland, ME		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 20 Seat Food Service
Establishment with prep. See architectural drawings attached.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.1 mile Which of the above is nearest? church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Bangor Savings Bank - Commercial Mortgage, Equipment Financing
Small Business Administration - Commercial Mortgage, Equipment Financing
USDA, City of Portland - Grants

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, Maine on August 1, 20 16
Town/City, State Date

Please sign in blue ink

C. V. Spillane IV
Signature of Applicant or Corporate Officer(s)

Cornelius V. Spillane IV
Print Name

[Signature]
Signature of Applicant or Corporate Officer(s)

Eric B. Holstein
Print Name

NOTICE - SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt - Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt - Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE.....\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

**Supplemental Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Forg LLC

2. Other business name for your entity (DBA), if any:

Fork Food Lab

3. Date of filing with the Secretary of State: 3/11/15

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
See Attachment			

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

C.A. Spillane

Signature of Duly Authorized Person

8/1/16

Date

Cornelius V. Spillane IV

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Member	% Ownership	D.O.B.	Addresses for previous 5 years
Cornelius V. Spillane IV	34.66%	2/2/87	Hamden CT, Brunswick ME, Portland ME
Eric Holstein	35.03%	6/26/86	Cambridge MA, Hastings-on-Hudson NY, Brooklyn NY, Portland ME
Justin Alfond	19.90%	1/8/75	Portland ME
Taja Dockendorf	2.06%	12/20/77	Cumberland ME
Mark Dvorozniak	1.37%	4/11/60	Cape Elizabeth ME
Carl Hanson	0.73%	2/26/84	Portland ME
Ezekiel Callanan	2.06%	4/23/81	Portland ME
Karen Farrell	0.85%	6/15/76	New Gloucester ME, South Portland ME
Christopher Papagni	3.34%	4/8/59	Brooklyn NY, Portland ME
TOTAL	100.0%		



Menu

Nachos - \$8

Tortilleria Pachanga – Corn chips, cheese, house salsa, sour cream

Pasta - \$9

Bruno's Italian Food – Handmade pasta shells & marinara

Asian Sampler - \$8

Expat LLC – Sampler of shrimp, beef, chicken wontons with accompanying sauces

Parfait - \$5

Gert n Lil's - Vanilla Pudding

Joyful Spirit - Granola

MaineFlavor – Intense Blueberry sauce

Sublime Ice Cream Sandwich - \$6

Gelato Fiasco – Caramel Sea Salt Gelato

Fat Pants Bakery – Brown Butter Brownie Infusion

Cape Whoopie – Chocolate Whoopie Crust

Taster - \$7

A 2x2 square of each of the following products

Renee By The Bay – Strawberry Rhubarb Pie

Joyful Spirit – Granola Health Bar

Marshmallow Cart – Toasted Coconut Marshmallow

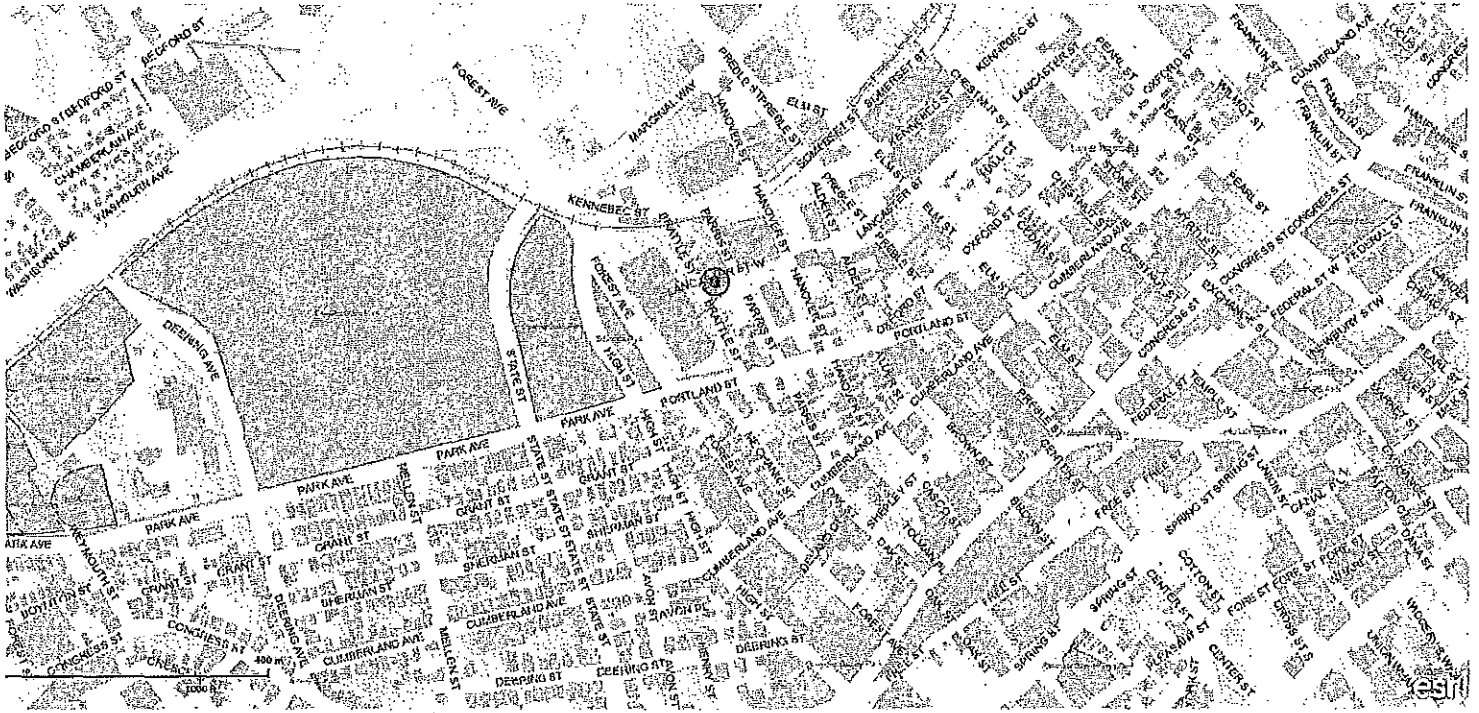
To Drink - \$4

The Whole Almond – Sprouted Almond Milk

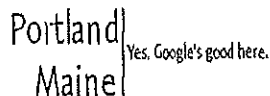
Haymaker Beverage – Electrolyte spritzer

SoPo Craft Soda – Maine Blueberry Soda

CITY FOOD LAB



Copyright 2011 Esri. All rights reserved. Fri Oct 7 2016 12:11:21 PM.



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Fork Food labs

Kevin Cashman <kevindc@portlandmaine.gov>
To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Fri, Oct 7, 2016 at 1:05 PM

Jessica,

Gary H. just walked me through this one but i cannot do urban insight because MIS hasn't added me yet. This is approved though .

Kevin C.

On Fri, Oct 7, 2016 at 12:09 PM, Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:
Good Afternoon

Please see the attached application. Fork Food Labs is upgrading the first floor to add Beer and Wine consumption. They will be going before Council on 11/7/2016.

Owner is Forq LLC
Cornelius Spillane 2/2/1987
Eric Holstein 6/26/1986
Justin ALfond 1/8/1975
Taja Dockendorf 12/20/1977
Mark Dvorozniak 4/11/1960
Carl Hanson 2/26/1984
Ezekiel Callanan 4/23/1981
Karen Farrell 6/15/1976
Christopher Papagni 4/8/1959

Contact is Neil Spillane 400-5145 neil@forkfood.com

Please advise with feedbacks. Thanks Jess

 Fork Food Lab.pdf

Jessica B. Hanscombe
Business License Specialist
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

—
Sgt. Kevin Cashman
Portland Police Department
Criminal Investigations Division
109 Middle St
Portland, Maine 04101
(O) 207-874-8582
kevindc@portlandmaine.gov.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024877

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) CORNELIUS SPILLANE (1987-02-02)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024874

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) ERIC HOLSTEIN (1986-06-26)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024883

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) JUSTIN ALFOND (1975-01-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024876

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) TAJA DOCKENDORF (1977-12-20)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024879

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) MARK DVOROZNIAK (1960-04-11)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024884

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) CARL HANSON (1984-02-26)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024880

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) EZEKIEL CALLANAN (1981-04-23)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024886

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) KAREN FARRELL (1976-06-15)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D024888

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-10-07) :

Inquiries Name(s) CHRISTOPHER PAPAGNI (1959-04-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

October 7, 2016

Forq LLC
Att Neil Spillane
72 Parris Street
Portland ME 04101

Re: Forq LLC d/b/a Fork Food Lab. Application for a Class III & IV Beer and Wine Restaurant at 270 Lancaster Street.

Dear Mr. Spillane,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, November 7th at 5:00 p.m.**, for the review of your application for a Class III & IV License at 270 Lancaster Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, jhanscombe@portlandmaine.gov

Sincerely,

Jessica B. Hanscombe
Business License Specialist
207-874-8783
jhanscombe@portlandmaine.gov

**Legal Advertisement
Notice of Public Hearing
City of Portland**

A Public Hearing will be held on November 7th at 5:00 P.M., in City Council Chambers, 389 Congress St., on Forq LLC d/b/a Fork Food Lab. Application for a Class III & IV Beer and Wine Restaurant at 270 Lancaster Street. Sponsored by Michael Russell, Director of Permitting and Inspections.

*Order 79-16/17
Tab 5 11-7-16*

ETHAN STRIMLING (MAYOR)
BELINDA RAY (1)
SPENCER THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Minato, LLC d/b/a Izakaya Minato. Application for a Class I License with Outdoor Dining on Public Property at 54 Washington Avenue.

September 22, 2016

Dear Members of City Council and Mayor of Portland, Maine

I would like to take this opportunity to introduce myself, Elaine Alden, and my husband Thomas Cooke. Together we make up the partners of Izakaya Minato, a Japanese restaurant. We have been in the restaurant industry for 10+ years and are excited to be venturing out on our own to create a restaurant we have been dreaming about for many years.

Thomas, born and raised in Tokyo, will be the chef creating traditional Japanese pub food. Elaine, born in Michigan and raised spending summers on Vinalhaven, will be general manager.

We intend to have Minato be a local, neighborhood spot where people feel comfortable and well taken care of. We will offer a menu of classic Japanese shared plates supplemented by ever evolving seasonal specials. We are seeking a liquor license so that we may offer an exciting sake and drink selection to pair with our food. We hope to incorporate as much local products as possible while maintaining a traditional Japanese approach to dining and hospitality.

Thank you for taking the time to review our application, we are excited to be opening in Portland and joining so many other great restaurants that currently exist in this wonderful city.

Sincerely,

Elaine Alden and Thomas Cooke

Portland, Maine



Yes. Life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information:	
Business Name (d/b/a):	MINATO, LLC (ZAKAYA MINATO) Phone:
Location Address:	54 WASHINGTON AVE. PORTLAND, ME Zip: 04101
If new, what was formerly at this location:	FALMOUTH FLOWERS AND GIFTS
Mailing Address:	203 COYLE ST. PORTLAND, ME Zip: 04101
Contact Person:	THOMAS COOKE Phone: 415-867-0960
Contact Person Email:	takashi12@yahoo.com
Manager of Establishment:	ELAINE ALDEN Phone: 602-922-2922
Owner of Premises (Landlord):	PHYLY REYNOLDS
Address of Premises Owner:	56 WASHINGTON AVE. Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
MINATO LLC		203 COYLE ST. PORTLAND ME Zip: 04101	
Contact Person:	THOMAS COOKE	Phone:	415-867-0960
Principal Officers	Title	Date of Birth	Residence Address
ELAINE ALDEN	OWNER	3/16/1984	203 COYLE ST. PORTLAND, ME 04103
THOMAS COOKE	OWNER	12/12/1977	203 COYLE ST. PORTLAND, ME 04103

About Your Establishment

Class of Liquor License:	CLASS I	
Type of food served:	JAPANESE	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 65%	Generated from Alcohol: 35%
Hours & days of operation:	11:00 AM - 2:00 PM, 5 PM - 11 PM, MONDAY - SATURDAY	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y ☐ N
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on <u>PUBLIC</u> or PRIVATE property (circle one).	☒ Y ☐ N
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? 12/1/2016	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	☒ Y ☐ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y ☐ N
If Yes, please explain:	

I, THOMAS COOKE do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title OWNER Date 9/21/2016

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Check all that apply: ☒ New Application for Outdoor Dining or ☐ Renewal Application for Outdoor Dining ☐ Application for dining on Private Property		
☐ Outdoor Dining in a Public Park ☐ If Renewal, are there changes to previous permit?		
☐ Outdoor Dining in a Historic District ☐ Yes ☐ No		
☐ Petition for Exception for Special Circumstances		
☒ Liquor License required?		
City Clerk signature for liquor license approval: _____		
Location Name & Address: <u>YAKAMA MINATO 56 WASHINGTON AVE UNIT 1</u>		
Chart <u>013</u> Block <u>E007001</u> Lot _____		
Owner Name: <u>PUNY REYNOLDS</u>		
Total Square Footage of Proposed Outdoor Dining Area: <u>87 ft²</u>		
Owner Phone #: <u>207-400-0405</u>		
Applicant *must* be owner or lessee		
Name: <u>THOMAS COOKE</u>		
Address: <u>203 COYLE ST.</u>		
City, State & Zip: <u>PORTLAND, ME 04103</u>		
E-Mail: <u>TAKASHI12@YAHOO.COM</u>		
Fee: \$80 (Public-Annual) \$125 (Private 1X)		
Total Sq. Ft.: <u>87</u>		
Sq. Ft. Fee: (sq ft x \$2) \$ <u>174.</u>		
(sq ft x \$6 for public parks)		
Total Fees: \$ <u>254</u>		
(Permit not issued until all fees are paid)		
Current use: <u>NONE</u>		
Business name: <u>NONE</u>		
Seating area dimensions: <u>94 INCHES x 72" x 40" x 144"</u>		
How many chairs? <u>10</u> How many tables? <u>3</u>		
☒ Yes Alcohol is served.		
☐ No Alcohol being served.		
Who should we contact: <u>THOMAS COOKE</u> Phone: <u>415-867-0960</u>		
Address: <u>203 COYLE ST. PORTLAND, ME</u> E Mail: <u>TAKASHI12@YAHOO.COM</u>		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: _____

Date: 9/22/16

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

Revised 04-02-15

This is not a permit; you may not commence ANY work until the permit is issued.

Department of Public Safety
Division

Liquor Licensing & Inspection



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.)			2. Business Name (D/B/A)		
MINATO, LLC			IZAKAYA MINATO		
DOB:			DOB:		
DOB:			DOB:		
DOB:			DOB:		
Address			Location (Street Address)		
203 COYLE ST.			54 WASHINGTON AVE		
City/Town			City/Town		
PORTLAND			PORTLAND		
State			State		
ME			ME		
Zip Code			Zip Code		
04103			04101		
Mailing Address			Mailing Address		
203 COYLE ST.			203 COYLE ST.		
City/Town			City/Town		
PORTLAND			PORTLAND		
State			State		
ME			ME		
Zip Code			Zip Code		
04103			04103		
Telephone Number			Business Telephone Number		
415-867-0960					
Fax Number			Fax Number		
Federal ID. #			Seller Certificate #		
81-2839690					

3. If premises are a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: _____

8. If business is NEW or under new ownership, indicate starting date: 12/1/2016

Requested inspection date: 11/28/2016

Business hours: 11AM-2PM & 5PM-11PM Mon-Sat.

9. Business records are located at: 203 COYLE ST. PORTLAND, ME 04103

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
THOMAS COOKE	12/12/1977	JAPAN
ELAINE ALDEN	3/16/1984	MICHIGAN

Residence address on all of the above for previous 5 years (Limit answer to city & state)

BOTH. SAN FRANCISCO, CA, PORTLAND, ME.

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner:

PLINY REYNOLDS 56 WASHINGTON AVE. PORTLAND, ME 04101

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) A JAPANESE RESTAURANT WITH 38 SEATS AND A BAR AND OPEN KITCHEN.

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: PENDING.

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.3 MILES Which of the above is nearest? CHURCH.

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: PORTLAND, ME on 9/21, 2016
Town/City, State Date


Signature of Applicant or Corporate Officer(s)

THOMAS COOKE

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)

Elaine Alden



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

MINATO, LLC

2. Other business name for your entity (DBA), if any:

IZAKAYA MINATO

3. Date of filing with the Secretary of State: 5/20/2016

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
THOMAS COOKE	2011-2015 SAN FRANCISCO, CA 2015-2016 PORTLAND, ME	12/12/1977	50
ELAINE ALDEN	2011-2015 SAN FRANCISCO, CA 2015-2016 PORTLAND, ME	3/16/1984	50

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

9/21/2016
Date

THOMAS COOKE

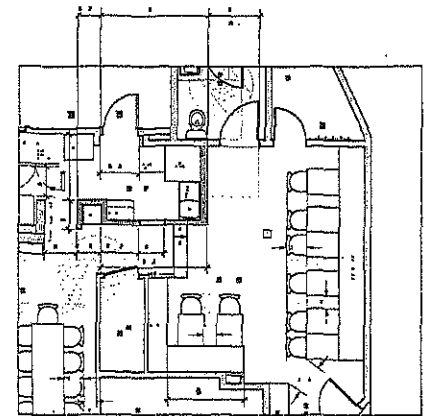
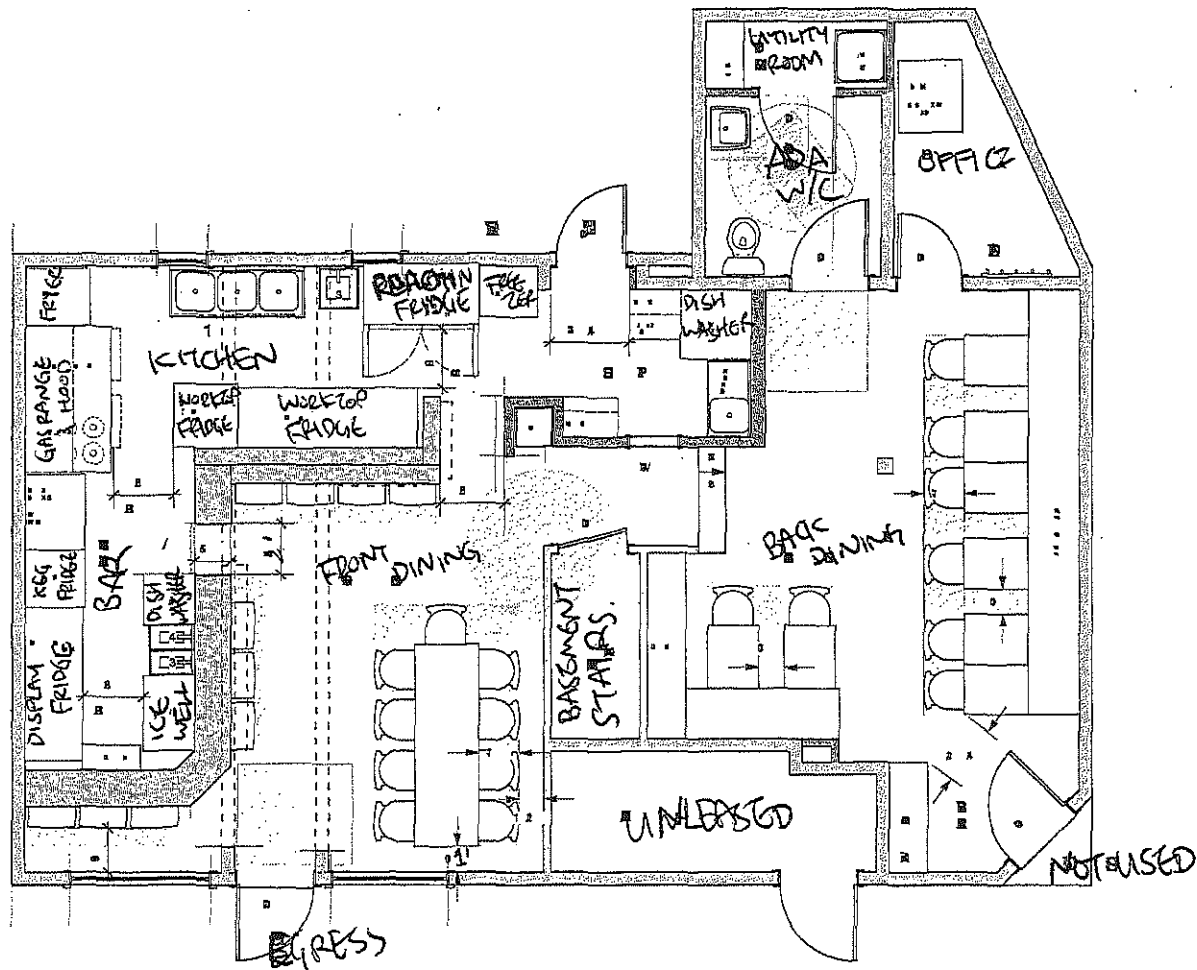
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information -- please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

PREMISE DIAGRAM



2 1/2" = 1' - 0"

1 1/2" = 1' - 0"



PROB S SET

A 1



Izakaya Minato

STARTERS

-Garlic Edamame 4
Soy beans tossed w/ garlic

-Goma Ae 5
Steamed greens w/ sesame sauce

-Uzura Ajitama* 5
Marinated quail eggs

-Kinpira 4
Burdock, carrot and hijiki

PORT

-Aburi Iwashi* 9
Seared vinegar cured sardine

-Sashimi Omakase* 10
Seasonal fish

-Shiromi Ankake 7
Fried hake in mushroom amber sauce

-Sakamushi 8
Sake steamed Maine mussels

LAND

-Karaage 7
JFC (Japanese Fried Chicken)

-Okonomiyaki 8
Cabbage pancake w/ bacon or shrooms

-Tsukune Shiitake 6
Ground chicken stuffed shiitake

-Dashi Maki 5
Egg omelet w/ dashi

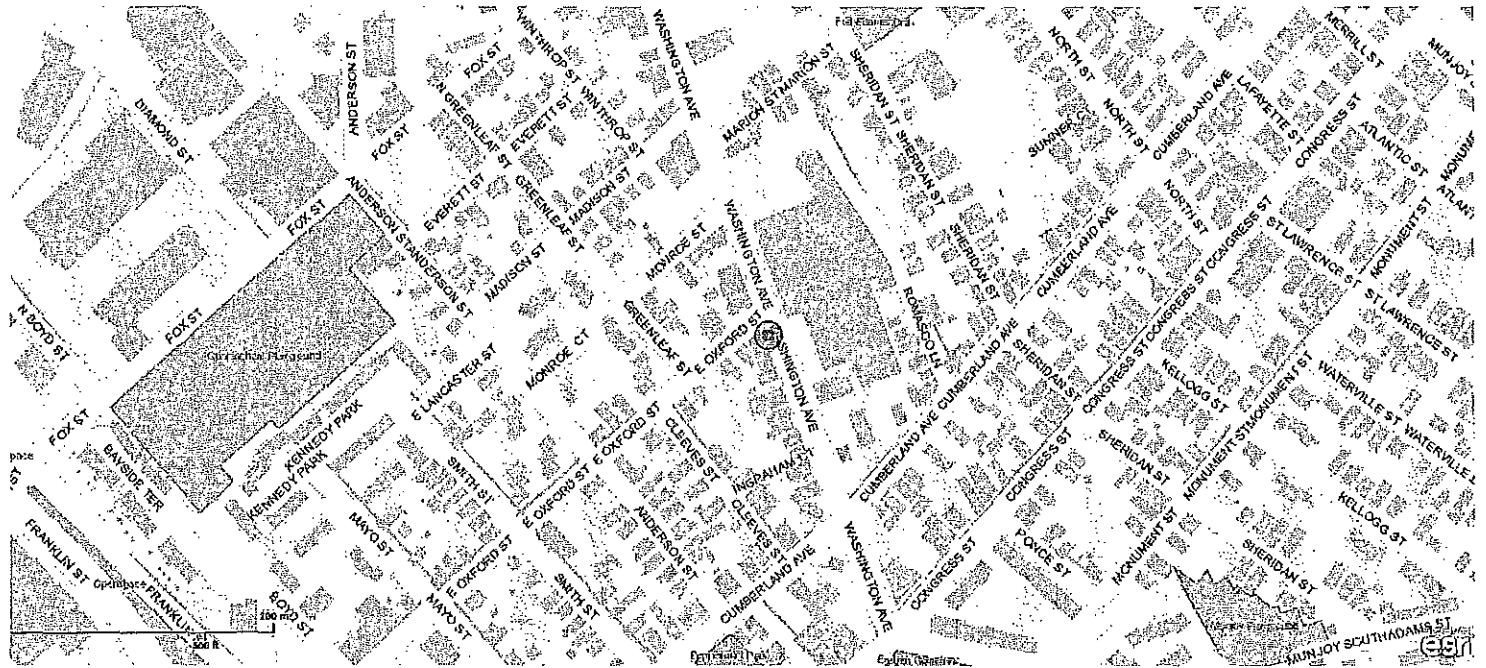
FINISHERS

-Age Ochazuke 6
Fried rice ball, fish broth, ikura

-Takikomi Gohan 4
Rice cooked w/ veggies in dashi

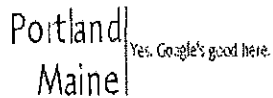
-Tonjiru 4
Pork miso soup

*Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.



10/19/2016

City of Portland Mail - IZAKAYA MINATO Business License Approval



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

IZAKAYA MINATO Business License Approval

garyh@portlandmaine.gov <garyh@portlandmaine.gov>

Sun, Sep 25, 2016 at 2:27 PM

To: bl@portlandmaine.gov

Cc: vjb@portlandmaine.gov

IZAKAYA MINATO is Approved for their Business License Inspection by the Police Dept.

Zone:

Comments: Police approve all license request.

☐ noname
OK



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D009256

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-09-23) :

Inquiries Name(s) ELAINE ALDEN (1984-03-16)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE)

JESSICA HANSCOMBE
389 CONGRESS ST
PORTLAND, ME 04101

Transaction Response #: MIQ99D009254

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2016-09-23) :

Inquiries Name(s) **THOMAS COOKE (1977-12-12)**

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

September 23, 2016

Minato LLC
Att Thomas Cooke
203 Coyle Street
Portland ME 04101

Re: Minato, LLC, d/b/a Izakaya Minato. Application for a Class I License with Outdoor Dining on Public Property at 54 Washington Avenue.

Dear Mr. Cooke,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, November 7th at 5:00 p.m.**, for the review of your application for a Class I License at 54 Washington Avenue. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, jhanscombe@portlandmaine.gov

Sincerely,

Jessica Hanscombe
Business License Specialist
207-874-8783
jhanscombe@portlandmaine.gov

**Legal Advertisement
Notice of Public Hearing
City of Portland**

A Public Hearing will be held on November 7th at 5:00 P.M., in City Council Chambers, 389 Congress St., on Minato, LLC d/b/a Izakaya Minato. Application for a Class I License with Outdoor Dining on Public Property at 54 Washington Avenue. Sponsored by Michael Russell, Director of Permitting and Inspections.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

*Order 59-16/17
~~Tab 13 9-19-16~~
~~Tab 9 10-5-16~~
Tab 6 11-7-16*

**ORDER APPROPRIATING FUNDS FROM
THE SALE OF CITY-OWNED BAYSIDE PROPERTY ON SOMERSET STREET**

ORDERED, that \$1,000,000 from the sale of city-owned Bayside property on Somerset Street is hereby appropriated for use in the relocation of the Department of Public Works operations from Bayside to 212 and 250 Canco Road and any costs related and ancillary thereto; and

BE IT FURTHER ORDERED, that \$1,000,000 from the sale of city-owned Bayside property on Somerset Street is hereby appropriated for use in the City's replacement of public administration software and any costs related and ancillary thereto.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Finance

DATE: 9/19/2016

SUBJECT: APPROPRIATION OF MIDTOWN SALE PROCEEDS

SPONSOR: Jon Jennings

(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ **9/19** _____ **Final Action** _____ **10/5** _____

Can action be taken at a later date: No

Action is required immediately as funds are needed for relocation of Public Works facilities out of the Bayside neighborhood and funds are required for RFP #5116

PRESENTATION: Brendan T O'Connell, under 5 minutes

I. ONE SENTENCE SUMMARY

Earlier this calendar year sale of property in the Bayside neighborhood occurred to the Federated Companies, LLC and the sales proceeds need to be appropriated by City Council.

II. AGENDA DESCRIPTION

In June 2016 the Federated Companies, LLC purchased parcels of property from the City in the Bayside neighborhood. This order appropriates these funds towards the move of Public Works out of the Bayside neighborhood to Canco Road and also towards the funding of RFP #5116 – Proposal for Public Administration Systems Software.

III. BACKGROUND

Same as I above.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

It has long been a City goal to relocate Public Works out of the Bayside neighborhood so those properties could be redeveloped for housing and businesses. The City has acquired land at 212 and 250 Canco Road and those properties will be the new home base for a variety of City operations currently housed a Bayside including Traffic Operations, Fleet Management, and more.

Several other City Council goals will be addressed if the City can successfully complete and implement the results of RFP #5116 – Proposal for Public Administration Systems Software. The last Public Administration Systems Software RFP occurred in 1996 so City staff is working with software technology that in some cases is 20 years old. Over the years piecemeal solutions have been purchased, or home grown solutions have been implemented. The goal of this RFP is to increase efficiencies within all departments by implementing public administration software which brings our systems into the 21st century.

V. FINANCIAL IMPACT

The recommended appropriation will be \$1,000,000 for relocation of Public Works to Canco Road and \$1,000,000 for RFP #5116.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

None

VII. RECOMMENDATION

Move passage

VIII. LIST ATTACHMENTS

None

Prepared by: Finance Department
Date: 9/8/16



To: Councilor Mavodones and Members of the Finance Committee
From: Brendan T O'Connell – Finance Director, Anita LaChance – Deputy City Manager
Re: Appropriation of Midtown Sales Proceeds – Public Administration Systems Software
Date: 10/27/16

In June 2016 the Federated Companies, LLC purchased parcels of property from the City in the Bayside neighborhood for \$2,300,225. After payment of the real estate broker commission, the City received net revenue of \$2,135,585. Because this is an unbudgeted one-time revenue the funds need to be appropriated by City Council. This outlines the staff request for appropriation of \$1,000,000 of these funds towards relocation of Public Works to Canco Road and \$1,000,000 of these funds to fund City of Portland RFP #5114 *Proposal for Public Administration Systems Software*.

Request for Appropriation – Canco Road

The relocation of Public Works from West Bayside was first proposed well over a decade ago. The earliest cost benefit analysis done in 2003, contemplated the use of land sale proceeds to accomplish the relocation. Since that time, the City has explored a variety of possible locations including outer Congress St, Riverside St and Presumpscot St., all of which were determined to be inadequate for one reason or another. In 2010, the City Council voted to set aside \$826,500 in sale proceeds for the relocation of Public Works (then Public Services, see attached memorandum and council order).

In 2013, City staff identified a property at 212 Canco Rd, which would allow us to finally begin the relocation Public Works. As part of the FY14 CIP, the City Council authorized bonds in the amount of \$3,050,000 for the purchase of 212 Canco Rd. The bond order stipulated that, should the Bayside property be sold prior to the sale of the bonds, the bond amount would be offset by the net sale proceeds (page 1 of Bond Order, with stipulation highlighted, attached). With the delay of the sale of the Bayside property, there were not offsetting funds and the entire \$3,050,000 was bonded.

In the spring of 2015, the property at 250 Canco Rd., which is contiguous to 212, was put up for sale. Staff brought forward a recommendation to purchase the property through both the Finance Committee and Housing and Community Development Committee, initially in executive sessions and later in public sessions, where both committees voted unanimously to recommend approval. On July 20, 2015, the City Council authorized the purchase of 250 Canco Rd, utilizing a \$3.4 million General Obligation Bond and \$930,000 in sales proceeds. The back-up material noted that this was Phase 1 of the project and that Phase 2 of the project to relocate Fleet Services would require a new addition and was estimated to cost in excess of \$8 million. Also included in the back-up material was a master plan developed by Sebago Technics. The Council agenda memo and master plan are attached.

Request for Appropriation – RFP #5114 Proposal for Public Administration Systems Software

On Wednesday, March 2, 2016 the City of Portland released RFP #5116, *Request for Proposals – Public Administration Systems Software*. The purpose of the RFP was to identify options for a comprehensive public administration software system. The City has been operating with a system which was originally purchased in 1996, Sungard NaviLine. The existing system is extremely

outdated, causes significant inefficiencies in daily operations, and contributes to an often frustrating experience for City employees, residents and taxpayers. Additionally, our existing software provider chose not to bid on RFP #5114 with any potential options for an updated public administrative software solution. The company was recently acquired by Fidelity Investments and it is believed that future investment in their software will be minimal. Technical support for our existing system may cease to exist in the coming years and it is imperative that the City get ahead of the curve in regards to a finding a replacement.

History and Current Status of Public Admin Software in Portland

Over the years several attempts have been made to upgrade the City public administration software, but those efforts failed due to inadequate funding and lack of support, leaving the City further and further behind during a time where technological advances have been coming faster than ever before. Rather than take no action, City staff has been forced to take alternative steps to address our underfunded technology needs. Those actions have included:

1. IT Department "home grown" software solutions - A number of internally programmed Microsoft Access databases are used to perform many of the City's most important functions (examples include Parking Enforcement, General Assistance, Housing Safety Inspections, the Capital Improvement Plan, Cash Receipts, Budget Adjustment Requests among others).
Pros: Low cost **Cons:** Limited number of internal IT staff with programming ability for customization and internal customer service, and our technology is incredibly basic when compared to industry leading public admin software.
2. Piecemeal software purchases – Individual Departments have often needed software solutions so badly that they requested and/or used operating budget funds to make an individual software purchase (recent examples include HR – CivicHR, Rec & Facilities – Community Pass).
Pros: Immediate band aid for a specific need **Cons:** Lack of integration City wide, higher cost per module than if purchased as part of an overall public administration software system.

Continuing on the current path of IT Department "home grown" solutions and piecemeal software purchases is unsustainable. The number of inefficiencies which exist in daily operations has continued to increase and have an impact on nearly every department. Staff turnover has left the City with fewer and fewer experts who are trained on our existing system, and replacements are nearly impossible to find (the nearest community which still uses a similar system is in Rhode Island).

City Council Support for Technology, Software, and Innovation

In January 2016 the City Council met to develop a clear understanding of key priorities and goals for the Council and its Committees. The implementation of a new public administration software system, would directly address several of these goals:

1. Create a more efficient permitting process with specifics; computer tracking (NOTE: This was the #1 goal of the Economic Development Committee and the Housing Committee also had "Improvement in planning and inspections" listed as one of their goals)

Work has already begun in this area, streamlining our internal processes and forming a standalone Inspections Department. However, adopting state of the art, industry leading permitting and inspections software will be the leading driver of a more efficient permitting process. An updated software solution will include software which can manage automation of planning & project review, permitting, enforcement, inspections, housing safety, business and

other licensing. A new software solution would also be compatible with mobile device usage, with inspections in the field having a fully functional platform of applications for mobile use.

2. Figure out how to make city services run more effectively and efficiently (Finance Committee)

City staff from every department was invited to view a demo from Tyler Technologies, one of the bidders on RFP #5114. A small subset of the positive feedback received is included below:

- Finance
 - **Budget:** Fully customizable, allows comparison of up to 5 budget levels, permits easy downloading of reports into Excel, is much simpler & less rigid than current system.
 - **Financial statements:** generation partially automated (full manual process now)
 - **Grant and fixed asset reporting** modules much more robust than current software
 - **Accounts receivable** module works properly (our current module is broken, errors require manual correction to each period).
 - **Payroll:** Eliminates significant manual work required (calculating garnishments, tracking leave accruals, editing payroll manually, automation of employee self service). Vastly superior reporting capabilities and ability to assist with union costing. Would easily facilitate online pay stubs and our move to mandatory direct deposit / pay cards.
- Human Resources
 - **Performance management** tools, along with tools for tracking corrective actions through the progressive disciplinary process from start to finish (all a manual process now)
 - Permits tracking of union and non-union employee grievances, etc. OSHA/WC capabilities and the enhanced ability to track all training (both required and voluntary).
 - **Benefits:** Allows us to customize and design our annual total compensation statements, easily meet Affordable Care Act 1094C & 1095C tracking and reporting requirements, track benefit payment arrears and set up repayment plans upon return from leave of absence, create onboarding and enrollment forms that could relay information to group benefit administrators, for example, submitting information directly to the dental carrier, Northeast Delta Dental all would bring much more efficiency and modernization to the work we do each day.
 - **Employee self service** feature is also a plus where employees could submit changes in tax withholding, etc. but also perform a "what if" calculation to see the impact is helpful as well.
- For Citizens, Residents, Businesses
 - Shopping cart format so all bills can be paid at one time, in the same transaction
 - "The Citizen Self Serve for the tax billing module allows a citizen to view and reprint any bill generated by the system. It would integrate with our current IAS Assessing system, which is a Tyler product, eliminating the multiple steps of re-entering data from one system to the other. Our current system is a very complex process for generating tax bills and this would streamline that process as well
 - Stormwater Billing – Would eliminate a significant portion of the manual calculations required and would help streamline the billing process overall, saving staff time.

3. Research Best Practices (Economic Development)

City Council has encouraged staff to research and implement best practices. Tyler Technologies public administration software is a municipal government best practice not only here in Maine but nationwide. When recruiting for new City staff, it is incredibly difficult to find anyone with experience using our existing system. If Tyler Technologies software was used by the City, we would be able to find experienced talent from nearly 60 other municipalities in Maine (see Appendix A) and over 500 within New England.

In summary, the adoption of new public administration software is a significant investment which is long overdue. The one-time cost of the software alone is approximately \$500,000, despite a 60% discount. When implementation and data conversion costs are added in, the one-time cost totals \$2,038,000. While these costs are usually paid up front, Tyler has agreed to phase this cost over three years. They have also discounted annual maintenance by 20%, resulting in a manageable impact on the operating budget. Spreadsheets are attached which detail both the one-time and annual costs of this initiative, as well as a copy of the draft contract.

Canco Road Attachments

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Joseph E. Gray, Jr., City Manager

FROM: Ellen Sanborn, Finance Director

DATE: July 1, 2010

RE: Reserving Property Sale Proceeds for DPS Relocation

You will recall that during budget reviews, the Finance Committee proposed allocating a portion of two pending property sales proceeds as revenue in the FY2011 budget to reduce taxes, which was approved by the Council in passing the budget. During that discussion, the Committee expressed interest in reserving the balance of proceeds for the relocation of Public Services out of the Bayside area.

The two pending sales are the Adams School property and a portion of the Riverside Street property, with proceeds estimated at \$1,140,000, which are expected to close within the next couple of months. Of that amount, \$313,500 was applied to the FY2011 budget, leaving \$826,500 as the possible reserve amount.

This would be handled in the same manner as when the City sold the Martin's Point property and reserved the proceeds for relocation of the School Business Offices and future elementary school construction. The funds reside in the City's General Fund Balance as a commitment for that purpose, and the Council appropriates amounts as needed.

This order would establish the reserve, which is now titled "*committed funds*" under the new accounting rules. The Finance Committee, at their June 24 meeting, unanimously voted to recommend establishing the reserve and also allocate to it the remaining proceeds from the two sales mentioned above. The exact amount will not be final until the closings are complete. Other funds can also be allocated to the reserve in the future, and expenditures using these committed funds would need to be appropriated by the City Council for the intended purpose.

Attached also is a copy of the Finance Committee minutes from the June 24 meeting.

NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEE MAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

**ORDER APPROPRIATING THE PROCEEDS
OF DESIGNATED PROPERTY SALES FOR THE RELOCATION OF THE
DEPARTMENT OF PUBLIC SERVICES FACILITY ~~IN BAYSIDE~~**

ORDERED, that the net sales proceeds, after satisfying amounts included as revenue in the FY2011 budget, of the city-owned property on Munjoy Hill, a/k/a the Adams School property, and on Riverside Street are hereby ~~appropriated to a Cumulative Reserve Fund~~ Committed within the General Fund Balance to pay for the relocation expenses of some of the Department of Public Services facilities currently in Bayside; ~~and~~.

~~**BE IT FURTHER ORDERED**, that said reserve fund shall be a permanent fund only to be used for the purposes set forth herein and its unexpended balance shall not revert to the general fund at the end of any fiscal year.~~

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
IN AN AMOUNT NOT TO EXCEED \$3,050,000**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT:

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Three Million Fifty Thousand Dollars (\$3,050,000) to finance the acquisition of land, buildings and other property in order to consolidate a number of City public operations, including the relocation of some of the Public Services Department operations and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$3,050,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the principal amount of Bonds or BANs authorized hereunder shall be reduced by the amount of net sale proceeds paid to the City due to the sale of Bayside property, which property is currently anticipated to be sold to the Federated Companies.

4. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

5. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

6. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

7. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

8. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

9. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

10. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

11. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

12. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

14. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

15. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

16. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

17. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost

of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not

inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

NOTE: This item is recommended to be postponed until the September 4th meeting.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 22, 2015

SUBJECT: Department of Public Services Bayside Relocation Plan/Purchase and Development of 250 Canco Road:

- Order Authorizing Purchase and Sale Agreement for City to Purchase 250 Canco Road;
- Order Authorizing the Issuance of General Obligations Bonds not to exceed \$3.4 Million for the purchase of 250 Canco Road
- Order Authorizing the Appropriation of General Obligations Bonds for the purchase and development of 250 Canco Road
- Order Authorizing the Appropriation of \$930,000 in Land Sale Revenue for the purchase and development of 250 Canco Road

SPONSORS: Finance Committee/Councilor Mavodones, Chair
Housing and Community Development Committee/Councilor Donoghue, Chair

Council Meeting at which action is requested:
1st Reading: July 6, 2015
2nd Reading/Final Action: July 20, 2015

Can action be taken at a later date? No. **If no, why not?** The property at 250 Canco Road is currently on the market and City action is needed to allow for this transaction to move forward.

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery. This memorandum outlines an approach to address this City policy.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

City staff recommendation is to proceed with a two phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street, as follows:

PHASE 1 (estimated cost is \$4.33 million including property acquisition)

See attached Phased Development Plan and Budget which includes:

- Purchase 250 Canco Road property at \$2.7 Million – see attached proposed Purchase and Sale Agreement.
- Acquire portion of JB Brown property shown on the attached plan under a proposed land swap.
- Relocate all DPS operations housed in 82 Hanover Street to 250 Canco Road which frees this property up for sale.
- Relocate the DPS satellite sand/salt shed operation located at 71 Hanover Street to the JB Brown property.
- Shared entrance drive, through 250 Canco Road, to JB Brown property.

PHASE 2 (estimated cost is \$8+ Million)

- Requires a community referendum.
- No required property acquisition needed.
- Relocate Fleet Services operations located at 44 Hanover Street to a new addition to 250 Canco Road which frees 44 Hanover Street for sale.

Here is why the phased approach makes sense.

- Acquiring 250 Canco Road and a portion of JB Brown's property is a *strategic investment* in creating a 13+ acre City DPS/City Department campus which is centrally located for service delivery to on Peninsula demands. The timing of acquiring 250 Canco Road needs to be made now because of the site is on the market for sale.
- Relocating DPS operations located in 82 Hanover Street frees up one more DPS Bayside property for sale in addition to the City Council approved sale of 71 Hanover (to Bayside Bowl) and the City's announced interest to sell 65 Hanover/52 Alder Street. Selling 82 Hanover Street creates a significant real estate critical mass (combined with the sale of 71

Hanover Street and 65 Hanover/52 Alder Street properties) to attract new private sector investment to this area of Bayside in need of “catalyst” use type projects like the Bayside Bowl/new Squash Center investment.

II. REASON FOR SUBMISSION

City Council authorization is required to proceed with real estate acquisition and financing options.

III. INTENDED RESULT

The intended result will enable the City to relocate a portion of DPS to a centralized location near the peninsula where a majority of the demand for City governmental services is needed.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside Vision 2000 Plan* to relocate Public Services Bayside operations out of Bayside to support mixed use development.

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

An overview of the financial impacts in the form of sources and uses of funds to support Phase 1 are provided below.

Uses		
250 Canco Road	Acquisition Cost	\$2.7 Million
JB Brown Property	Acquisition Cost	\$0 due to land swap under negotiations.
Redevelopment Cost for 250 Canco Road and Quarry Road Properties		\$1.63 Million
Total Uses:		\$4.33 Million

Sources		
Existing Real Estate Sales	\$930,000	
New City Debt	\$3.4 Million	
Total Sources:		\$4.33 Million

At this time, City staff is not seeking any action from the HCD, Finance Committee, and City Council on a community referendum. Decisions to proceed with Phase Two, requiring a community referendum, will be made in the future.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities

combined with other departments to a single centralized location to provide City services on or near the Peninsula where a majority of demand for City governmental services are needed. See Attachment C from Sebago Technics for an overview of the proposed redevelopment of the Canco/Quarry Road properties for City use.

250 Canco Road

An overview of 250 Canco Road transaction with comments includes:

Property Location: The property is located in a “central service delivery location” in an industrially zoned property with adjacent industrial users.

Property Size: 5.0966 acres

Building Square Footage/Acres: 63,780 sq. ft. building, on 5.1 acres

Municipal Assessed Value: \$3,009,990

Purchase Price: \$2,700,000

Market Appraisal: \$2,870,000

J.B. Brown Quarry Road Property Land Swap

An overview of Quarry Road transaction with comments includes:

Property to Acquire

Property Location: The property is located in a “central service delivery location” in an industrially zoned property with adjacent industrial users. See Attachment B - map highlighting two J.B. Brown properties to be acquired by the City.

Property Size: 4 +/- Acres

Purchase Price: Under negotiation. Expected City and JB Brown property trade with collaborating on providing JB Brown property truck access through 250 Canco Road property with the goal of no funds changing hands.

City Property to Swap

Property Location: 0 Cornell Street, 151A-A-13 (City Tax-Acquired)

Property Size: 3.1 Acres

It is noted that the City Council approved a lease/purchase option for 212 Canco Road (Nelson Small building), which can be exercised as of March 1, 2017. City operations located at 65 Hanover/52 Alder Street are planned to be relocated to 212 Canco Road. The Fire Department is an existing tenant at 212 Canco Road.

VII. RECOMMENDATION

Staff presented this to both the HCDC and FC for their recommendations to the City Council. The following represents the Committee recommendations:

Housing and Community Development

At its meeting on June 10, the HCDC voted unanimously (4-0) to recommend to the City Council that it authorize staff to execute the Purchase and Sale Agreement for the City's purchase of 250 Canco Road, as substantially in the form as attached.

Finance Committee

At its meeting on June 11, 2015, the Finance Committee voted unanimously (4-0) to recommend to the City Council that it authorize the financial appropriation of existing real estate sale proceeds at \$930,000 and new debt authorization in the amount \$3.4 Million for a total of \$4.33 Million for the purchase and development of 250 Canco Road.

VIII. LIST ATTACHMENTS

- A. Map of DPS Bayside Property
- B. Map of Canco/Quarry Road Property
- C. Canco/Quarry Road Phased Development Plan
- D. Purchase and Sale Agreement for 250 Canco Road



July 1, 2015
15056

Michael J. Bobinsky, Director
Department of Public Services
City of Portland
55 Portland Street
Portland, ME 04101

**Memorandum of Master Planning – Relocation of Public Services to Canco Road,
Portland, Maine**

Dear Michael:

Sebago Technics, Inc. has been retained by the City of Portland to assist in the master planning for the potential relocation of various Public Services operations to Canco and Quarry Road properties. The purpose of this memorandum is to provide a general summary of the space planning completed to date, together with findings for consideration.

Introduction:

Over the past several years, the City of Portland has continued to actively evaluate alternatives for the phased relocation of Public Services from the Hanover Street in the Bayside area of Portland. The relocation effort is part of an overall vision to vacate several city properties in the Bayside area for redevelopment. In addition to relocating public services, other essential city services would also be relocated to Canco Road as outlined this report. Locating the majority of city Public Services into one combined campus provides a unique and important opportunity for consolidation of an operation that has space limitations and is somewhat fragmented by having various operations in multiple locations through-out the City.

The selection of a new site is a difficult task in itself since a Public Services operation is industrial in nature and therefore must be located in a compatible area where zoning and neighboring uses are consistent with the proposed use (generally industrial or commercial in nature). In addition, the selected location must provide sufficient land area to accommodate a large fleet of vehicles, equipment, and sand/salt distribution, refueling, materials and laydown storage. The location must also provide for adequate circulation areas to move large equipment including temporary parking/storage of large equipment.

The City has been presented with a suitable relocation site that meets the programming requirements and is centrally located and easily accessible. The proposed location off Canco Road is located in the IM Zone and partially a contract zone (C50). The identified parcels are

commonly known as the Nelson & Small property (212 Canco Road), Seltzer and Rydholm property (250 Canco Road) and open land owned by J.B. Brown are the focus of this master planning effort.

Operations to be relocated to Canco Road: The following provides an overview of immediate and long-term City Public Service operations that may be relocated to the Canco Road property over a period of time in a phased approach.

1. Seltzer & Rydholm & JB Brown Parcels.

- Fleet Maintenance
- Construction Company
- Dispatch
- Districting
- Forestry & Horticulture
- Sand/Salt Storage
- Fuel Dispensing
- Vehicle and Equipment Wash Facility
- Parking for employees
- Outside storage for equipment and materials storage

2. Nelson & Small Parcel

- Facilities/Recreation Administration
- Building & Trades Personnel
- Fire Department Electrical & Communications
- Traffic
- Parks Operations

Location & Space Requirements:

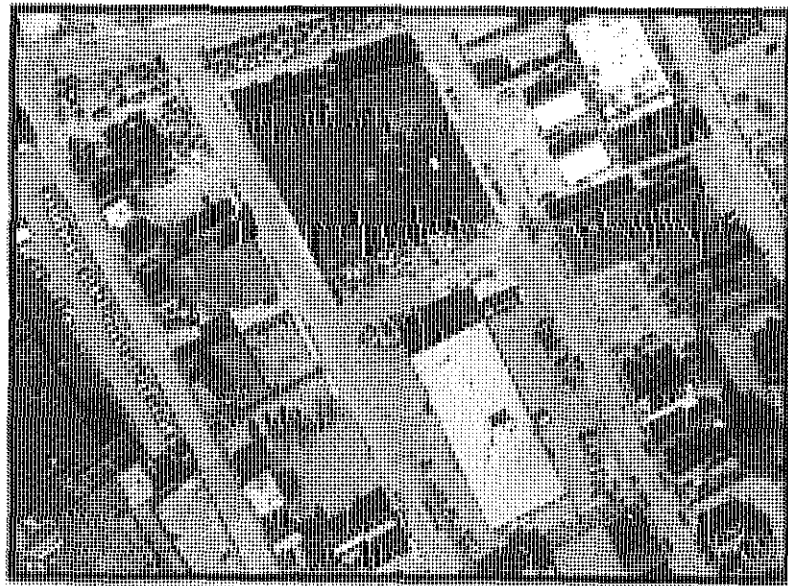
The Portland DPS is essentially a large industrial operation that operates on a 24/7 basis providing city wide services. As a result, the selection of a location for DPS requires careful consideration of many factors including appropriateness of the general area (industrial zoning), access to major streets, available property and building space. The location must also provide easy and convenient access to the downtown and outlying areas. When considering these attributes both individually and collectively, the options within the City of Portland are limited for locating a large DPS facility.

The following provides a general overview of the existing space currently utilized by the DPS and the proposed location located off Canco Road.

Existing Bayside Public Services Site: Presently, the City of Portland Department of Public Services (DPS) generally operates within a 4 acre area located between Hanover Street and Parris Street as shown on the adjacent photo.

The location is an inner City Urban area that has numerous logistical challenges. The site is constrained with limited out of door parking areas for equipment and staging.

During winter operations, the DPS utilizes both Hanover and Parris street for vehicular cueing and as an operational area. It is not uncommon for both streets to have large vehicles maneuvering around parked cars on these narrow urban streets. The site has become further constrained due to the elimination of the sand and salt storage areas to accommodate recent commercial development. Due to the limited space, the City requires some activities to be remotely located such as storage of equipment and vehicles at the Portland Ocean Terminal and at the City-owned Outer Congress Street property.



Existing Public Services - Hanover Street

Canco Road Properties:

The Canco Road properties provides the City of Portland with an opportunity to acquire existing property and buildings to relocate its Department of Public Services operations. In the future, the relocation will require the construction of a new fleet maintenance building due to special operational characteristics of a fleet maintenance building.

This area of Portland is one of the few locations that is compatible and well suited to DPS operations. The Canco Road properties are within an



Canco Road Properties

industrial setting and location well suited to a DPS operations. Both the Nelson and Small and Pepsi properties are located in the I-M Industrial Zone with the abutting JB Brown property located a Contract Zone (designated at C50). The general area has served as an industrial and commercial area of Portland for many decades and includes land area that is suitable for a DPS operation. Accommodating the full DPS operation must include the acquisition of all three land and building areas to combine into an overall tract of land suitable for the proposed operations. A concept master development plan is appended to this letter.

Comparative Area Summary:

The following chart provides a general comparative summary of the land and building holding that the City currently utilizes for DPS at the Hanover Street Facility, Portland Ocean Terminal and Outer Congress Street Site.

<i>Summary of Existing Public Services Space Utilization</i>			
<i>Location</i>	<i>Area of Property Acres</i>	<i>Existing Bldg. S.F.</i>	<i>Open Lot Area S.f.</i>
<i>65 Hanover Street</i>	<i>0.465</i>	<i>7,217</i>	<i>13,600</i>
<i>52 Alder Street</i>	<i>0.218</i>	<i>5,792</i>	<i>3,700</i>
<i>44 Hanover Street Fleet Maintenance Engineering & Administration</i>	<i>1.928</i>	<i>18,000 18,447</i>	<i>46,656</i>
<i>71 Hanover Street (Recently Sold)</i>	<i>0.347</i>		<i>15,102</i>
<i>82 Hanover Street 36,227 (garage) & 4,541 (storage)</i>	<i>0.843</i>	<i>40,768</i>	<i>0</i>
<i>Portland Ocean Terminal (Maine State Pier)</i>	<i>0.106</i>	<i>4,600</i>	<i>0</i>
<i>56 Parris Street - bought 2010</i>	<i>0.234</i>		<i>10,213</i>
<i>Totals</i>	<i>4.141</i>	<i>94,824</i>	<i>89,271</i>

Summary of Canco Road Property			
Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
Seltzer & Rydholm Building Future Fleet Maintenance	5.100	63,780 13,000	158,376
Nelson & Small Building	4.170	76,500	105,145
JB Brown	3.980		41,360
Totals	13.250	153,280	304,881

The Portland Department of Public Services currently operates predominately out of the Hanover Street facilities. The available land area in the Hanover Street area is approximately 4 acres and has presented numerous operational challenges due to the space restraints. Equipment and parking is limited as well as operational areas needed for fueling, staging, loading/unloading and general circulation. Both Hanover Street and Parris Street are frequently utilized for operations to include employee parking, vehicle stacking, loading of sand and salt and queuing for fueling and moving large vehicles. It should be noted the sand and salt storage lot was recently sold and is no longer available for use.

By nature, a Public Services Department requires significant land area for buildings, circulation, parking equipment & vehicles, storing seasonal equipment, stockpiling materials and for winter operations. For reference purposes Sebago Technics, Inc. is currently working with the cities of Westbrook and South Portland for new Public Services facilities. These communities, which are smaller than Portland have gone through a facility programming process that has identified land areas in excess of 15 acres that are required for facility operations. The total cost of Westbrook and South Portland new Public Works facilities are \$9 Million and \$15.2 Million dollars respectively, not including real estate costs.

When considering the combined land area of the various parcels, the City of Portland's current operations occur on approximately 10 to 12 acres of land area including the snow dump at Outer Congress Street. We would note that outer Congress Street Parcel is approximately 53 acres of which a large portion is not practical for development due to natural resources and potential air navigation considerations since it is in the approach and departure path of the Jetport. This 53-acre City owned property currently houses: sand/salt operation; sanitation; snow dump.

It is noted that not all of the Departments operations can be accommodated at the Canco Road Property. Through the land planning and facility programing process, we determined that the

Water Resource Division of the Department currently located at 55 Portland Street and 82 Hanover Street would be best suited at the outer Congress Street site. To that end, plans are for the Water Resources operations and asset management staffing to be housed at remodeled storage space at outer Congress Street and is funded in the FY16 CIP Sewer Budget.

Canco/Quarry Road Property Master Plan

Accompanying this report is a conceptual level Masterplan layout accommodating DPS needs utilizing the previously discussed Canco and Quarry Road properties. The masterplan demonstrates the need for combining parcels to form a tract of land suitable for DPS.

The relocation process as with any project of substantive size will require development planning and permitting.

Summary:

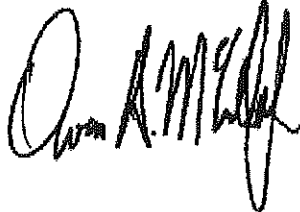
This report has been prepared for the City of Portland to better understand the adaptive space re-use of the three parcels located off Canco Road. The combination of three tracks of land together with buildings is expected to meet the current and foreseeable needs for Portland Public Services.

Should the City decide to move forward with the land and building acquisition, improvements for each of the properties will be needed for adapting the existing sites to the specific needs of a public service operation. This adaptation is expected to occur in a phased manner with the eventual construction of a new building for fleet services and associated site improvements.

Upon review of this report, please feel free to contact us if there are any questions or if we can be of further assistance. Best wishes as you consider this important project.

Sincerely,

SEBAGO TECHNICS, INC.

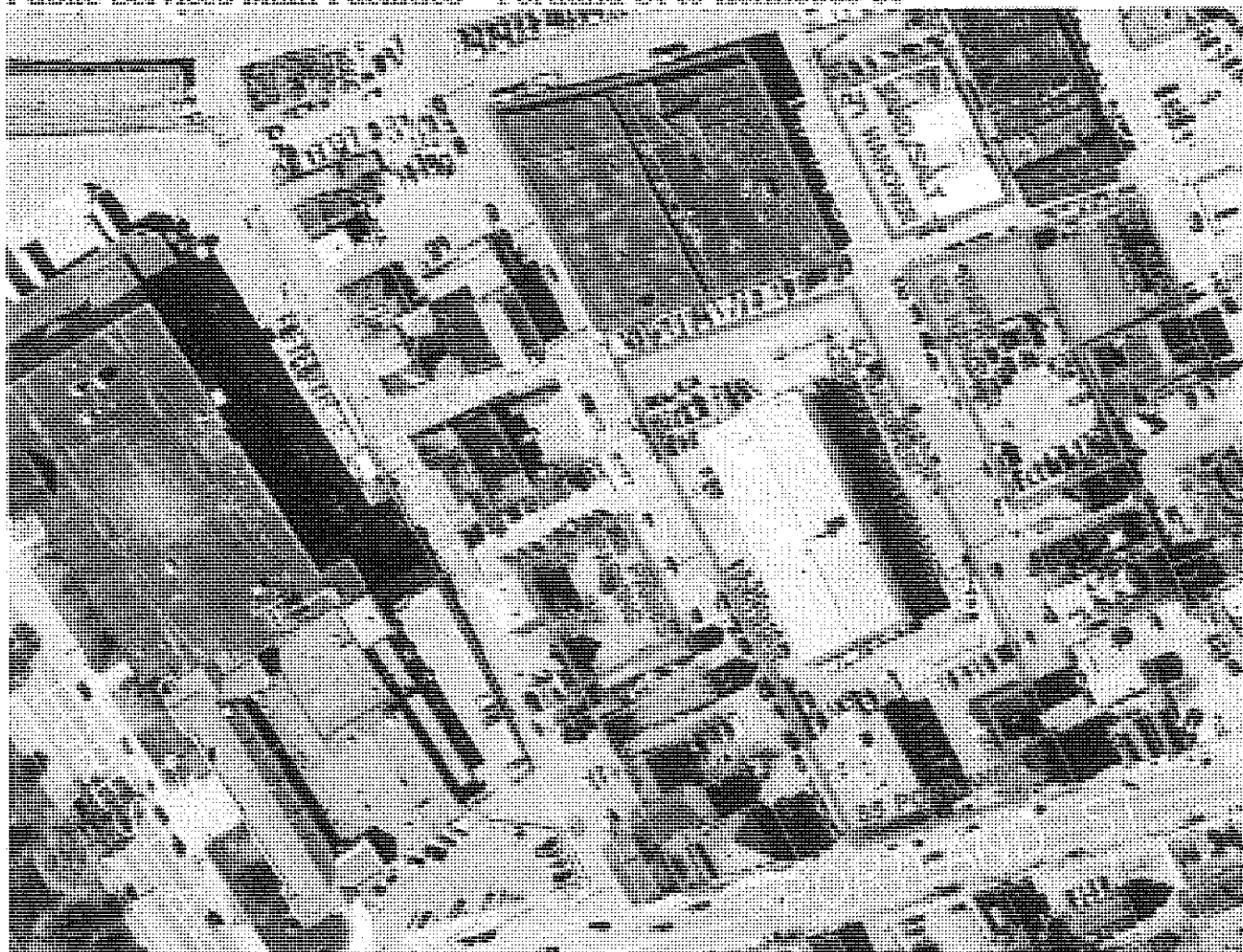
A handwritten signature in black ink, appearing to read "Owens A. McCullough". The signature is stylized with a large initial "O" and a long, sweeping underline.

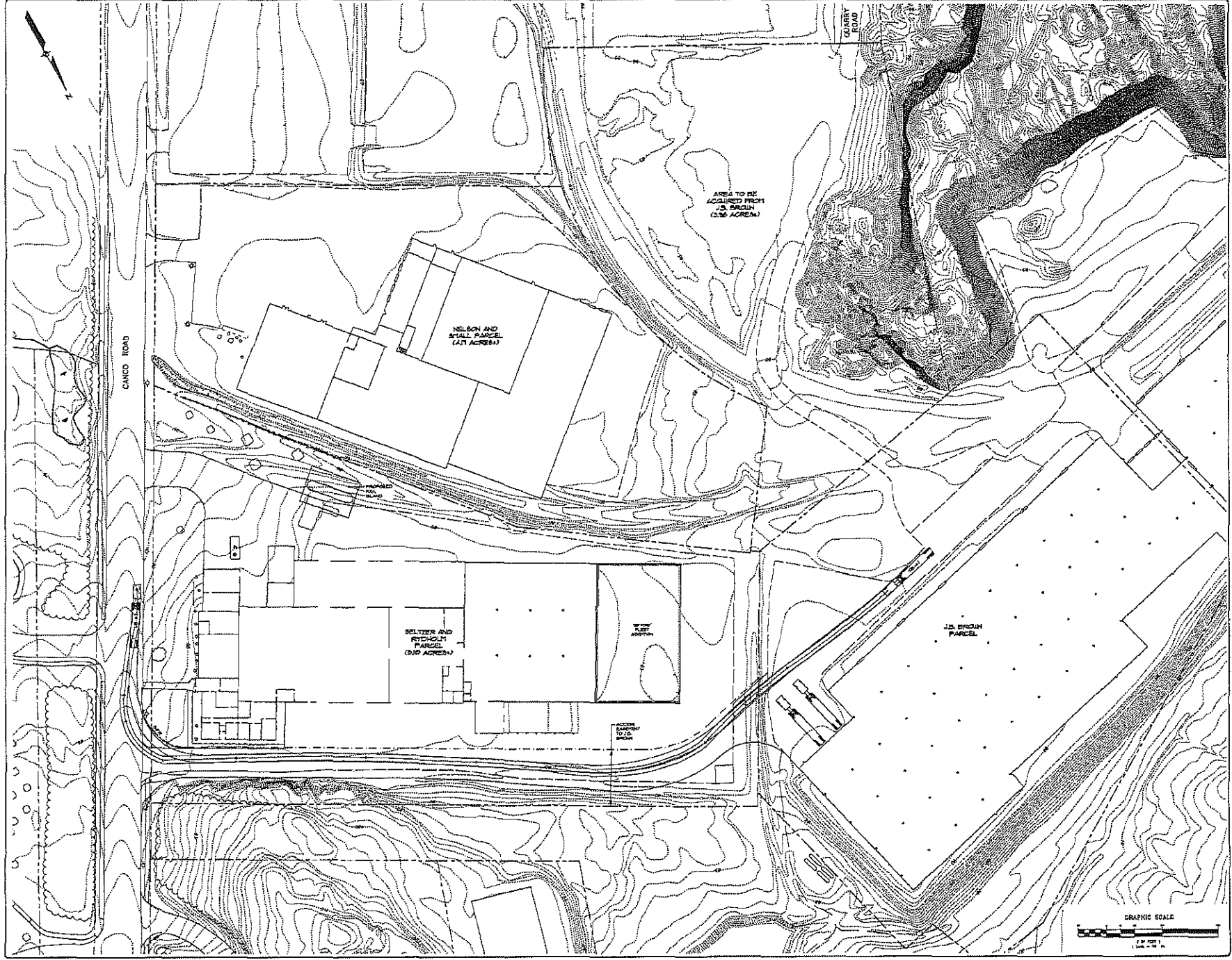
Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development
OAM: oam

Cc: Greg Mitchell
Kathy Alves

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St





CONCEPTUAL SPACE PLAN (SELTZER AND RICHOLM) PORTLAND PUBLIC SERVICE 1200 SW 4TH AVE PORTLAND, OREGON 97204 CITY OF PORTLAND 1200 SW 4TH AVE PORTLAND, OREGON 97204		SEBAGO 1200 SW 4TH AVE PORTLAND, OREGON 97204 503.225.1100 www.sebago.com	DATE: 10/1/01 DRAWN BY: J. BRIDEN CHECKED BY: J. BRIDEN APPROVED BY: J. BRIDEN SCALE: 1" = 100'
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Order 59A-16/17
Tab 7 11-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE AGREEMENT WITH TYLER TECHNOLOGIES, INC.
FOR PUBLIC ADMINISTRATION SYSTEMS SOFTWARE**

ORDERED, that the agreement for Public Administration Systems Software from Tyler Technologies, Inc. is hereby approved in substantially the form attached; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Brendan O'Connell

DATE: October 27, 2016

SUBJECT: Order Approving the Agreement with Tyler Technologies, Inc. for Public Administration Systems Software

SPONSOR: City Manager Jon P. Jennings

(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action 11/7/2016 _____

Can action be taken at a later date: ____ Yes ____ X No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

Tyler Technologies responded to a Request for Proposals with a financial software system needed by the City to replace outdated and inefficient financial software in use for many years, and this order will approve the agreement.

II. AGENDA DESCRIPTION

In March, 2016, the City released a Request for Proposals for public administration systems software. City Employees have been using a system purchased in 1996, which has been a source of frustration and has caused various inefficiencies for both city employees and the public. The company that the City bought the system from is presently called Sungard Naviline. Sungard Naviline was recently purchased by Fidelity Investments and did not present the City with a proposal. Support for its financial software may be discontinued.

While the Information Technology Department has provided solutions to problems that have cropped up over the years, assisting employees in completing their work and winning the City's appreciation for its creative strategies, the implementation of a modern software system would allow coordinated platforms and a more efficient use of time. The budget process, the production of finance reports, grant reporting, payments of bills and payment of the City payroll

could all be accomplished more quickly and accurately with modern software across all these functions.

In summary, the adoption of new public administration software is a significant investment which is long overdue. The one-time cost of the software alone is approximately \$500,000, despite a 60% discount. This discount was increased significantly during negotiations due in part to the attractiveness of the City as a premier client based within 15 miles of Tyler's Falmouth and Yarmouth headquarters. When implementation and data conversion costs are added in, the one-time cost totals \$2,038,000. While these costs are usually paid up front, Tyler has agreed to phase this cost over three years. They have also discounted annual maintenance by 20%, resulting in a manageable impact on the operating budget. Spreadsheets are attached which detail both the one-time and annual costs of this initiative, as well as a copy of the draft contract.

III. BACKGROUND

Please see the attached memo for more detail.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

In January 2016 the City Council met to develop a clear understanding of key priorities and goals for the Council and its Committees. The implementation of a new public administration software system, would directly address several of three of these goals:

1. Create a more efficient permitting process with specifics; computer tracking (NOTE: This was the #1 goal of the Economic Development Committee and the Housing Committee also had "Improvement in planning and inspections" listed as one of their goals);
2. Figure out how to make city services run more effectively and efficiently; and
3. Research Best Practices.

Please see the attached memo for more detail.

V. FINANCIAL IMPACT

The final price paid by the City will ultimately depend on what components of the software system are purchased, and they include systems for public safety, taxes, and schools as well as financial software to accomplish such tasks as payroll and budgeting. The original pricing for the "total cost to provide Public Administration Systems Software, to include software, any one-time costs, all initial license costs/fees for all users (estimated to be 350)" per the April 20, 2016 Proposal was \$2,456,750. Yearly maintenance fees are additional.

Negotiations since the proposal was submitted, however, have reduced the initial cost to \$2,038,000, spread payment over the first three years, and also discounted the annual maintenance costs by 20%.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

The agreement has been negotiated and approved as to form by the Office of Corporation Counsel. Please also see the attached memo for more detail.

VII. RECOMMENDATION

Finance Director Brendan O'Connell recommend passage.

VIII. LIST ATTACHMENTS

Memo re both Appropriation of Proceeds from Property in Bayside and Purchase of Public Administration Systems Software from Finance Director Brendan O'Connell, dated 10/27/2016

Agreement with Tyler Technologies

Order Approving the Agreement with Tyler Technologies, Inc. for Public Administration Systems Software

Prepared by: Nancy English

Date: 10/27/2016



LICENSE AND SERVICES AGREEMENT

This License and Services Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client is in need of public administration systems software and did advertise a Request for Proposals # 5116 entitled "City of Portland, Maine Department of Information Technology Request for Proposals Public Administration Systems Software," dated March 2, 2016, as amended by Addendum #1 dated March 17, 2016, Addendum #2 dated March 22, 2016, and Addendum #3 dated March 31, 2016 (hereinafter, collectively, the "Request for Proposals" or "RFP"), copies of which are attached collectively as Exhibit G and made a part hereof; and

WHEREAS, Tyler has the requisite knowledge and technical ability to provide the required software and services and has submitted a proposal dated April 21, 2016 (the "Proposal"), a copy of which is attached as Exhibit H and made a part hereof; and

WHEREAS, after due consideration of all of the proposals, Client selected Tyler to license the software products and perform the services set forth in the Investment Summary and Tyler desires to perform such actions under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **"Agreement"** means this License and Services Agreement.
- **"Business Travel Policy"** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **"Client"** or **"City"** means the City of Portland, Maine.
- **"Defect"** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in the Proposal, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **"Developer"** means a third party who owns the intellectual property rights to Third Party Software.
- **"Documentation"** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **"Effective Date"** means the date on which your authorized representative signs the Agreement.
- **"Force Majeure"** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **"Investment Summary"** means the agreed upon cost proposal for the software, products, and services attached as Exhibit A.



- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Maintenance and Support Agreement”** means the terms and conditions governing the provision of maintenance and support services to all of our customers. A copy of our current Maintenance and Support Agreement is attached as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Terms”** means the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit D.
- **“Third Party Hardware”** means the third party hardware identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party Software”** means the DocOrigin software embedded in the Tyler Forms processing module, and the BMI software embedded in the BMI hardware set forth in the Investment Summary.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SOFTWARE LICENSE

1. License Grant and Restrictions.

- 1.1 We grant to you a license to use the Tyler Software for your internal business purposes only, in the scope of the internal business purposes disclosed to us as of the Effective Date. You may make copies of the Tyler Software for backup and testing purposes, so long as such copies are not used in production and the testing is for internal use only. Your rights to use the Tyler Software are perpetual but may be revoked if you do not comply with the terms of this Agreement.
- 1.2 Without limiting the terms of Section 1.1, you understand and agree that the Postal Xpress, Transparency Portal and Tyler Notify modules set forth in the Investment Summary are licensed to you on a subscription basis. If you do not pay the required annual fee in accordance with the Invoicing and Payment Policy, your license to use the associated module will be suspended unless and until payment in full has been made.
- 1.3 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 1.4 You may not: (a) transfer or assign the Tyler Software to a third party; (b) reverse engineer, decompile, or disassemble the Tyler Software; (c) rent, lease, lend, or provide commercial hosting services with the Tyler Software; or (d) publish or otherwise disclose the Tyler Software or Documentation to third parties.
- 1.5 The license terms in this Agreement apply to updates and enhancements we may provide to you or make available to you through your Maintenance and Support Agreement.

1.6 The right to transfer the Tyler Software to a replacement hardware system is included in your license. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.

1.7 We reserve all rights not expressly granted to you in this Agreement. The Tyler Software and Documentation are protected by copyright and other intellectual property laws and treaties. We own the title, copyright, and other intellectual property rights in the Tyler Software and the Documentation. **The Tyler Software is licensed, not sold.**

2. License Fees. You agree to pay us the license fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
3. Escrow. We maintain an escrow agreement with a third party under which we place the source code for each major release of the Tyler Software. You may be added as a beneficiary to the escrow agreement by completing a standard beneficiary enrollment form and paying the then-current annual beneficiary fee. You will be responsible for maintaining your ongoing status as a beneficiary, including payment of the then-current annual beneficiary fees. Release of source code for the Tyler Software is strictly governed by the terms of the escrow agreement.
4. Limited Warranty. We warrant that the Tyler Software will be without Defect(s) as long as you have a Maintenance and Support Agreement in effect. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect as set forth in the Maintenance and Support Agreement.

SECTION C – PROFESSIONAL SERVICES

1. Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in our industry standard implementation plan. We will finalize that documentation with you upon execution of this Agreement. A sample timeline and project plan are provided for reference at Exhibit I.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours. In no event, however, will the actual fees billed to you for any line item in the Investment Summary exceed 120% of the estimate for that line item in the Investment Summary, except as otherwise agreed by you in writing and in advance.
3. Additional Services. The Investment Summary contains the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. We make all reasonable efforts to schedule our personnel for travel, including arranging travel

reservations, at least one (1) week in advance of commitments. Therefore, if you cancel services less than one (1) week in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within one (1) week of scheduled commitments.

5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us. You further agree to provide a reasonably suitable environment, location, and space for the installation of the Tyler Software and any Third Party Products, including, without limitation, sufficient electrical circuits, cables, and other reasonably necessary items required for the installation and operation of the Tyler Software and any Third Party Products.
7. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
8. Munis Disaster Recovery Services. For so long as you pay your then-current annual fee for Munis Disaster Recovery services, we will provide those services according to the terms of Exhibit E.
9. Tyler System Management Services. For so long as you pay your then-current annual fee for Tyler System Management services, we will provide those services according to the terms of Exhibit F.

SECTION D – MAINTENANCE AND SUPPORT

This Agreement includes the period of free maintenance and support services identified in the Invoicing and Payment Policy. If you have purchased ongoing maintenance and support services, and continue to make timely payments for them according to our Invoicing and Payment Policy, we will provide you with maintenance and support services for the Tyler Software under the terms of our standard Maintenance and Support Agreement.

If you have opted not to purchase ongoing maintenance and support services for the Tyler Software, the Maintenance and Support Agreement does not apply to you. Instead, you will only receive ongoing maintenance and support on the Tyler Software on a time and materials basis. In addition, you will:

- (i) receive the lowest priority under our Support Call Process;
- (ii) be required to purchase new releases of the Tyler Software, including fixes, enhancements and patches;

- (iii) be charged our then-current rates for support services, or such other rates that we may consider necessary to account for your lack of ongoing training on the Tyler Software;
- (iv) be charged for a minimum of two (2) hours of support services for every support call; and
- (v) not be granted access to the support website for the Tyler Software or the Tyler Community Forum.

To the extent you have purchased an EnerGov API from us, the following terms apply: EnerGov APIs are based on standard RESTful web services. We will provide you with all related then-current documentation and, upon reasonable request, agree to verify that those web service based APIs are functioning consistent with then-current documentation. If they are not so functioning, we will identify the root cause and, if we are the source of the root cause, we will resolve it for no additional fee beyond your then-current maintenance and support fees. If we are not the root cause, or if other support is requested by a third party on your behalf, then we will notify you of such request, provide you with an opportunity to approve or deny our acceptance of that support call and any related services, and/or quote to you the hours we expect our response to the support call to require at our then-current support services rates, as applicable. We will provide any requested and approved support on that time and materials basis. We are under no obligation to accept support calls from third parties on your behalf.

SECTION E – THIRD PARTY PRODUCTS

To the extent there are any Third Party Products set forth in the Investment Summary, the following terms and conditions will apply:

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. Upon payment in full for the Tyler Software or Third Party Hardware, as applicable and as further described in the Invoicing and Payment Policy, you will receive a non-transferable license to use the Third Party Software and related documentation for your internal business purposes only.
 - 2.1 Your license rights to the Third Party Software will be governed by the Third Party Terms. The Third Party Terms for the DocOrigin software embedded in the Tyler Forms Processing module are set forth in Schedule 1 to Exhibit D. Notwithstanding anything to the contrary set forth therein, we are authorized to agree that any City dispute relating to the DocOrigin software shall be governed by the laws of Texas, and that jurisdiction and venue for any dispute arising out of or relating to the DocOrigin End User License Agreement shall be in a court in or serving Dallas County, Texas. The Third Party Terms for the BMI software embedded in the BMI hardware are set forth in Schedule 2 to Exhibit D.
 - 2.2 We will install onsite the Third Party Software. The installation cost is included in the installation fee in the Investment Summary.
 - 2.3 If the Developer charges a fee for future updates, releases, or other enhancements to the Third Party Software, you will be required to pay such additional future fee.
 - 2.4 The right to transfer the Third Party Software to a replacement hardware system is governed by the Developer. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.

3. Third Party Products Warranties.

3.1 We are authorized by each Developer to grant or transfer the licenses to the Third Party Software.

3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.

3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.

4. Maintenance. If you have a Maintenance and Support Agreement in effect, you may report defects and other issues related to the Third Party Software directly to us, and we will (a) directly address the defect or issue, to the extent it relates to our interface with the Third Party Software; and/or (b) facilitate resolution with the Developer, unless that Developer requires that you have a separate, direct maintenance agreement in effect with that Developer. In all events, if you do not have a Maintenance and Support Agreement in effect with us, you will be responsible for resolving defects and other issues related to the Third Party Software directly with the Developer.

SECTION F – INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you for all fees set forth in the Investment Summary per our Invoicing and Payment Policy, subject to Section F(2).

2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION G – TERMINATION

1. For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section I(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section I(3). In the event of termination for cause, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination.

2. For Convenience. You shall have the right to terminate this Agreement at any time for convenience on thirty (30) days' prior written notice to us. If the Agreement is terminated by you for convenience, you shall pay us for all undisputed fees for services and software provided, expenses incurred, and materials purchased

pursuant to this Agreement prior to receipt of such notice, and any such fees or expenses incurred through the effective date of termination to the extent those fees or expense have been mutually agreed to. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees, except you shall be entitled to a prorated refund of prepaid but unused maintenance and support services.

3. Force Majeure. Either you or we may terminate this Agreement if a Force Majeure event suspends performance of scheduled tasks for a period of forty-five (45) days or more. In the event of termination due to Force Majeure, you will pay us for all undisputed fees and expenses related to the software and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees, except you shall be entitled to a prorated refund of prepaid but unused maintenance and support services.

SECTION H – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section H(1) will not apply to the extent the claim or adverse final judgment is based on your: (a) use of a previous version of the Tyler Software and the claim would have been avoided had you installed and used the current version of the Tyler Software, and we provided notice of that requirement to you; (b) combining the Tyler Software with any product or device not provided, contemplated, or approved by us; (c) altering or modifying the Tyler Software, including any modification by third parties at your direction or otherwise permitted by you; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful infringement, including use of the Tyler Software after we notify you to discontinue use due to such a claim.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate your

license and refund the license fees paid for the infringing Tyler Software, as depreciated on a straight-line basis measured over seven (7) years from the Effective Date. We will pursue those options in the order listed herein. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

1.5 Our obligations under this section shall survive termination of this Agreement.

2. **General Indemnification.** We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses, of whatever kind or nature (including costs of defense and reasonable attorney's fees) for (a) bodily injury, sickness, disease or death or property damage to the extent caused by any negligent or intentional act or omission by us, anyone directly or indirectly employed by us, or anyone for whose act we may be liable; or (b) our violation of a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense. Our obligations under this paragraph shall survive termination of this Agreement.
3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED TWO TIMES THE TOTAL FEES PAID UNDER THIS AGREEMENT AS OF THE TIME YOUR CLAIM. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS H(1) AND H(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000 per occurrence, \$2,000,000 general aggregate; (b) Automobile Liability of at least \$1,000,000 per occurrence; (c) Professional Liability of at least \$1,000,000 per occurrence, \$5,000,000 general aggregate; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000 general aggregate. We will provide you with a certificate of insurance reflecting you as certificate holder and evidencing the foregoing coverages upon our execution of this Agreement. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. On those policies, we will name you as an additional insured for coverage only on claims arising out of or relating to this Agreement and in those areas where government immunity has been expressly waived by 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 under the Maine Tort Claims Act, other Maine statutory law, judicial precedent or common law. No later than ten (10) business days after the Effective

Date, we will provide you a certificate of insurance evidencing such additional insured coverage, which certificate will say that the City of Portland, its officials, employees and agents are included as Additional Insureds under the general liability, auto liability, and excess/umbrella liability coverage where required by written contract. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. For all coverages, we shall maintain certificates evidencing all such coverages for so long as this Agreement is in effect. We agree to provide you with thirty (30) days' notice of termination of insurance.

SECTION I – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date, and thereafter at our then-current list price, by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Rights in Data. All City data created and/or processed by you on the Tyler Software is and remains the property of Client and shall in no way become attached to the Tyler Software, and we shall not have any rights in or to such data.
4. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures. Section I(20) shall govern any dispute resolution procedure outside of the meetings and discussions that occur under this Section I(4).
5. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
6. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

7. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
8. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
9. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
10. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
11. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
12. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. This Agreement may only be modified by a written amendment signed by an authorized representative of each party. No "click to accept" or "shrink wrap" agreement that may be required for Client, its officers, employees or agents to access the software or services provided under this Agreement or its attachments shall apply to Client's use of the software and services provided under this Agreement and its attachments.
13. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
14. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
15. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
16. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the

intended receiving party of a change in address will be borne by the intended receiving party.

17. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
18. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law; Construction; Jurisdiction. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. The parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Cumberland in the State of Maine or the U.S. District Court for the District of Maine sitting in Portland, 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 Courts.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Contract Documents. Tyler will provide the software and services described herein in accordance with the

terms set forth this Agreement and in Exhibits A - I attached hereto. Exhibits A - I listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the exhibits and any inconsistency between the Exhibits will be resolved in their listed order below, ***except that***, in the event of any conflict between this Agreement and the RFP/Proposal, the following order of priority will control: (a) the Agreement (including Exhibits A-F and I); (b) the Proposal; (c) the RFP, and provided that this Agreement and its Exhibits A-I shall be construed to be supplemental to one another to the extent possible, and without limiting the order of priority set forth above. For the avoidance of doubt, the parties agree that "conflict," as referenced above, includes both actual/direct conflict, and implied/indirect conflict (such as the Agreement being silent on an issue or component that was addressed in the Proposal and/or RFP). The parties agree to interpret "conflict" reasonably, and to the extent there is a good faith dispute over whether a conflict exists, the parties will follow the process set forth in Section I(4).

Exhibit A	Investment Summary
Exhibit B	Invoicing and Payment Policy Schedule 1: Business Travel Policy
Exhibit C	Maintenance and Support Agreement Schedule 1: Support Call Process
Exhibit D	Third Party Terms Schedule 1: DocOrigin EULA Schedule 2: BMI Terms
Exhibit E	Munis Disaster Recovery Services Schedule 1: Service Level Agreement
Exhibit F	Tyler System Management Services
Exhibit G	City of Portland, Maine Department of Information Technology Request for Proposals Public Administration Systems Software, RFP #5116 dated March 2, 2016, together with Addendum #1 dated March 17, 2016, Addendum #2 dated March 22, 2016, and Addendum #3 dated March 31, 2016
Exhibit H	Tyler Technologies' April 21, 2016 Proposal
Exhibit I	Sample Timeline and Project Plan

SIGNATURE BLOCK FOLLOWS

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Portland, Maine

By: _____

By: _____

Name: _____

Name: Jon P. Jennings

Title: _____

Title: City Manager

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Associate General Counsel

Address for Notices:

City of Portland
389 Congress Street
Portland, ME 04101
Attention City Manager and Corporation
Counsel



Exhibit A

Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

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Quoted By: Christine Lyden
Date: 10/25/2016
Quote Expiration: 4/5/2017
Quote Name: City of Portland-ERP-Munis
Quote Number: 2016-23609
Quote Description: City of Portland, ME Munis ERP - Contract Pricing - Revised 10-10-16

Sales Quotation For

City of Portland
389 Congress St
Portland, Maine 04101
Phone +1.207.874.8300

SaaS

Description	Annual Fee Net	# Years	Total SaaS Fee	Impl. Days
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Productivity:

Tyler Notify

TOTAL:	\$24,200.00		\$24,200.00	0
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Tyler Software and Related Services

Description	License	Impl. Days	Impl. Cost	Data Conversion	Module Total	Year One Maintenance
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Financials:

Accounting/GL/BG/AP
Bid Management
BMI Asset Track Interface
BMI CollectIT Interface
Cash Management
Contract Management

Tyler Software and Related Services

Description	License	Impl. Days	Impl. Cost	Data Conversion	Module Total	Year One Maintenance
Employee Expense Reimbursement						
Fixed Assets						
Inventory						
Project & Grant Accounting						
Purchasing						
Standard Fuel Interface - SeeComments						
Work Orders, Fleet & Facilities Management						
Payroll/HR:						
Applicant Tracking						
HR Management						
Payroll w/ESS						
Professional Development						
Risk Management						
Revenue:						
Accounts Receivable						
Animal License						
Business License						
Central Property File						
CLT Interface						
General Billing						
Maplink GIS Integration						
Motor Vehicle Excise Tax						
ME Tax Lien						
Tax Billing						
Tyler Cashiering						
Utility Billing CIS						
Productivity:						

Tyler Software and Related Services

Description	License	Impl. Days	Impl. Cost	Data Conversion	Module Total	Year One Maintenance
Citizen Self Service						
eProcurement						
IVR Gateway						
Munis Analytics & Reporting						
Tyler Content Manager Auto Indexing and Redaction (Enterprise Edition)						
Tyler Content Manager Enterprise						
Tyler Forms Processing						
Tyler Meeting Manager for TCM (Enterprise Edition)						
Additional:						
CAFR Statement Builder						
EnerGov Citizen Access Portal						
EnerGov e-Reviews						
EnerGov ESRI Integration						
EnerGov iG Workforce Mobile						
EnerGov Intelligent Objects Automation						
EnerGov Permits & Inspections						
EnerGov Rental Property Landlord Management						
MUNIS Disaster Recovery Service						
Parking Tickets OPT 1 - Bills - E						
Parking Tickets Std Master - E						
Tyler Incident Management						
Tyler System Management Services Contract						
TOTAL:	\$487,886.00	650	\$828,750.00	\$183,200.00	\$1,499,836.00	\$60,000.00

Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
25% of Dedicated Project Manager (Monthly)				
50% of Dedicated Project Manager (Monthly)				
AP/PR Check Recon Import				
AP Positive Pay Export Format				
Custom Fuel Interface				
Development Services - (Reserve)				
EnerGov Gap Analysis				
EnerGov Permits & Code Forms Library (4 Forms)				
Install Fee - New Server Install-WIN				
Munis Admin & Security				
PR Positive Pay Export Format				
Tyler Forms Library - Business License				
Tyler Forms Library - Financial				
Tyler Forms Library - General Billing				
Tyler Forms Library - Payroll				
Tyler Forms Library - Personnel Action				
Tyler Forms Processing Configuration				
Tyler Forms Library - State Tax - 8 Forms				
Tyler Forms Library - Utility Billing				
Tyler Notify - Implementation				
TOTAL:				\$508,750.00

3rd Party Hardware, Software and Services

Description	Quantity	Unit Price	Unit Discount	Total Price	Unit Maintenance	Unit Maintenance Discount	Total Year One Maintenance
BMI AssetTrak Additional Barcode/RFID							
Data Terminal (MC3190Z)							

3rd Party Hardware, Software and Services

Description	Quantity	Unit Price	Line Discount	Total Price	Unit Maintenance	Unit Maintenance Discount	Total Year Cost
BMI AssetTrak FA Bar Code/RFID Scanning System							
BMI CollectIT Barcode PrinterKit							
BMI CollectIT Inventory Bar Code Scanning System							
BMI Transtrak Fixed Asset Receiving System							
Cash Drawer							
Hand Held Scanner - Model 1900GSR							
Hand Held Scanner Stand							
ID Tech MiniMag USB Reader							
Power Supply							
Printer (TM-S9000)							
Tyler Notify IVR Plan (25,000 Minutes)							
Tyler Notify SMS Text Plan (25,000 Messages)							
Tyler Secure Signature System with 2 Keys							
TOTAL:				\$30,797.00			\$0.00

Summary	One Time Fees	Recurring Fees
Total SaaS per annum	\$0.00	\$24,200.00
Total Tyler Software	\$487,886.00	\$60,000.00
Total Tyler Services	\$1,520,700.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$30,797.00	\$0.00
Summary Total	\$2,039,383.00	\$84,200.00
Contract Total	\$2,123,583.00	

Summary
(Excluding Estimated Travel Expenses)

One Time Fees Recurring Fees

Estimated Travel Expenses \$198,181.00

Optional Tyler Software and Related Services

Description	License	Impl. Days	Impl. Cost	Data Conversion	Module Total	Year One Maintenance
Additional:						
Parks and Recreation						
Work Order Opt 3 - Work Order History With						
Cost Data - F						
TOTAL:	\$17,952.00	13	\$16,575.00	\$6,500.00	\$41,027.00	\$8,078.00

Optional Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
Change Management Self Service				
Custom Desktop Manuals				
GAP Analysis Parks and Recreation				
Source Code Escrow				
TOTAL:				\$335,825.00



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable license and services fees in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. Tyler Software.

1.1 *License Fees:* License fees are invoiced as follows: (a) 25% on the Effective Date; (b) 60% on the date when we make the applicable Tyler Software available to you for downloading (the "Available Download Date"); and (c) 15% 180 days after the Available Download Date. Payment of total license fees (\$487,886) within this timeframe contributes towards the Year 1 cap on license fees and professional services fees, as further described in paragraph 2 below.

1.2 *Subscription Fees:* Your initial subscription fees for Tyler Notify are invoiced when we make the product available to you. Subsequent subscription fees are due annually in advance on the anniversary of that date at our then-current rates.

1.2 *Maintenance and Support Fees:* Year 1 maintenance and support fees are waived through one (1) year from the Effective Date. Subsequent maintenance and support fees are invoiced annually in advance of each anniversary thereof. Your fees for each subsequent year will be set at our then-current rates. Notwithstanding the foregoing, we agree not to increase your maintenance and support fees by more than five (5) percent, year-over-year, through Year 10.

2. Professional Services. We agree not to invoice you more than \$669,528.67 in license fees and professional services fees in each of Years 1-3 ($(\$487,886 + \$1,520,700) / 3$). We therefore agree to the following caps on service fees, where a year begins on the Effective Date and each anniversary thereof, and where Year 1 accounts for the \$487,886 you will pay as set forth in paragraph 1.1 above: Year 1 = \$181,642.66; Year 2 = \$669,528.67; Year 3 = \$669,528.67. We will invoice you for the professional services we deliver, up to those caps, on the payment terms set forth below. To the extent we provide professional services in a year where the cap has already been met, we will invoice you for those services on the first day of the first month of the immediately following year. To the extent you opt to make payments beyond those caps in any given year, we will adjust the caps for subsequent years, if any, as necessary.

2.1 *Implementation, EnerGov Gap Analysis and Other Professional Services (including training and Tyler Notify Implementation):* Implementation, EnerGov Gap Analysis, and other professional services (including training and Tyler Notify Implementation) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.



- 2.2 *Dedicated Project Manager Services*: The Dedicated Project Manager services set forth in the Investment Summary will be billed monthly in arrears, triggered on the next full month after the first planning meeting for the project.
- 2.3 *Consulting Services*: If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Business System Design document, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
- 2.4 *Conversions*: Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
- 2.5 *Requested Modifications to the Tyler Software*: Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in the Maintenance and Support Agreement.
- 2.6 *Other Fixed Price Services*: Other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment will be due upon delivery of the Implementation Planning document.
- 2.7 *Development Services (Reserve)*: These services will be billed only if and as delivered at the rates set forth in the Investment Summary.
3. Other Services and Fees.
- 3.1 *Tyler Systems Management*: Systems Management Services are invoiced on the Available Download Date. Systems Management Services will renew automatically for additional one (1) year terms at our then-current Systems Management Services fee, unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term.
- 3.2 *Munis Disaster Recovery Services*: Disaster Recovery Services are invoiced annually in advance upon our receipt of your data. Disaster Recovery services will renew automatically for additional one (1) year terms at our then-current Disaster Recovery fee, unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term.
4. Third Party Products.
- 4.1 *Third Party Software License Fees*: License fees for Third Party Software are reflected in the fees for the Tyler Forms Processing Module and the BMI hardware. Please reference Section E(4) regarding maintenance of Third Party Software.
- 4.2 *Third Party Hardware*: Third Party Hardware costs are invoiced upon delivery.

4.3 *Tyler Notify Minutes and Messages*: Tyler Notify Minutes and Messages are invoiced when we make Tyler Notify available to you. Subsequent fees for minutes and messages, at our then-current rates, will be due when you request additional minutes and messages and they are made available to you.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B at Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available. Notwithstanding anything to the contrary in this Agreement and its Exhibits, Client will not be responsible for any hotel, airfare, car rental, or mileage expenses for Tyler employees whose home office is either Tyler's Falmouth or Yarmouth office. You understand and agree that, while we will make every effort to staff this project out of those offices, we may require personnel whose home office is not either the Falmouth or Yarmouth office, in which case those types of travel expenses may be incurred by them and reimbursable according to this paragraph 5 by you.

Payment. Payment for undisputed invoices is due within 30 days of your receipt of the invoice. We prefer to receive payments electronically. Our electronic payment information is:

Bank:	Wells Fargo Bank, N.A. 420 Montgomery San Francisco, CA 94104
ABA:	121000248
Account:	4124302472
Beneficiary:	Tyler Technologies, Inc. – Operating



**Exhibit B
Schedule 1
Business Travel Policy**

1. Air Travel

A. Reservations & Tickets

Tyler's Travel Management Company (TMC) will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven day advance booking requirement is mandatory. When booking less than seven days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is scheduled to exceed six hours, only economy or coach class seating is reimbursable.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five days = one checked bag
- Six or more days = two checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.



B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

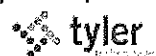
Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are



governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

- Breakfast 15%
- Lunch 25%
- Dinner 60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.



Exhibit C

Maintenance and Support Agreement

We will provide you with the following maintenance and support services for the Tyler Software. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

1. **Term.** We provide maintenance and support services on an annual basis. The initial term commences on the Effective Date, and remains in effect for one (1) year. The term will renew automatically for additional one (1) year terms unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term. We will adjust the term to match your first use of the Tyler Software in live production if that event precedes the one (1) year anniversary of the Effective Date.
2. **Maintenance and Support Fees.** Your year 1 maintenance and support fees for the Tyler Software are listed in the Investment Summary, and your payment obligations are set forth in the Invoicing and Payment Policy. We reserve the right to suspend maintenance and support services if you fail to pay undisputed maintenance and support fees within thirty (30) days of our written notice. We will reinstate maintenance and support services only if you pay all past due maintenance and support fees, including all fees for the periods during which services were suspended.
3. **Maintenance and Support Services.** As long as you are not using the Help Desk as a substitute for our training services on the Tyler Software, and you timely pay your maintenance and support fees, we will, consistent with our then-current Support Call Process:
 - 3.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (limited to the then-current version and the immediately prior version); provided, however, that if you modify the Tyler Software without our consent, our obligation to provide maintenance and support services on and warrant the Tyler Software will be void;
 - 3.2 provide telephone support during our established support hours;
 - 3.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 3.4 provide you with a copy of all major and minor releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 3.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with our then-current release life cycle policy.
4. **Client Responsibilities.** We will use all reasonable efforts to perform any maintenance and support services



remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain a VPN for backup connectivity purposes.

5. Hardware and Other Systems. If you are a self-hosted customer and, in the process of diagnosing a software support issue, it is discovered that one of your peripheral systems or other software is the cause of the issue, we will notify you so that you may contact the support agency for that peripheral system. We cannot support or maintain Third Party Products except as expressly set forth in the Agreement.

In order for us to provide the highest level of software support, you bear the following responsibility related to hardware and software:

- (a) All infrastructure executing Tyler Software shall be managed by you;
 - (b) You will maintain support contracts for all non-Tyler software associated with Tyler Software (including operating systems and database management systems, but excluding Third-Party Software, if any); and
 - (c) You will perform daily database backups and verify that those backups are successful.
6. Other Excluded Services. Maintenance and support fees do not include fees for the following services: (a) initial installation or implementation of the Tyler Software; (b) onsite maintenance and support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (c) application design; (d) other consulting services; (e) maintenance and support of an operating system or hardware, unless you are a hosted customer; (f) support outside our normal business hours as listed in our then-current Support Call Process; or (g) installation, training services, or third party product costs related to a new release. Requested maintenance and support services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.
7. Current Support Call Process. Our current Support Call Process for the Tyler Software is attached to this Exhibit C at Schedule 1.



Exhibit C

Schedule 1

Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler's holiday schedule is outlined below. There will be no support coverage on these days.

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

Issue Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler's website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client's needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. The goal of this structure is to help the client clearly understand and communicate the importance of the issue and to describe expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. Tyler's responsibility for loss or corrupted data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. Tyler's responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D
Schedule 1
DocOrigin End User License Agreement

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ATTENTION: THE SOFTWARE PROVIDED UNDER THIS AGREEMENT IS BEING LICENSED TO YOU BY **OF SOFTWARE LTD.** AND IS NOT BEING SOLD. THIS SOFTWARE IS PROVIDED UNDER THE FOLLOWING AGREEMENT THAT SPECIFIES WHAT YOU MAY DO WITH THE SOFTWARE AND CONTAINS IMPORTANT LIMITATIONS ON REPRESENTATIONS, WARRANTIES, CONDITIONS, REMEDIES, AND LIABILITIES.

DocOrigin

SOFTWARE LICENSE

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By installing, copying, downloading, accessing or otherwise using the Software, you agree to be bound by the terms of this EULA. If you do not agree to the terms of this EULA, do not install, access or use the Software; instead, you should remove the Software from all systems and receive a full refund.

IF YOU ARE AN AGENT OR EMPLOYEE OF ANOTHER ENTITY YOU REPRESENT AND WARRANT THAT (I) THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS DULY AUTHORIZED TO ACCEPT THIS AGREEMENT ON SUCH ENTITY'S BEHALF AND TO BIND SUCH ENTITY, AND (II) SUCH ENTITY HAS FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER.

1. LICENSE TERMS

- 1.1** In this Agreement a "**License Key**" means any license key, activation code, or similar installation, access or usage control codes, including serial numbers digitally created and or provided by OF Software Ltd., designed to provide unlocked access to the Software and its functionality.
- 1.2** **Evaluation License.** Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You a limited, royalty-free, non-exclusive, non-transferable license to download and install a copy of the Software from www.docorigin.com on a single machine and use it on a royalty-free basis for no more than 120 days from the date of installation (the "**Evaluation Period**"). You may use the Software during the Evaluation Period solely for the purpose of testing and evaluating it to determine if You wish to obtain a commercial, production license for the Software. This evaluation license grant will automatically end on expiry of the Evaluation Period and you acknowledge and agree that OF Software Ltd. will be under no obligation to renew or extend the Evaluation Period. If you wish to continue using the Software You may, on payment of the applicable fees, upgrade to a full license (as further described in section 1.3 below) on the terms of this Agreement and will be issued with a License Key for the same. If you do not wish to continue to license the Software after expiry of the Evaluation Period, then You agree to comply with the termination obligations set out in section [7.3] of this Agreement. For greater certainty, any document generated by you under an evaluation license will have a 'spoiler' or watermark on the output document. Documents generated by DocOrigin software that has a valid license key file also installed will not have the 'spoiler' produced. You are not permitted to remove the watermark or 'spoiler' from documents generated using the software under an evaluation license.
- 1.3** **Development and Testing Licenses.** Development and testing licenses are available for purchase through authorized distributors and resellers of OF Software Ltd. only. Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You, a perpetual (subject to termination by OF Software Ltd. due to your breach of the terms of this Agreement), non-exclusive, non-transferable, worldwide non-sublicenseable license to download and install a copy of the Software from www.docorigin.com on a single machine and

use for development and testing to create collateral deployable to Your production system(s). You are not entitled to use a development and testing license for live production purposes.

- 1.4 Production Licenses.** Production licenses are available for purchase through authorized distributors and resellers of OF Software Ltd. only. Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You, a perpetual (subject to termination by OF Software Ltd. due to your breach of the terms of this Agreement), non-exclusive, non-transferable, worldwide non-sublicenseable license to use the Software in accordance with the license type purchased by you as set out on your purchase order as further described below. For greater certainty, unless otherwise agreed in a purchase order concluded with an approved distributor of the Software, and approved by OF Software, the default license to the Software is a per-CPU license as described in A. below:
- A. Per-CPU.** The total number of CPUs on a computer used to operate the Software may not exceed the licensed quantity of CPUs. For purposes of this license metric: (a) CPUs may contain more than one processing core, each group of two (2) processing cores is consider one (1) CPU., and any remaining unpaired processing core, will be deemed a CPU. (b) all CPUs on a computer on which the Software is installed shall be deemed to operate the Software unless You configure that computer (using a reliable and verifiable means of hardware or software partitioning) such that the total number of CPUs that actually operate the Software is less than the total number on that computer.
 - B. Per-Document.** This is defined as a fee per document based on the total number of documents generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages. A document may contain 1 or more pages. For instance a batch of invoices for 250 customers may contain 1,000 pages, this will be counted as 250 documents which should correspond to 250 invoices.
 - C. Per-Surface.** This is defined as a fee per surface based on the total number of surfaces generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages, the pages may be printed one side (one surface) or duplexed (2 surfaces). The documents may be rendered to a computer file (i.e. PDF), each page placed in the file is considered a surface. A document may contain 1 or more surfaces. For instance a batch of invoices for 250 customers may contain 500 pages duplexed, this will be counted as 1000 surfaces.
- 1.5 Disaster Recovery License.** You may request a Disaster Recovery license of the Software for each production license You have purchased as a failover in the event of loss of use of the production server(s). This license is for disaster recovery purposes only and under no circumstance may the disaster recovery license be used for production simultaneously with a production license with which it is paired.
- 1.6 Backup Copies.** After installation of the Software pursuant to this EULA, you may store a copy of the installation files for the Software solely for backup or archival purposes. Except as expressly provided in this EULA, you may not otherwise make copies of the Software or the printed materials accompanying the Software.
- 1.7 Third-Party Software License Rights.** If a separate license agreement pertaining to an item of third-party software is: delivered to You with the Software, included in the Software download package, or referenced in any material that is provided with the Software, then such separate license agreement shall govern Your use of that item or version of Third-Party Software. Your rights in respect to any third-party software, third-party data, third-party software or other third-party content provided with the Software shall be limited to those rights necessary to operate the Software as permitted by this Agreement. No other rights in the Software or third-party software are granted to You.

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3. UPDATES, MAINTENANCE AND SUPPORT

- 3.1 During the validity period of Your License Key, You will be entitled to download the latest version of the Software from the DocOrigin website www.docorigin.com. Use of any updates provided to You shall be governed by the terms and conditions of this Agreement. OF Software Ltd. reserves the right at any time to not release or to discontinue release of any Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.
- 3.2 On expiry of your maintenance and support contract, you will have the right to continue using the current version(s) of the Software which you downloaded prior to the date of expiry of your License Key. However, you will need to renew maintenance and support in order to receive a new License Key that will unlock the more current version(s) of the Software. For greater certainty, if you attempt to use an expired License Key to download the latest version of the Software, the Software will revert to being a locked, evaluation copy of that version of the Software.

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Last Updated: [July 18 2013]



Exhibit D
Schedule 2
BMI End User Documentation

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End-User License Agreement (EULA) for AssetTrak ARS Desktop Computer

IMPORTANT-READ CAREFULLY: This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and the Manufacturer (BMI Systems Group) of the application software for the desktop version of "AssetTrak ARS.

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BMI Software Applications Maintenance Agreement

We understand that when you purchase one of our (ADCS) Automated Data Collection Systems or (ADMS) Automated Data Management Systems from BMI Systems Group, you expect it to work.

While our systems do perform properly, you may need assistance with the installation of the software or help in using the system itself. One year of BMI Annual Support is included with each System Kit sold by BMI or our resellers.

With a BMI annual support agreement, you get the help you need and more!

We understand that service and support are key factors to successful solution implementation. Our focus is to ensure our customers have an exceptional experience with their BMI products and services. BMI invests in building unmatched technical support teams to provide the best possible service to our partners and customers.

Up to (1) hour of phone installation support per Desktop installation

Unlimited support for the desktop application after initial installation

Unlimited support for BMI applications that are installed on the (MSD) Mobile Scanning Device

Unlimited email support during support period

Free software maintenance releases for the Desktop and MSD Applications during support period

Our PC Tutor program is available at an additional cost. PC Tutor is our remote Desktop Access System for up to 4 hours of remote low-cost training classes to help you become a pro with your system

Access to certified BMI technicians 9 hours daily, (6:30 to 4:30 AZ Time), (Mon-Fri) Guarantee that 90% of the time, you'll talk to a human, not a voicemail. Low-cost training classes to help you become a pro with your system

By maintaining annual support, BMI Systems Group can help keep your system operate effectively; provide additional training for your staff and solve any problems that might arise before, during and after implementation of your system.

Contact BMI Sales to renew or sign up for annual support.

Unitech Standard Warranty – PA 992

Standard Warranty

Unitech warrants its products to be free from defects in material and workmanship during the warranty period.

- **Length of Warranty Coverage**

Products are warranted for a minimum of 1 year. Where stated in writing on www.ute.com, some products carry additional years of warranty coverage. All cables, batteries, power supplies, and other accessories included with, or purchased separately from, the main product are covered under the Unitech Accessories Warranty for a period of 90 days.

- **Whom the Warranty Protects**

This warranty is valid only for the first consumer purchase. Customers may be required to provide proof of original purchase.

The following conditions or circumstances are not covered under the terms of Unitech's Standard Warranty plan:

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2. Unitech is unable to deliver to a P.O. Box and FPO addresses.
3. Any product on which the serial number has been defaced, modified, or removed.
Unitech is not liable for direct, indirect, consequential or incidental damages arising out of the use of or inability to use such product(s), even if Unitech has been advised of the possibility of such damages.
4. Damage, deterioration, or malfunction resulting from:
Accident, misuse, neglect, fire, water, disaster, lightning, or other acts of nature, operation or storage of product outside the environmental specifications listed for the product, or failure to follow instructions supplied with the product.
Attempted repair by anyone not authorized by Unitech or unauthorized product modification.
Products lost, stolen or discarded by customer or damage due to shipment.
Causes external to the product, such as electric power fluctuations or failure and/or tampering with internal circuitry.
Use of supplies or parts not meeting Unitech's specifications.
Customer-caused defects, including but not limited to: cracked LCD, scratched LCD, blemished LCD (dark spot larger than 1/16 inch), or scratched / defaced / altered product parts.
Normal wear and tear or any other cause which does not relate to a product defect.
Removal, installation, and set-up service charges.

Products out of Warranty

Products that are deemed outside the Standard Warranty coverage are subject to prepaid fees that include but are not limited to:

1. Product problem diagnosis.
2. Cost of replacement parts.
3. Labor cost.
4. Return shipping costs.



Exhibit E

Munis Disaster Recovery Services

Disaster Recovery ("DR") Services are provided according to the following terms and conditions:

1. **Definitions.** All defined terms not otherwise defined below shall have the meaning set forth in Section 1 of the Agreement:
 - 1.1. **Business Days:** Monday through Friday, excluding Holidays.
 - 1.2. **Business Hours:** 8 AM – 6 PM (EST) on Business Days.
 - 1.3. **Disaster:** An unplanned event that is not within the reasonable control of the City which results in the failure of the Tyler Software to perform Critical Processes, as defined in the Parties' mutually agreed to Disaster Recovery Plan, further described below. A Disaster is *not* a hardware or network failure that would have been avoided with reasonable diligence and maintenance in accord with industry standards, a failure subject to a then-current Maintenance and Support Agreement or other Tyler-City agreement, or a failure that can be remedied in less than sixteen (16) business hours.
 - 1.4. **Holiday:** A Tyler-observed holiday that falls on what would otherwise be a Business Day. Tyler currently observes the following holidays: New Year's Day (January 1), Memorial Day (observed), Independence Day (July 4), Labor Day (observed), Thanksgiving Day, Day after Thanksgiving Day, Christmas Day (December 25).
 - 1.5. **Recovery Point Objective ("RPO"):** Amount of time since last successful data transfer. With successful nightly transfer of data, RPO unencrypted City data would be no more than twenty-four (24) hours.
 - 1.6. **Recovery Time Objective ("RTO"):** Twenty-four (24) business hours after receipt Disaster declaration for unencrypted City data not exceeding one (1) terabyte in size, for Critical Users using Critical Processes. RTO for City data that is encrypted and/or one (1) terabyte in size or greater shall be mutually agreed, specified and incorporated into the Disaster Recovery Plan.
2. **Term.** Tyler shall provide DR Services as set forth in this Exhibit for so long as the City is timely paying its then-current annual DR fees, as set forth in the Invoicing and Payment Policy. Should the City opt to terminate DR Services, the City must provide at least thirty (30) days' advance written notice to Tyler prior to the conclusion of the then-current term. In the event the City terminates its Maintenance and Support Agreement with Tyler, DR Services shall be terminated simultaneously.
3. **Scope.** Prior to the declaration of a Disaster, if any, all DR Services shall be provided remotely. DR Services shall be provided on the Tyler Software. In the event the Disaster results in damage to City's server(s) and a

re-installation of the Tyler Software is required as a result of such damage, Tyler shall re-install the Tyler Software free of charge if the City is enrolled in Tyler's System Management Services. Otherwise, such re-installation shall be obtained from Tyler at its then-current installation services rates. Tyler DR staff will contact the City within twelve (12) Business Hours of any such reinstallation for reinstallation of DR software. City's use of the Tyler Software remains subject to the terms and conditions set forth in the Agreement. Tyler shall support prior releases of the Tyler Software in accordance with Tyler's Release Life Cycle Policy. The DR Services will be performed consistent with the estimated schedule mutually agreed to by the Parties.

4. City Requirements. In order for Tyler to provide DR Services pursuant this Agreement, the City shall:

- 4.1 Provide high speed internet access, including upload bandwidth sufficient for complete nightly data transfers to comply with applicable RPO;
- 4.2 Comply with then-current minimum hardware and network requirements as specified on Tyler's support website;
- 4.3 Maintain security and access privileges for Tyler to receive data transfer and reasonably perform activities reasonably necessary for Tyler to provide DR Services;
- 4.4 Accept responsibility for the data files, selection and implementation of controls for City's location, and security of the stored data;
- 4.5 Permit installation of DR software required for provision of DR Services in accord with these provisions, as reasonably determined by Tyler;
- 4.6 Obtain and provide project requirements, data, decisions and approvals within five (5) Business Days of request and, in the event of a delay, relieve Tyler of its responsibility for the affected DR Service until City performs that obligation
- 4.7 Reasonably notify Tyler in advance of any changes in City's network or applicable law or policy that impacts Tyler's ability to deliver DR Services; and
- 4.8 Declaring a Disaster by calling Tyler at Tyler's then-current support hotline. Tyler's current support hotline is (207) 781-2260 or (800) 772-2260. The City must clearly state that CITY IS DECLARING A DISASTER.

5. Disaster Recovery Plan. The DR Plan is a mutually drafted document which provides additional details regarding the DR Services. An initial draft must be prepared within ninety (90) days of Tyler's receipt of City Data. The parties' responsibilities with respect to the DR Plan are further defined below.

5.1 Shared Responsibilities:

- 5.1.1 Identify critical users for DR Services. There is a maximum number of 30.
- 5.1.2 Identify Critical Processes.
- 5.1.3 Identify integrations that will be made available from a Tyler hosting facility in the event of a Disaster, if any.
- 5.1.4 Confirm RTO.
- 5.1.5 Define recovery processes for post-Disaster operations, if requested by City.
- 5.1.6 Appoint a City Project Manager and a Tyler Project Manager authorized to make decisions, receive communications, and coordinate performance according to the terms of this Exhibit.
- 5.1.7 Coordinate Change Orders to document written descriptions of mutually agreed to changes to the DR Plan. In the event the Change Order is subject to additional fees, the Tyler will provide a

quote for such change in service and will only perform according to that change, and subject to those fees, upon the City's written approval.

5.2 Tyler's Responsibilities:

- 5.2.1 Coordinate activities associated with transfer of data to Tyler's data center.
- 5.2.2 Document DR strategy for Critical Processes.
- 5.2.3 Review the DR Plan with City.
- 5.2.4 Provide reasonable guidance for DR policies and procedures.
- 5.2.5 Identify modules, databases, applications, and files required for DR Services.

5.3 City's Responsibilities:

- 5.3.1 Provide remote access to City's Tyler database server for analysis and configuration of data transfer.
- 5.3.2 Provide network support if required to enable transfer of data from City's server to the Tyler data center.
- 5.3.3 Provide PCs and high-speed modems for access from City's alternate processing location, if required.
- 5.3.4 Provide technical resources to configure remote access PCs, including Tyler supplied application software, if reasonably required to receive DR Services.
- 5.3.5 Provide a chain of command document for communication during a Disaster.
- 5.3.6 Maintain and integrate the DR Plan with City's comprehensive disaster recovery plan.

6. DR Services During A Disaster.

- 6.1 Upon declaration of a Disaster, Tyler shall provide DR Services from one of its hosting facilities for the duration of the Disaster, not to exceed thirty (30) consecutive Business Days. Use of Tyler's data center in excess of such period shall require the parties to execute a Change Order detailing the duration of the extension and the additional cost associated therewith.
- 6.2 Hosting services during a Disaster will be provided in accord with Tyler's then-current Service Level Agreement. A copy of Tyler's current Service Level Agreement is provided at Schedule 1 to this Exhibit E. Any credits issued to City will be based on the total DR fee paid for the then-current term.
- 6.3 Processing Assistance During a Disaster includes, as necessary:

- 6.3.1 Print Output: Payroll Checks, Retirement Checks, and Accounts Payable Checks.
- 6.3.2 In the event print output is required to be sent non-electronically, City shall bear the cost of shipment.
- 6.3.3 Transfer of Automated Clearing House ("ACH") Files to bank on City's behalf. Transfer may require pre-notification by City to bank.

6.4 City's receiving DR Services during a Disaster receive priority access to Tyler application support.

6.5 City's Critical Processes will be accessible by Critical Users in accord with the applicable RTO.

- 7. Data Transfer. The electronic transfer solution provides nightly (between the hours of 8 PM and 6 AM) transfer and archiving of City Data residing in the Tyler Software and is subject to the following conditions:

7.1 Process:

- 7.1.1 Initial data transfer may require portable disk.
- 7.1.2 City shall provide to Tyler any required encryption key (or other comparable device), including the right to back-up such key (or device), required to access the transferred data.
- 7.1.3 Tyler Disaster Recovery staff will monitor status of data transfers on Business Days.
- 7.1.4 In the event of two (2) consecutive data transfer failures, Tyler will timely provide notice to City in order to commence troubleshooting.
- 7.1.5 Tyler will provide transfer report related to City data transfer upon request.

7.2 Limitations:

- 7.2.1 Data transferred shall include only items essential to provision of DR Services.
- 7.2.2 Data transferred to Tyler as part of DR Services is not available for City's data retrieval or restoration not associated with the DR Services provided by Tyler. Tyler may provide data transferred by City on an exception basis, upon request.
- 7.2.3 Third Party Products shall not be included in data transfer or the DR Services.
- 7.2.4 Only production databases are backed up.
- 7.2.5 Data from the last seven (7) successful data transfers are retained by Tyler.
- 7.2.6 Total data storage is limited to 200 gigabytes ("GB"). Storage limit may be increased in 200 GB increments by mutual agreement and at additional cost.
- 7.2.7 Tyler is not responsible for the integrity of the data provided by City to Tyler. Tyler will use the most current viable data to restore City's Critical Processes.
- 7.2.8 Tyler shall have no liability for failure of data transfers not solely caused by Tyler.

7.3 Access:

- 7.3.1 Tyler may use select information from the City database for internal research and analysis and no other purposes, other than performing under the Agreement.
- 7.3.2 To the extent the database contains confidential information, Tyler shall keep confidential such information in accordance with the confidentiality provisions of the Agreement.

- 8. Annual Disaster Recovery Test. The parties may review and test the DR Service on an annual basis, and on thirty (30) days' advance written notice or request. The City must provide a list of users who will take part in the test. The test shall not exceed two (2) consecutive weeks. In the event the initial test is not mutually agreed to as successful, the Parties will re-conduct the test on these same terms.

9. Exclusions

- 9.1 Neither party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure.
- 9.2 The DR Services shall not be used to replace required on-site backups of City data for Tyler Software.
- 9.3 The fee paid for DR Services do not include, and City is responsible for the costs associated with:
 - 9.3.1 Hardware and/or software necessary to remotely access Tyler's data center, and any and all on-site services. City may request and purchase on-site services at Tyler's then-current rates.

- 9.3.2 In the event City requests Tyler to hand-deliver or courier the critical processes output (such as payroll checks), the cost of such special delivery shall be borne by City and payable thirty (30) days from receipt of invoice.



Exhibit E Schedule 1 Service Level Agreement

Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Attainment: The percentage of time the Tyler Software is available during a billing cycle, with percentages rounded to the nearest whole number.

Client Error Incident: Any service unavailability resulting from City's applications, content or equipment, or the acts or omissions of any of City service users or third-party providers over whom Tyler exercise no control.

Downtime: Those minutes during which the Tyler Software is not available for City use. Downtime does not include those instances in which only a Defect is present.

Service Availability: The total number of minutes in a billing cycle that the Tyler Software is capable of receiving, processing, and responding to requests, excluding maintenance windows, Client Error Incidents and Force Majeure.

III. Service Availability

The Service Availability of the Tyler Software is intended to be 24/7/365. Tyler sets Service Availability goals and measures whether it has met those goals by tracking Attainment.

a. City Responsibilities

Whenever the City experiences Downtime, the City must make a support call according to the procedures outlined in the Support Call Process. The City will receive a support incident number.

The City must document, in writing, all Downtime that it experienced during a calendar quarter. The City will endeavor to deliver such documentation to us within 30 days of a calendar quarter's end, and in all events no later than 60 days after a calendar quarter's end. The City's failure to do so timely does not imply or constitute a waiver of any of the City's rights under this Agreement; however, the City acknowledges that any delay in providing the documentation will result in a delay in providing any relief under this Service Level Agreement.

The documentation the City provides must evidence the Downtime clearly and convincingly. It must include, for example, the support incident number(s) and the date, time and duration of the Downtime(s).

b. Tyler Responsibilities

When Tyler's support team receives a call from the City that a Downtime has occurred or is occurring, Tyler will work with the City to identify the cause of the Downtime (including whether it may be the result of a Client Error Incident or Force Majeure). Tyler will also work with the City to resume normal operations.

Upon timely receipt of the City's Downtime report, Tyler will compare that report to Tyler's own outage logs and support tickets to confirm that a Downtime for which Tyler was responsible indeed occurred.



Tyler will respond to the City's Downtime report within 30 day(s) of receipt. To the extent Tyler has confirmed Downtime for which Tyler is responsible, Tyler will provide the City with the relief set forth below.

c. City Relief

When a Service Availability goal is not met due to confirmed Downtime, Tyler will provide you with relief that corresponds to the percentage amount by which that goal was not achieved, as set forth in the Client Relief Schedule below.

Issuing of such credit does not relieve Tyler of its obligations under the Agreement to correct the problem which created the service interruption. A correction may occur in the billing cycle following the service interruption. In that circumstance, if service levels do not meet the corresponding goal for that later billing cycle, the City's credits will be reissued.

In the event actual Attainment does not meet the targeted Attainment, the following Client relief will apply:

100%	98-99%	Remedial action will be taken.
100%	95-97%	4% credit of fee for affected billing cycle will be posted to next billing cycle
100%	<95%	5% credit of fee for affected billing cycle will be posted to next billing cycle

The City may request a report from Tyler that documents the preceding billing cycle's Service Availability, Downtime, any remedial actions that have been/will be taken, and any credits that may be issued.

IV. Applicability

The commitments set forth in this SLA do not apply during maintenance windows, Client Error Incidents, and Force Majeure.

Tyler performs maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, Tyler will provide advance notice of those windows and will coordinate to the greatest extent possible with the City.

V. Force Majeure

The City will not hold Tyler responsible for not meeting service levels outlined in this SLA to the extent any failure to do so is caused by Force Majeure. In the event of Force Majeure, Tyler will file with the City a signed request that said failure be excused. That writing will at least include the essential details and circumstances supporting our request for relief pursuant to this Section. The City will not unreasonably withhold its acceptance of such a request.



Exhibit F
Tyler System Management Services ("TSM")

Invoice to: City of Portland, ME ("CUSTOMER")

Contact: INSERT

Address: INSERT

Telephone: INSERT

CUSTOMER agrees to purchase, and Tyler Technologies, Inc. ("TYLER") agrees to provide, the services listed below in accordance with the following terms and conditions.

I. Term of Agreement:

This Tyler Systems Management Agreement (herein "TSM Agreement") is effective as of the Available Download Date of the License and Services Agreement ("Agreement") between TYLER and the CUSTOMER and shall remain in force for an initial one (1) year term. Upon expiration of that initial term, the TSM Agreement will automatically renew for additional one year terms, at Tyler's then-current rates, so long as CUSTOMER pays the corresponding invoice, and unless terminated by either party at least thirty (30) days' in advance of the upcoming renewal date.

The headings used in the TSM Agreement are for reference purposes only and shall not be deemed a part of this TSM Agreement.

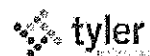
II. Scope of the Agreement:

Both parties acknowledge that this TSM Agreement covers only the services described below, for the internal business operations of:

City/Town	School	County	Other
-----------	--------	--------	-------

III. Payment:

1. As set forth in the Invoicing and Payment Policy (Exhibit B to the Agreement), CUSTOMER agrees to pay TYLER the year one fee for the services described below. This payment is due and payable as indicated in Exhibit B. Thereafter, payments for any renewal period will be due annually in advance. Payment terms are net forty-five (45) days from invoice date.
2. Additional Charges. Any systems management services and/or related materials performed or supplied by TYLER for CUSTOMER that are not in-scope, as defined herein, will be invoiced to CUSTOMER on a time and materials basis at TYLER'S then-current rates.



IV. Covered System:

Servers that are required to run the Tyler application.

V. Scope of Services: TYLER will provide the following services for the benefit of CUSTOMER:

- a. TYLER SYSTEMS MANAGEMENT Service is available during TYLER's then-current business hours. TYLER'S current business hours are set forth at <http://www.tylertech.com/client-support>. CUSTOMER may contact a TSM technician using the contact information set forth at <http://www.tylertech.com/client-support>. Calls will be recorded and answered on a first in first out basis, except on reports that declare CUSTOMER's system down, in which case CUSTOMER's call will be moved to the head of the queue
- b. TSM services are restricted to the primary production server(s) that the Tyler Software subject to this TSM Agreement is installed on. In cases where a stand-by server is employed, the stand-by server is included within the scope of this TSM Agreement, as long as the stand-by server is only used in the event of the primary production server failing.
- c. Database: Database administration services are restricted to three TYLER databases: one live database, one training database, and one test database.
 - (1) In cases where additional databases exist, each additional database will be subject to additional fees, which TYLER will quote to CUSTOMER at TYLER's then-current rates.
- d. Application Software: In-scope TSM services include two complete sets of the Tyler Software subject to this TSM Agreement: one live set and one test/train set.
- e. Required Foundation Software: TSM services include the support and installation of all foundation software TYLER requires CUSTOMER to procure to utilize one live, one train and one test database. Required foundation software is set forth at <https://check.tylertech.com/>. TYLER does not support, and this TSM Agreement does not include support services for, any Microsoft product that is not required foundation software. TYLER will reasonably cooperate with CUSTOMER in investigating issues within the Tyler Software that may be created by a Microsoft product, but it is CUSTOMER's responsibility to pursue support on Microsoft products directly from Microsoft or its authorized partners.
- f. TYLER will also perform system administrative tasks on the installed operating system and database administrative tasks on the installed database engine software.
- g. TYLER will also provide a remote installation and configuration of a new or upgraded server, at CUSTOMER'S request, once every two (2) years.

VI. CUSTOMER Responsibilities:

- a. CUSTOMER shall provide, at no charge to TYLER, full and free access to the programs covered hereunder, including working space; adequate facilities within a reasonable distance from the equipment; and use of machines, attachments, features, or other equipment necessary to provide the specified support and maintenance service.

- b. CUSTOMER shall install and maintain for the duration of this TSM Agreement a stable high speed network connection available for remote connections. CUSTOMER shall pay for installation, maintenance and use of such equipment and associated communication line use charges. TYLER, at its option, shall use this remote interface in connection with error correction.

VI. General

- a. **Non-Assignability:** CUSTOMER shall not have the right to assign or transfer its rights hereunder to any party.
- b. **Excused Non-Performance:** TYLER shall not be responsible for delays in servicing the products covered by this TSM Agreement caused by strikes, lockouts, riots, epidemic, war, government regulations, fire, power failure, acts of God, or other causes beyond its control.
- c. **Limitation of Liability:** TYLER'S liability hereunder shall not exceed CUSTOMER'S actual, direct damages, not to exceed two (2) times the TSM services fees paid for the year in which CUSTOMER'S claim accrues. CUSTOMER SHALL NOT, IN ANY EVENT, BE ENTITLED TO, AND TYLER SHALL NOT BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, EVEN IF TYLER TECHNOLOGIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IRRESPECTIVE OF THE NATURE OF CUSTOMER'S CLAIM.
- d. **Governing Law:** This TSM Agreement shall be governed by, and construed in accordance with, the laws of CUSTOMER's state of domicile. The invalidity or unenforceability of any provisions of this agreement shall not affect the validity or enforceability of any other provision.
- e. **Modification of this Contract:** No modifications or amendment of this TSM Agreement shall be effective unless set forth in writing and signed by both CUSTOMER and TYLER.
- f. **Suspension:** Support and services will be suspended whenever CUSTOMER's account is thirty (30) days overdue. Support and services will be reinstated when CUSTOMER's account is made current by paying all past due fees.
- g. **Reservation of Rights:** TYLER reserves all right, title and interest, including but not limited to intellectual property rights, in and to the Tyler Software, the TSM services, and any services or deliverables related thereto, except as expressly set forth in this TSM Agreement.
- h. **Authorization.** Signature by CUSTOMER and TYLER of the License and Services Agreement to which this TSM Agreement is an exhibit shall constitute authorized endorsement of the terms and conditions of this TSM Agreement. No additional signature by either party on this Exhibit F is required.

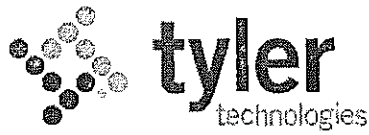


Exhibit G
**City of Portland, Maine Department of Information Technology Request for
Proposals**

**Public Administration Systems Software, RFP #5116 dated March 2, 2016, together
with Addendum #1 dated March 17, 2016, Addendum #2 dated March 22, 2016,
and Addendum #3 dated March 31, 2016**

ON FILE WITH CITY OF PORTLAND'S FINANCE DEPARTMENT



Exhibit H
Tyler Technologies' April 21, 2016 Proposal

ON FILE WITH CITY OF PORTLAND'S FINANCE DEPARTMENT



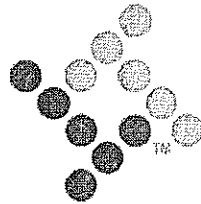
Exhibit I
Sample Timeline and Project Plan

Proposed Project Planning- City of Portland, ME

Phase		Phase Target Start	Phase Target Live	#mos
1- Financials	General Ledger, Budget, Accounts Payable, Purchasing, Bid Mgmt, Contract Mgmt, Cash Mgmt, Project/Grant Accounting, Accounts Receivable, General Billing, Tyler Cashiering, eProcurement	1/1/2017	11/1/2017	10
2- Payroll/HR	Payroll, HR, Employee Self-Service, Employee Expense Reimbursement, Risk Mgmt	1/1/2017	1/1/2018	12
3- Transparency Portal	Transparency Portal	1/1/2018	3/1/2018	2
4- Community Development	Community Development	2/1/2017	2/1/2018	12
5- Work Orders, Fleet & Facilities, Other	Work Orders, Fleet & Facilities, Inventory, Fixed Asset, BMI Asset Track & CollectIT Interface, Tyler Incident Management, Standard Fuel Interface, CAFR	1/1/2018	7/1/2018	6
6- Utility Billing	Utility Billing, IVR, Citizens Self-Service, Tyler Notify, Central Property File, MapLink GIS, IVR Gateway	1/1/2018	10/1/2018	9
7- Tax Billing	Tax Billing, Motor Vehicle, CLT Interface, Tax Lien	10/1/2018	7/1/2019	9
8- Other Revenue	Business License, Animal License, Parking Tickets	1/1/2019	10/1/2019	9
9- Parks & Rec & Additional HR	Parks & Rec, Applicant Tracking, Professional Development	6/1/2018	10/1/2018	5

Phase	Track	Start	End
1	Financials	1/1/2017	11/1/2017
2	PR/HR	1/1/2017	1/1/2018
3	Transparency Portal	1/1/2018	3/1/2018
4	Community Development	2/1/2017	2/1/2018
5	Work Orders	1/1/2018	7/1/2018
6	Utility Billing	1/1/2018	10/1/2018
7	Tax Billing	10/1/2018	7/1/2019
8	Other Revenue	1/1/2019	10/1/2019
9	Parks & Rec.	6/1/2018	10/1/2018

2017												2018												2019											
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec



munis®
a tyler erp solution

Implementation Management Plan
2015

SAMPLE

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-

Introduction

The purpose of this document is to provide tools and useful information that will help contribute to the success of your project. It covers various areas of planning used throughout the implementation and will be used along with the project plan to manage the project. We will request sign-off on the initial delivery of the plans included in this document once they are completed. The document will then be updated throughout the life of the implementation as seen fit by the Client and Tyler PM.

Document Change Control Information

Change Control Number	Change Date	Description

Scope Agreement

Product & Services Scope

Listed below are the contracted products and services included in the implementation. Services are billed per the contract terms.

Software and Associated Implementation Days

- Insert screen shot from Investment Summary here:

Software Notes/Change Orders:

Other Services

- Insert screen shot from Investment Summary here:

Other Service Notes/Change Orders:

Conversions

- Insert screen shot from Investment Summary here:

Conversions Notes/Change Orders:

SAMPLE

Project Structure

The Munis division of Tyler Technologies, Inc. conducts the overall project in several Phases. A phased approach helps to ensure that system prerequisites are completed and available for other applications and reduces stress on the organization.

Phase	Module(s)	Begin Date	Go-Live Date
Phase I	Financials		
Phase II	Payroll/HR		
Phase III	Revenue		
Phase IV	Misc		

Project Phases Overview

Tyler, in partnership with the <<Client>>, will place into production the Tyler software product suite and other contracted third-party supporting products, which includes, and is limited to, the following modules

Overall:

- Workflow
- Tyler Forms Processing
- Munis Office
- Tyler Reporting Services
- System Administration

Phase I

- General Ledger
- Budgeting
- Performance Based Budgeting
- Accounts Payable
- Project & Grant Accounting
- Requisitions
- Purchase Orders
- Inventory
- Work Orders, Fleet & Facilities Management
- Fixed Assets
- Interface to BMI Asset Phasing
- Contract Management
- Bid Management
- GASB 34/54 Report Writer
- Cash Management
- Accounts Receivable/Cash Receipting
- General Billing
- Utility Billing
- UB Meter Reader Interface
- Permits & Code Enforcement
- Tax Billing
- CAMA Bridge
- BSA Interface
- CLT Interface
- MA Tax Title
- Maryland Tax Sale
- ME, NH Tax Lien
- NY Delinquent Process
- VA Delinquent Process
- VA Income Tax
- VA Motor Vehicle Decal
- Boat Excise
- MA Excise Tax
- NC Motor Vehicle Billing

- Tyler Content Management for Munis
- Payroll
- HR Management
- Applicant Phasing
- Pension Phasing
- Timekeeping Interface
- Business Licenses
- IL Vehicle Sticker
- Parking Tickets
- Enforcement Technology Handheld Interface
- Jury Selection – NC
- Voter
- Animal Licenses
- Portal

Project Management Assumptions

The following assumptions apply for Project Planning purposes and for defining the Project. At the initiation of the Project, <<Client>> Executive sponsors will confirm buy-in for this Project by issuing an executive mandate or mission statement to all departments stating the importance and priority of supporting this Project.

Any modifications or enhancement requests not expressly stated or noted in the contract will be deemed not within scope. Modifications or enhancements requested after contract signing have the potential to change cost, scope, schedule and resources for project Phases. Modification or enhancement requests not in scope must follow the Project Change Request process, as outlined in the Schedule Management Plan.

The Tyler Project Manager is responsible for the initial development and life-cycle maintenance of the Tyler Implementation Phase Project Plan. The <<Client>> is responsible for participating in development and definition of the Plan, schedule planning, resource assignments, and approval of the final baseline Plan.

Both Tyler and the <<Client>> are responsible for adhering to and executing the project in accordance with the schedule and budget defined in the approved Plan. In the event either party finds that significant variance to the planned schedule may occur or is occurring, then Tyler and the <<Client>> Project Managers are responsible for determining the necessary corrective actions and updating the Plan accordingly.

Microsoft® SharePoint is the tool used to create and maintain the Plan. Tyler assumes that the <<Client>>, at a minimum, has the Internet tools necessary to read or view materials on the SharePoint site.

In the event the <<Client>> may elect to add and/or modify business policies during the course of this Project, then such policy changes are solely the <<Client>>'s responsibility to define, document, and implement.

In support of the overall project management activities, the <<Client>> will:

- Appoint a Project Manager with overall responsibility for resources and with the authority to ensure decisions and commitments are made and communicated to the Tyler Project Manager in a timely and efficient manner.
- Communicate to the Tyler Project Manager on the progress of internal deliverables and any deviation that would affect Tyler's ability to meet the Project schedule.
- Ensure that individuals with the authority to represent the <<Client>> and to provide information needed by Tyler are available when necessary, attend meetings as required, and perform all activities assigned.

- Provide technical documentation and answer questions pertaining to systems with which Tyler is to interface (either through web services or import/export) and data that is to be converted into Tyler format.
- Maintain and manage a Project Risk Register. This document records potential risks to Project success and defines a risk mitigation approach. On a regular basis, the Tyler Project Manager and the <<Client>> Project Manager will review this log to ensure risks are being adequately addressed.

In the event the Tyler Project Manager and the <<Client>> Project Manager are unable to reach a mutually agreeable resolution to project issues or concerns, then the following escalation process will be followed:

- The <<Client>> will advise the Tyler Project Manager of the need for escalation, then contact the Tyler Regional Manager, <<Tyler Regional Manager Name>>, to present concerns and solicit resolution.
- If resolution is not reached at this level, escalation may continue to Chris Webster, Tyler Vice President of Implementation

Working together, the Tyler and the <<Client>> project team will:

- Place all purchased Tyler modules in a Verification/Test, Train and Live environment.
- Assist in refining business procedures in accordance with the features and functionality of the Tyler software.
- Define requirements for Tyler customization for purchased functional modifications, imports, exports, and interfaces with third-party systems.
- Assist in identifying contracted customized reporting needs.
- Coordinate the definition and verification of the purchased Tyler Forms libraries.
- Convert legacy system data into Tyler.
- Perform system integration and acceptance testing according to the Tyler Quality/Test Plan (detailed in the Quality/Test Management Plan).
- Assist in transitioning business operations into the live environment.
- Support post-implementation operations.

Implementation Assumptions for all Tyler modules

- Installation is handled by the Tyler Deployment Team and the <<Client>>.
- Tyler will assist in the selection and definition of functional configuration options.
- The <<Client>>, with Tyler support, is responsible for the testing of selected configuration options.
- The <<Client>>, through data testing, will approve the functional configuration options and setup.
- The <<Client>>, with Tyler support, will conduct configuration testing and approval using sample data prior to conversion data loading or verification.
- Tyler will advise the <<Client>> on Tyler Workflow setup applicable to the Tyler applications deliverables (for example, approvers, business rules, and so on).
- Tyler will provide conversion specifications and will review instructions for its completion (if applicable and purchased).

- The <<Client>> will import and verify the converted data.
- The <<Client>> is responsible for verifying conversion data.
- The <<Client>> will approve the final converted data.
- The <<Client>> will be trained on interface options throughout the system.
- The <<Client>> once trained will work with third party systems to get interface testing data in an approved format.
- The <<Client>> is responsible for testing and validating interfaces.

No functional modifications are included within the Project scope.

Modules included in this process are:

- General Ledger
- Project Accounting
- Accounts Payable
- Budget
- Purchasing/Requisitions
- Contract Management
- Cash Management
- Fixed Assets & Inventory
- Work Orders, Fleet & Facility Management
- Miscellaneous Cash Receipts and General Billing
- Payroll
- HR Management
- Applicant Processing
- Utility Billing
- Parking Tickets
- Business Licenses

Client Project Plan Assumptions

Throughout the course of the Project, Tyler will identify assignments for the <<Client>> to perform. Task assignments may include such activities as data entry, practicing training exercises, functional testing, conversion validation, and so on. The following outlines major assumptions regarding these activities:

- Each task will be identified and scheduled within the Project Plan and available in a Task view on the SharePoint site.
- Tyler will clearly define each assignment, the project team member responsible, and assignment due date.
- The <<Client>> Project Manager is responsible for ensuring the assignments are accomplished in accordance with the timeline defined within in the Project Plan.

Client Personnel Assumptions

- Identified project team resources will be available for project work in accordance with the schedule defined within the Plan.
- Project team members should not be required to spend time on other company business in lieu of or to the detriment of their project responsibilities.
- Project team members will be knowledgeable and experienced within their assigned functional area.
- Additional subject matter experts will be made available as necessary to address specific functional and procedural issues that might arise and require expertise beyond that of the immediate project team.
- To ensure knowledge and performance continuity, project team will be assigned to the Project for the entire duration of the Project Phase.
- The project team is empowered to answer and resolve business issues on behalf of the <<Client>>.

Technical Support Assumptions

Technical preparations and deliverables have crucial ramifications for the Tyler Implementation project. Therefore, it is important that the following assumptions be satisfied:

- The <<Client>> will have in place all hardware, software, and technical infrastructure necessary to support the Project.
- The Tyler modules will be installed, functional, and available to project team prior to the first hands-on sessions.
- Network access to the Tyler modules, printers and the Internet will be available to all applicable <<Client>> and Tyler project staff.
- The <<Client>>, upon request from the Tyler Project Manager, will coordinate MIS/IT functions such as system backups, loading releases and software updates, hardware installation, operating system setup and maintenance, and system administration. The <<Client>> may be requested to perform these tasks in a timely manner in association with specific implementation requirements.

System Administration Assumptions

The following outlines major assumptions and activities surrounding the System Administration implementation Phase of the Project:

- Tyler will advise the <<Client>> on security and user setup features.
- The <<Client>> will define and setup menu and end-user security options.
- The <<Client>> through data testing will approve the functional configuration options and setup.
- The <<Client>> will run the Munis Internet Updater (MIU) on a weekly basis and load updates from the Check/Install Updates menu.

Conversion Assumptions

The following outlines the major assumptions and activities surrounding the conversion processes.

- The conversion department at Tyler reviews the contract to determine which conversions were purchased and determine whether additional tasks will be required and/or desired.
- The Tyler Project Manager develops the schedule for sending initial data and supporting documentation and sets timelines for return of the converted data. Timing is critical to meeting your dates for going live.
- The <<Client>> delivers the data files to the conversion department via an ftp site and notifies the Tyler Project Manager the name(s) and phone numbers of user and technical contacts who can answer questions regarding details of the conversion data.
- Tyler will provide error reports with explanation of discrepancies which may create a situation that will require maintenance.
- The first pass of the COA conversion will be returned to the client within 2 weeks. All other conversions will have a first pass returned to the client within 6 weeks. Subsequent passes of all conversion will be returned to the client within 2 weeks. Go-live passes will be returned to the client within 2 days.
- It is the client's responsibility to load the data with instructions from Tyler and validate that the data is accurate and complete.
- The <<Client>> will provide all legacy data in Tyler standard conversion file formats.
- Tyler will provide definition of the standard file formats.
- The <<Client>> and Tyler will determine critical legacy sources for validation, for example, reports, selected records, and so on.
- The <<Client>> will generate required reports for validation in conjunction with data extraction.
- The <<Client>> will load data into Training database, and all verification will occur in the Training database.
- Prior to the final conversion process, the <<Client>> will suspend activity in their legacy system in accordance with the Project Plan. Tyler and the <<Client>> will mutually agree as to when this suspension period should begin.
- A sign-off will be required from the <<Client>> prior to loading any conversion in the Live database. The <<Client>> will ensure that data is not loaded into the Live database until approval of the conversion has been received and verification has been performed within the Training database.
- Due to data integrity verification throughout the Munis programs, the <<Client>> will not load, modify or delete data via scripting in lieu of a conversion or manual entry. However, scripted queries that do not change the data are acceptable.

Tyler Forms Assumptions

The following outlines major assumptions and activities surrounding the Tyler Forms Processing implementation Phase of the Project:

- Tyler will implement Tyler Forms as applicable
- The Tyler Project Manager coordinates Tyler Forms Implementation to insure the <<Client>>'s requirements and schedule are communicated in a timely manner.
- The <<Client>> is responsible for responding to Tyler Forms information requests in a comprehensive and timely manner.

- The <<Client>> agrees to sign-off on form designs no later than sixty (60) days before go-live.
- The <<Client>> will approve the print solution options selected.
- Tyler will support the <<Client>>'s verification and test of the delivered print solutions.
- The <<Client>> will provide final approval of the print solutions.
- Tyler Project Manager, with the assistance of the <<Client>> Project Manager, will monitor the progress of the Tyler Forms deliverables to ensure compliance with the
- Project Plan.

SAMPLE

Communication Plan

A Communication Management plan outlines the information and communication needs of the project stakeholders.

The goal of the Communications Management Plan is to document the following:

- Stakeholder communication requirements
- Type of information to be communicated
- Vehicles for communication
- Frequency of communication
- Owner of the communication
- Intended audience for communication
- Purpose of communication

Stakeholder Communication Requirements

Steering Committee/Client Management

The Steering Committee requires communication on matters which will change the scope of the project and its deliverables.

Information Needed by Client Management	Input Needed from Client Management
Project plan	Executive Mandate
Project schedule	
Project status updates	
Budget information	
Change requests	

Client Project Manager

The Project Manager is the primary communicator for the project, distributing information according to this Communications Management Plan.

Information Needed by Client Project Manager	Input Needed from Client Project Manager
Status of tasks	Agenda input for Status Meetings
Project plan	Schedules for internal resources
Project schedule	Blackout dates
Site reports	Client task assignments
	Change requests

Functional Leaders

The Functional Leaders require communication on the project schedule and tasks. Functional leaders will communicate policy and procedure decisions to core and end users.

Information Needed by Functional Leaders	Input Needed from Functional Leaders
Project schedule	Status of tasks
Project plan	Risks
Project status	Functional requirements
Tasks	Functional issues
	Lessons learned

Change Management Leaders

The Change Management Functional Leaders are responsible for the people side of change. They will support the change management communications of the organization.

Information Needed by Change Management Leaders	Input Needed from Change Management Leaders
Project schedule	Department specific change management communication
Project status	Organization wide change management communication
Project vision	Feedback from departments to provide to the Project Team
Who will be affected by the project, when they will be affected, and how they will be affected. May be different for different staff members/departments.	
Feedback from departments	

Project Team

The Project Team is comprised of all persons who have a role performing work on the project. The project team needs to have a clear understanding of the work to be completed and the framework in which the project is to be executed.

Information Needed by Project Team	Input Needed from Project Team
Project schedule	Status of tasks
Project status	Risks
Tasks	

All Stakeholders

Stakeholders include all individuals and organizations that are impacted by the project. These are the stakeholders with whom we need to communicate with and are not included in the other roles defined in this section

Information Needed by Stakeholders	Input Needed from Stakeholders
Executive Mandate	Departmental issues/requirements
Target Live Dates	
Project Updates	
What's in it for me	

Tyler Project Manager

As the person responsible for the execution of the project, the Project Manager is the primary communicator for the project distributing information according to this Communications Management Plan.

Information Needed by Tyler Project Manager	Input Needed from Tyler Project Manager
Conflict dates	Project plan
Status of tasks	Schedules
Change requests	Status reports
Risk changes	Tyler and client task assignments

Tyler Implementation Consultant

Consultants will be the primary Tyler contact for Functional Leaders and End Users during analysis and training. They will distribute information on the training and status of tasks via site reports posted to the share point site.

Information Needed by Tyler Implementation Consultant	Input Needed from Tyler Implementation Consultant
Project schedule	Client task assignments
Project plan	Site reports
Project Status	Training agendas

Communication Plan Matrix

Vehicle of Communication	Audience	Frequency	Medium	Owner(s)	Date Delivered	Change Mgmt. Message	Expected Result
Kickoff Meetings	Client Project Manager, Functional Leaders, Project Team, Stakeholders	Start of overall project and each sub-project	Presentation	Tyler PM		How the change will be implemented	Client will receive high level information from Tyler PM to assist in planning and executing project.
Phase Planning Meetings	Client Project Manager, Phase Functional Leaders,	Start of overall project and each sub-project	Presentation and Planning Document	Tyler PM, Client PM			Roles and responsibilities will be outlined as well as Scope review, communication streams, Quality Assurance processes and initial schedule development.
Executive Mandate	Organization	Start of overall project and each sub-project, if necessary	Letter/Memo	Client Executive Officer		Develop a brand; what, why, and how the change is happening; who will be affected by the change	Organization will understand the purpose and importance of the project as well as the level of commitment required to make it successful.
Executive Project Status Management Meetings	Client Management	Quarterly	Status Reports, Budget Reports	Client PM			Provide overall project direction, executive sponsorship, and support in the adoption of new technology and business processes. Review project status.
Client Project Team Meetings	Functional Leaders, Project Team	Weekly	Status Reports	Client PM			Provide key project participants and client management with detailed information regarding project task status, schedules, progress, and budget.

Tyler Implementation Status Meetings	Tyler PM and Client PM	Bi-Weekly until 90 days from LIVE, then Weekly	SharePoint, Status Report Agenda, Issues Lists, Schedules, Deliverables	Tyler PM			Provide effective and timely communication to the Client PM and Functional Leaders on the status of the Tyler Project at a detailed level. The goal is to keep the project team abreast of the current project status, project issues, upcoming events, and project milestones at a detailed level. Delivery point will be to Client PM for distribution to the Project Team.
FAQ Document	Organization	Evolving	Hardcopy, SharePoint	Client PM		Provide a feedback mechanism	Answer frequently asked questions about the project and its benefits
Project Plan	Client Project Manager, Functional Leaders, Project Team	Evolving	SharePoint	Tyler PM			Communicate clearly defined tasks, milestones, schedules and dependencies.
Project Sign-Offs	Client Project Manager, Functional Leaders, Project Team, Tyler PM	Evolving	Hardcopy or SharePoint Electronic Approval	Tyler PM			Provide clear acceptance and authorization to proceed to next step in implementation.
Project Web Space or Shared Directory	Functional Leaders, Project Team, Organization, Community	Evolving	SharePoint	Client PM		Project branding; what, why, and how the is change happening; when training will begin, who will be trained; where to find information	Provide information and support for the project goals to the community and organization as well as providing access to key documents, schedules, and so on.

Client SharePoint Site	Tyler PM, Tyler Resources, Client Project Team	Evolving	SharePoint	Tyler PM, Client PM			Provide project information including agendas, status reports, site reports, project tasks and schedule
Newsletter	Organization	Quarterly	Email	Client PM		Project branding; what, why, and how is the change happening; who will be affected by the change; when training will begin, who will be trained; where to find information	Provide project updates and news
Training Notifications	Functional Leaders, Organization, Department Heads, Super Users, End Users	Ongoing	Email	Client PM		When training will begin, who will be trained	Notifies Department Heads and End Users of upcoming training sessions
Agendas	Functional Leaders, Organization, Department Heads, Super Users, End Users	At least two weeks prior to any session	SharePoint	Client PM			Notification of specific agenda for any analysis session, training session or meeting.

Quality Management Plan

A Quality Management/Testing Plan establishes processes and activities to ensure that project objectives outlined within the Scope Management Plan are successfully implemented. Any Quality Management/Testing Plan must work to address both the project and the product.

The goal of the Quality Management Plan is to document the following:

- Specific tests to be used on the <<Client>> Project
- Critical testing milestones.
- Testing roles and responsibilities
- Testing measurement and tracking

Process

It is imperative that a Quality Management Plan and System Testing Plan be put into practice as part of the Project. The plan should include all of the processes required to ensure that the goals for the project are fully satisfied. The overall plan may include the following elements:

Static Environment Testing

Tests policy and procedure decisions made during knowledge transfer. Conducted with functional leaders using sample client data and customized scripts. Acceptance is required to move to the implementation phase.

Integration/Unit Testing

Observation of inter-module data flow and effect, especially as it relates to the General Ledger. Integration testing occurs throughout the implementation via standard training unless testing days are contracted and specifically allocated for that purpose.

Parallel Testing (Payroll and Utility Billing)

Replicates live processes in a training environment, and results are compared with live results to determine discrepancies. Parallel testing will be scheduled as part of PR/HR and Utility Billing Implementations. It is recommended that clients conduct additional parallel processing on their own.

Interface Testing

Standard Munis import and export programs will be covered during Implementation. Testing of third-party data flow and effect will be the client's responsibility unless testing days are contracted and specifically allocated for that purpose.

User Acceptance Testing

User Acceptance testing occurs throughout the implementation via standard training unless testing days are contracted and specifically allocated for that purpose.

User Competency Testing

Optional test conducted at the conclusion of Core User and/or End-User Training to validate that users can successfully run key processes. Competency Testing is the client's responsibility unless testing days are contracted and specifically allocated for that purpose.

Modification Testing

Performed to verify that contracted custom modifications delivered from Tyler work as specified by Client

Conversions Proofing

Validating that converted data is complete and accurate and meets the needs of the client.

Forms Proofing

Validating form design and distribution.

Stress Testing

Testing the system under heavy user loads trying to mirror a live environment where many users will be performing many different functions at the same time. Stress Testing is the client's responsibility unless testing days are contracted and specifically allocated for that purpose.

The Benefits of Testing

As an expected benefit from the completion of these tests, the following will also be achieved.

- End-users will gain extensive product experience, develop a high level of confidence in the Munis Product and understand their specific functions within the system.
- The infrastructure of hardware and network design will be thoroughly tested.
- Modifications and interfaces are fully integrated into the Munis product.
- A managed Issues List will be fully quantified.

The Munis Testing Environment

Interfaces, conversions and other data and programmatic elements will be tested in the Training environment. This environment will also serve as the User Acceptance Test environment.

The Training environment will provide structure and supporting programs for User Testing to be performed throughout the duration of the Project. The desired result of the User Testing process is Functional Goal Acceptance achieved through managed issue identification, resolution, and testing.

Type of Testing	Audience	Timing	Method	Owner(s)	Guidance/Support	Dates to be Delivered	Expected Result
Verification Test	Client Project Manager, Technical Lead	Start of overall project	Verification Database using scripts	Tyler Implementation Consultant	Not Applicable		No issues expected. If issues are encountered Tyler IC will log call with support to address issues. Tyler PM will manage open calls until issues are resolved. Client will then sign-off that test was completed successfully.
Static Environment Test	Client Project Manager, Functional Leads	During each phase after As Is and To Be analysis has been completed	Training Database using scripts	Tyler Consultant	Client Functional Leads, Client PM		Client will be able to validate analysis decisions by seeing processes performed using their own data.
Conversion Proofing	Client Project Manager, Functional Leads, Technical Lead	After each pass of data is returned	Error reports delivered via email; proofing via reports run on Training database	Client Functional Leads, Tyler Implementation Consultant, Tyler PM		Ongoing, please refer to Project Plan	Data will be validated and additional correcting passes made as needed until data is approved by client. Processes will be tested using converted data to ensure accuracy.
Modification Testing	Client Project Manager, Functional Leads, Technical Lead	As delivered by development	Testing Database using scripts	Tyler Development, Tyler PM, Tyler Implementation Consultant	Client Functional Leads	Ongoing, please refer to Project Plan	Modifications are tested and issues reported to development. This process will continue until the desired result is achieved and the <<Client>> signs-off on the delivery of the modification.
Forms Proofing	Client Project Manager, Functional Leads	As forms are approved and loaded on forms server	Form output from Training Database	Client Functional Leads, Technical Lead	Tyler Implementation Consultant, Tyler Forms	Please refer to Project Plan	Form design and distribution are validated. Checks are sent to bank for validation. Design options are tested and finalized.

Integration/Unit Testing	Client Project Manager, Functional Leads, Technical Lead	Occurs throughout all process training. Specific days scheduled for third-party integrations	Standard training sessions in the Training Database	Client PM, Client Functional Leads	Tyler PM, Tyler Implementation Consultant	Ongoing, please refer to Project Plan	Validation of module integration as well as validation that third-party integrations are operational and returning the expected result.
User Acceptance Testing	Client Project Manager, Functional Leads, End Users	Occurs throughout all process training.	Standard training sessions in the Training Database	Client PM, Client Functional Leads	Tyler PM, Tyler Implementation Consultant	Ongoing throughout project	Functional Leads and End Users validate process flow.
Parallel/Trial Run Testing	Client Project Manager, Functional Leads	90-days prior to go-live	Tyler lead sessions in the Training Database.	Tyler Implementation Consultant, Client Functional Leads			Validation that there are no discrepancies between Munis and the legacy system before live processing.
User Competency Testing	Client Core Users, End Users	At the end of each training phase	City conducted sessions in the Training Database using scripts	Client PM, Client Functional Leads	Tyler PM		Functional Leads and End Users validate that they can run key processes
Stress Testing	Organization	60-days prior to go-live	City conducted sessions in the Training Database using scripts	Client PM	Tyler PM		Validation that the system is capable of running under heavy user load as predicted on the network architecture design

Action Plan

Plan Approach

The following outlines the Munis test planning approach:

- Work with the <<Client>> Project Team to determine which processes, interfaces, and modifications need to be tested within the appropriate scenario processing.
- Work with the <<Client>> Project Team to identify Project Team members, and functional leaders, to define roles and responsibilities in performing scenario processing.
- The <<Client>>'s Project Team will identify and communicate testing scenarios to be executed with assistance from Tyler Implementation Staff.
- The <<Client>>'s Staff and Tyler Project Team will review and assign priorities for response to identified program or procedural issues that result from completed testing scenarios.

The <<Client>>'s Project Team may choose to assign a Test Coordinator to work with Tyler Project Team. The responsibilities include:

- Working with Tyler Project Team to oversee all functions of the testing process. Monitoring the quality and timeliness of the overall testing effort.
- Facilitating testing completion by maintaining momentum during process. Checking that tests are completed in the order necessary to thoroughly sign-off on process.
- Ensuring that all reports of issues are submitted to the Tyler and the <<Client>> Project Manager in a complete and timely manner.
- Review scenario processes and modify, if necessary to align with any changes to policies and procedures.
- Expectations of Tyler related to successful completion of Testing Phase are identified as follows:
 - Provide training to the <<Client>> staff.
 - Develop baseline scenario processes
 - Support the <<Client>> testing plan

Measurement & Tracking

- Priority 1 Critical Issue - Cannot proceed without correction
- Priority 2 High Issue - Can proceed but needs correction before Live
- Priority 3 Medium Issue - Can proceed with Live Processing but fix needs to be delivered to comply with ERP goals
- Priority 4 Low Priority Issue - Can proceed with Live, new desired functionality.

Once corrections have been delivered, the <<Client>>'s Project Team and Tyler Project Manager will determine if Repeat Testing can continue from stopped point or, if it must be restarted.

The <<Client>>'s Project Team will schedule and outline Stress Testing scenarios.

Tyler will require a final sign-off/approval prior to going live on any module. This sign-off will outline the status of any remaining open issues related to the module, confirming the issue status and the associated priority code. The <<Client>>'s Project Team and the Tyler Project Team will review all items and make a decision as to the ability to begin Live Processing in Munis. The sign off will signify the end of system test phase for the module. The decision to delay Live Processing should not be based on issues whose status is a Priority 3 or 4.

Sample Test Tracking Grid.

Type of Testing	Owner(s)	Date Delivered	Issues Encountered	Priority	Resolution
Verification Test	Tyler Implementation Consultant				
Static Environment Test	Tyler Implementation Consultant				
Conversion Validation & Testing	Business Leads, Technical Lead	Ongoing, please refer to Project Plan			
Modification Testing	Tyler Development, Tyler PM, Tyler Implementation Consultants	Ongoing, please refer to Project Plan			
Forms Testing	Client Functional Leads	Please refer to Project Plan			
Integration/Unit Testing	Client PM, Functional Leads	Ongoing, please refer to Project Plan			
User Acceptance Testing	Client Project Manager, Functional Leads	Ongoing throughout project, pilot training scheduled for initial end user exposure			
Stress Testing	Client PM	Client scheduled			
Pre-Live verification	Tyler PM				

The Munis Testing Conclusion

Clear communication, recordkeeping, and analysis between the <<Client>>'s Project Team, Tyler Project Manager and Tyler Implementation Teams are critical in order to move through the Testing Phase both successfully and in a timely manner. A member of these teams will need to identify the issues and then determine what type of issue resolution is necessary. Most issues can be categorized as they relate to the following:

- Module Design or Setup
- Best Practice Re-engineering.
- Change in scope
- Software modification requests

Issue tracking, resolution accountability, timely testing, and completed issue resolution are absolutely necessary in successfully completing the <<Client>>'s Project. The Testing Phase is a shared responsibility and must be recognized as such.

SAMPLE

Risk Management Plan

The following tables should be customized for this project, based on the decisions made from reading the Risk Management Planning document located in Appendix B.

Risk Identification Procedures

Sample Results from planning process in Appendix B

What	Owner	Time Estimate
A meeting with all team members and subject matter experts (SME) will be held to identify risks using the Prompt List technique. The Tyler PM or Client PM will update the Risk Register with the identified risks, causes and effects.	Tyler PM Client PM	1-2 hour session 1-2 hours documentation
Chose Option 4 - Delphi Technique: We will query each of the Board Members and Department Heads to identify risks associated with this project. They will be given a week to respond. After they return all submissions, we will send the total risk list to them for a one-time only review. They will be given an additional week for review and response. The Tyler PM or Client PM will update the Risk Register with the identified risks, causes and effects.	Client PM sends communications; Tyler PM compiles results in Risk Register	2 hours management & documentation 1 hour effort per Board Member or Dept. Head 2 weeks lag
E-mail: At the end of each of the above activities, everyone will be asked to e-mail the PM with any additional opportunities or risks that occur to them after the session. The Tyler PM or Client PM will update the Risk Register with the identified risks, causes and effects.	Stakeholders Tyler PM Client PM	1 hour for responses 1 hour documentation

Risk Analysis Procedures

Sample Results from planning process in Appendix B

What	Owner	Time Estimate
Review: The Client PM will ask the core team to review the risks to determine if they understand the risks enough to score. The team should notify the PM of any risk they are unsure of and the PM can clarify or get more information from the originator. The team should enter the probability and impact scores on separate spreadsheets in preparation for the risk meeting. The team will have 3 days to perform the review.	Client PM	2 hours to review 2 hours management 3 day lag
Scoring: The project team will determine the average of all impact and probability scores for each risk and use these to calculate the risk score and document them on the risk register.	Project Team	2 hours
Anything with a probability of "very likely" (5) will be considered a fact and managed in the Project Plan. Threshold 2: Anything with a risk score lower than 10 will be included on the risk register with a status of "watch list".	PM	1 hour

Risk Response Planning Procedures

Sample Results from planning process in Appendix B

What	Owner	Time Estimate
Risks with scores higher than 14 will be assigned to the core project team, SMEs, and management if necessary. Each risk owner will be assigned to develop strategies avoid, if possible, or mitigate/transfer the risk, or to increase the chance for an opportunity. Risk owners are given 1 week to complete.	Team SMEs Management (if needed)	4 hours 5 day lag
The project team will discuss the risk response strategies and agree on the response to be taken should a risk trigger occur, or if it's about to occur. These responses should be documented in the risk register.	Team	2 hours

Risk Monitoring and Control Procedures

Sample Results from planning process in Appendix B

What	Owner	Time Estimate
Monitoring: Risk owners are responsible for monitoring their risks and notifying the PM via e-mail when a trigger occurs and that the response plan has been initiated.	Risk Owners	4 hours
New Risk Identification: Any stakeholder can identify additional risks. The stakeholder should notify the PM of the new risk (or possible risk) via e-mail.	Stakeholders	1 hour

Audits: The PM will be responsible for overseeing risk activities and ensuring the risk register is updated.	Client PM Tyler PM	2 hours per month
Review: The project team will review the project's high priority risks biweekly and all risks monthly.	Project Team Tyler PM Client PM	1 hour per month
Reporting: Risks will be reported in two ways. First, the Tyler PM and Client PM maintain a Risk Register on the client SharePoint site. The Risk Register will contain a list of risks identified for the project, the priority of the risk, the risk owner, and a current status of any active risks. Second, the biweekly status report will contain a summary of the high priority risks and any new risks identified and added to the Risk Register.	Tyler PM	1 hour per month

SAMPLE

Schedule Management Plan

A Schedule Management Plan involves defining the processes of how the master project schedule will be established, controlled and updated.

The goal of the Schedule Management Plan is to document the following:

- Roles and responsibilities
- Schedule development
- Schedule control
- Schedule change review and approval

Schedule Roles and Responsibilities

Task	Owner
Provide Conflict Dates to Tyler PM	Client PM
Create initial Project Plan w/ specific dates and attendees for each session, as well as due dates for each assigned task	Tyler PM
Review and approve schedule	Client PM
Notify Client and Tyler PM of task progress	Client Functional Leaders, Tyler Implementation Consultants
Monitor schedule for potential issues	Client Project Team, Tyler Project Team
Submit schedule change requests	Client PM, Tyler PM
Review schedule changes for impact on time, scope cost, and performance	Client PM, Tyler PM
Approve changes to schedule with no impact on target live date, costs of project, or scope of products/services being implemented	Client PM, Tyler PM
Approve changes to schedule where there is an impact on the target live date, costs of project, or scope of products/services being implemented	Client PM, Tyler PM

Schedule Development

Project schedules will be created by the Tyler Project Manager and sent to the <<Client>> Project Manager for review and approval. Once approved the Project Plan will be developed using Excel and loaded to the <<Client>> SharePoint. The <<Client>> project team and resources must agree to the proposed work package assignments, durations, and schedule. The schedule should be approved as a whole and both teams committed to following the schedule.

The following will be designated as milestones for the project schedule:

Session	Target Development Date	Target Approval Date
Schedule Project Kick-off		
Schedule Planning and COA Sessions		
Schedule Analysis and Configuration		
Schedule Education Sessions (includes) • System Administration Training • Setup Training • Processing Training • Train the Trainer Training • End User Training		
Schedule Go Live Planning Sessions		
Schedule Post Live Training		
Acceptance of final deliverables		
Transition to support		

Schedule Control

It is important that the implementation schedule be closely monitored and controlled throughout the project. Project progression as well as necessary changes will be discussed during regular status meetings.

Possible schedule control tasks are listed below:

Schedule Control Tasks	Meetings
Review Project Plan tasks and milestones	
Discuss overall project progression	
Assess need for schedule changes	

Schedule Change Process

Requests for schedule changes should follow a formal process so they can be reviewed for impact on time, cost, scope and performance.

Schedule Change Process

Step	Resource	Specifics
Change Request	Any stakeholder	Identify reason for change on Change Request Form and submit to the Client PM
Change Request Review	Client PM Tyler PM	Review change request for impact on time, cost, scope, and performance
Change Requests Approval	Client PM Tyler PM Steering Committee	1. If impact on project is under the predetermined threshold, the change can be approved by the Client and Tyler PM's 2. If impact on project is over the predetermined threshold, the change should be submitted to the Steering Committee for approval
Change Order	Client PM Tyler PM	If a change requires a contract change order, the Tyler PM will request that one be sent to the Client PM for review and signature.
Change Implementation	Client PM Tyler PM	Update Project Plans and schedules – Tyler PM Communicate change to the team – Tyler and Client PM Record completion of Change Request – Tyler PM

Resource Plan

A Resource Plan establishes and includes the processes that organize and manage the project team and the necessary physical resources for the project tasks. The project team is comprised of the people who have assigned roles and responsibilities for completing the project. The physical resources are comprised of the facilities needed to ensure the completion of all necessary tasks for the project.

The goal of the Resource Management Plan is to document the following:

- Roles and responsibilities
- Physical resource requirements
- Project Team members
- Facilities and tools to be used throughout the Project
- Miscellaneous resource items

Tyler Project Team Roles and Responsibilities

Tyler Project Manager

- Provide a Project Plan for each phase
- Work with the <<Client>> PM to coordinate an implementation schedule
- Schedule Tyler resources for each phase
- Coordinate conversion services with appropriate Tyler departments
- Coordinate services with Tyler Forms
- Oversee project and monitor progress with the <<Client>> PM
- Hold regular conference calls with the <<Client>> PM to review status and progress of project and to identify any outstanding issues.
- Manage change orders
- Initiate change request project management plans as requested by the <<Client>>

Tyler Implementation Consultant

- Perform verification testing
- Deliver System Administration Training
- Conduct Knowledge Transfer Analysis
- Perform system design and set up table analysis
- Participate or conduct Static Environment Testing
- Assist with Tyler Forms design
- Assist with data conversion analysis
- Train the <<Client>> in data conversion validation process
- Assist in testing and parallel process
- Conduct Super User training

- Deliver pre-live services
- Provide go live assistance
- Provide post live reconciliation and reporting training

Tyler Business Process Consultant

- Deliver As-Is Knowledge Transfer Analysis.
- Deliver To-Be Knowledge Transfer Analysis.
- Develop Best Business Practices Recommendations and deliver to the <<<Client>>>.
- Participate in Static Environment Testing Best Business Practice Recommendations
- Deliver Core User Desktop Documents.
- Conduct knowledge transfer of Best Business Practice Recommendations to implementation team.

<<Client>> Roles and Responsibilities

The <<Client>> Project Manager

- Identify and communicate to Tyler PM requirements for a successful implementation of Munis
- Coordinate with Tyler PM to develop and maintain implementation schedule which identifies specific milestones and establishes accountability
- Manage completion of Project Planning documents
- Schedule the <<Client>> resources. This includes but is not limited to personnel, equipment and training rooms
- Identify additional employee training needs and request necessary schedule changes
- Ensure that employees accomplish tasks on time, including monitoring homework assignments
- Coordinate conversion file submission and proofing
- Coordinate Tyler Forms submission and proofing
- Review invoices and approve payment in accordance with the contract and associated milestones
- Oversee Project and monitor progress with Tyler PM
- Coordinate IT/MIS functions such as system backups, loading releases and software updates, hardware and operating system setup
- Coordinate regular internal project meetings to determine status of tasks and identify outstanding issues. Refer to the Tyler Communication Management Plan for frequency and schedule. Communicate these to the Tyler PM at each project status meeting
- Provide and facilitate 3rd party vendor communication plan and escalation process
- Initiate change orders to project management plans and provide to Tyler PM as required

The <<Client>> System Administrator

- Load Releases or coordinate with Tyler System Management Services if an TSM Contract has been purchased
- Copy Live database to Training/Test databases as needed for training days

- Create any necessary conversion files to be transmitted to Tyler or 3rd Party Vendors
- Add new users and printers
- Run the Munis Internet Updater (MIU) on a weekly basis and load updates from the Check/Install Updates menu.
- Perform basic server system maintenance
- Ensure all users understand Tyler log-on process and have necessary permission for all training sessions
- Ensure network and infrastructure is sound

The <<Client>> Tyler U Manager

- Work with the Tyler PM to map out standard curricula for users
- Communicate registration and enrollment requirements to users
- Monitor the progress of user's eLearning courses
- Act as a Tyler U resource for users
- Create and enroll users in custom education plans (optional)
- Work with Tyler ERP Admin to import users (optional)
- Delete users as necessary

The <<Client>> Upgrade Coordinator

The Client Upgrade Coordinator is the individual that is responsible for the coordination of activities related to upgrading Tyler's application during the project (required). Additionally, this role is responsible for managing the upgrade process post go-live.

- Become familiar with the upgrade process and required steps
- Become familiar with Tyler's Release life-cycle policy
- Utilize Tyler Community to stay abreast of the latest Tyler Release Life Cycle updates as well as the latest helpful tools to manage your upgrade process
- Assist with the upgrade process as required, during implementation
- Manage upgrade activities post implementation
- Manage upgrade plan activities
- Coordinate upgrade plan activities with Tyler and Client resources
- Communicate changes that will affect users and department stakeholders
- Obtain department stakeholder sign-offs to upgrade Live/Production environment
- Create and publish your site's multi-year, forward projection upgrade plan

The <<Client>> Functional Leader

- Participate in appropriate analysis sessions by providing detailed policy and procedural information.
- Act as subject matter expert on selected modules
- Review analysis deliverables
- Sign off on system design and conversion files
- Actively participate in Tyler Forms design process
- Actively participate in conversion mapping and validation process

- Actively participate in all testing and parallels
- Complete all required set up tables
- Complete workflow and security templates for all end users
- Attend all training sessions or appoint an appropriate management level designee
- Practice processes learned outside of training sessions
- Conduct performance tracking and review with Tyler PM on end user Tyler competency
- Assign department resources for training and internal tasks
- Act as supervisor/cheerleader/change manager for the new Tyler process
- Identify and communicate to the <<Client>> PM any additional training needs or scheduling conflicts
- Help document lessons learned at end of each phase and signoff on formal acceptance for phase close-out
- Perform Live processes

The <<Client>> Change Management Functional

- Participate in analysis sessions and monitor for resistance and mitigate if necessary
- Review analysis deliverables and document the process/procedure change using the Business Process Transition Worksheet
- Participate in all testing and parallels. Monitor for resistance and mitigate if necessary
- Attend all training sessions. Monitor for resistance and mitigate if necessary
- Act as cheerleader/change agent for the new Tyler processes
- Support go-live events
- Monitor project compliance after go-live. Audit and collect feedback. Report analysis findings to project management for corrective action
- Participate in the After Action Review and document lessons learned at end of each phase
- Participate in Phase Closure

The <<Client>> Core User

- Attend and participate in analysis sessions as necessary
- Attend all applicable training sessions
- Participate in data conversion mapping and validation as necessary
- Test system setup.
- Work to actively identify and solve problems and communicate changes that impact other users
- Complete project tasks in a timely manner.
- Become an expert Munis resource for End Users.

The <<Client>> End User

- Have basic competency in computer skills
- Attend all applicable training sessions
- Practice tasks
- Demonstrate competency with Tyler processing prior to go live date

Other Tyler Resources

Tyler Implementation Analysts

- Provide immediate direct support for Implementation Staff on site
- Assist in all Implementation Consultant's duties

Tyler Conversions

- Validate data files are readable
- Provide definition of the standard file formats and database schemas to aid in the conversion data mapping process
- Provide converted data with instructions for loading
- Revise results as data anomalies and exception conditions are discovered
- Add as needed based on contracts.

Tyler Forms

- Provide forms kits for all purchased forms
- Review requirements for equipment and supplies
- Provide instruction sheets and form mock up sheets
- Conduct review of client's form mock up sheets
- Create form designs
- Install forms software and approved forms
- Quote custom design work and deliver as agreed upon

Tyler Support

- Provide timely response to questions and issues based on call priorities
- Escalate issues to Senior Analysts and Development as needed
- Seek client confirmation of issue resolution
- Provide application support through annual support contract

Transition Services Assumptions

- A Technical Support Manager will provide an introduction to the Tyler Support process.
- Introduce the various service tools available to the <<Client>>, including Online Support Incidents and Community.
- Assign a Support Account Manager to work with the client on their key processes coming in the next 12 months (post go-live).
- Proactively work with new clients on their upcoming key processes and provide insight and advice for success.

- Assist in securing additional Tyler resources, if needed.
- Assist in navigating the internal departments at Tyler to help accomplish goals.

Tyler SaaS

- Provide server support for SaaS clients
- Create users on active directory
- Provide information on using Cloud Admin tool
- Load conversions
- Perform copy databases (Live to Test/Train/Verify)

Tyler System Management Services

- Provide server maintenance support
- Provide training on loading software, release updates, and code enhancements
- Provide assistance with ongoing system maintenance
- Provide server replacement support

Physical Resource Requirements

Analysis Facility

- Conference Room or open meeting space free of interruptions to accommodate all users comfortably
- Space for attendees to take notes and organize documents
- Internet connection
- Projector and screen
- White board/smart board or flip chart
- Speaker phone

Training Facility – Core Users and End Users

- Training environment free of interruptions
- Space for trainees to take notes and organize documents
- Internet connection
- Access to the Tyler system
- Projector and screen
- A working networked Tyler printer
- Speakerphone
- White board/smart board or flip chart
- Ideally one computer per user being trained and a trainer computer

Facility Resource Matrix

Room name/number				
Exact location				
Purpose (analysis, training, decentralized training, backup)				
Number of computers				
Is there a separate station for the instructor?				
Total capacity				
Networked printer available?				
Is there access to the Tyler system? Or estimated date for access.				
Number of internet connections (or note if wireless)				
Speakerphone?				
Whiteboard or flipchart?				
First date available				
End date available				
Is room dedicated to project? If not, who reserves it?				
Is there a permanent projector & screen? If not, who reserves them?				
Is the room locked? If so, who will have access?				
Other room considerations				

Project Team Members

Role(s)	Company (Tyler or Client)	First Name	Last Name	Telephone Number	Email
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Miscellaneous

Note any additional resource details specific to the site

Parking	
Hotels	
Special Passes	
Other	

Education Plan

An Education Plan outlines the process of transferring knowledge to and from stakeholders. For the Tyler Implementation, this includes the analysis and knowledge transfer process, as well as training sessions for Core Users.

The goal of the Education Plan is to document the following:

- The high level education process and various types of educational sessions included in the Tyler Implementation
- Prerequisites for each session
- Answers to specific logistical questions (how many classrooms be established, what database environment will be utilized, and so on)
- Action items to link project personnel as owners for logistical items
- Measurement criteria to be used to ensure the Education Plan has been successful

Types of Education Sessions

Analysis

Tyler employees will perform the following tasks during the Analysis sessions:

- As Is/To Be Questionnaire review
- In depth analysis of Tyler options
- Product overview demonstration

This phase will involve the Functional Leaders, Subject Matter Experts, and Key Decision Makers. The goal of this phase is to transfer high level knowledge between parties. The output will be policies and procedures related to the use of Tyler. The policies and procedures will determine the training agenda to be delivered to the end users. For example, if commodity codes are not going to be utilized within Tyler Purchasing, then the training outlines for Purchasing should remove the discussion of commodity codes.

Prerequisites:

- Questionnaires may be provided prior to analysis so that processes may be reviewed internally prior to the session.
- Internal policy documents should be reviewed and accessible during the sessions.
- Required reports should be reviewed and printed for respective session.
- Samples of any applicable outputs (AP or payroll checks, general bills, purchase orders, etc.).

Static Environment Test

The SET allows the Functional Leaders to see a working Tyler system with their own sample data before moving forward with training. Data is processed according to defined/recommended policies and procedures so that Functional Leaders can confirm assumptions and gain an overall understanding of the Tyler applications.

Prerequisites:

- Final test scripts – templates provided by Tyler Project Manager.
- Sample client data for each test (10 vendors, 10 AP invoices and sample accounts for AP SET, etc.).

Education - Munis System Admin Training

This session covers the System Administration menu options in Munis, Tyler Content Manager configuration (if purchased), Munis Self Service configuration, etc. This is intended for the staff that will be responsible for system administration. Training is conducted by the Implementation Consultant.

Education - Set-up Training

This consists of training on table and code set-up to be completed prior to processing training. The Implementation Consultant will train client on completion of set up tables and codes according to decisions made in analysis sessions. These sessions typically include Functional Leaders and Subject Matter Experts. All core users who will assist in the set-up of tables and codes should attend.

Education - Processing Training

Process training conducted after analysis decisions have been made and set up is complete, or in progress. This covers the process flow from start to finish. These sessions typically includes Functional Leaders, SME's, and staff from the central departments (i.e. AP department, Payroll department, also known as Core Users) and do not include decentralized departmental users. These sessions may be conducted multiple times during a phase.

Education - Train-the-Trainer Training

Process training conducted to train the <<Client>> trainers on how to conduct End-User Training. The items covered are inquiries, reports, approvals, and general entry. The specific topics are to be determined in project planning and analysis, and refined prior to training the <<Client>> trainer(s). If desired 8-10 end users can be invited to this one time session to provide feedback prior to training the rest of the organization. Details of the training will be agreed upon and documented in the project plan for each project phase.

Education - End User Training

Process training for all decentralized or departmental users. This is the <<Client>>'s responsibility unless specifically contracted for additional days to accommodate end user training. An agenda of topics that will be decentralized will be developed by the <<Client>> PM and Tyler PM prior to the session. The <<Client>> is responsible for providing documentation for these sessions.

Prerequisites for the Education sessions are:

- Users must have basic computer skills, including but not limited to: using a mouse, clicking on an icon to open a new window, minimizing and switching between windows, printing screens, and using the desktop.
- All users must have user logins to the Tyler Training database, or other database (if determined by Tyler and Project staff) and know how to access the environment.
- All users must have access in both the training lab and their personal workspace to the Tyler Training database, or other database (if determined by Tyler and Project staff) and know how to access the environment.

- Users who will be assigned tasks to be completed in the Tyler Live database must have appropriate access to the Tyler Live database and know how to access the environment.

Reconciliation and Reporting Training

Reconciliation and Reporting training is provided 30 to 60 days after go live. Many of these programs are covered during application training but it is Tyler's practice to review these processes again once live, real-time data is available in the system. The timing also ensures the training is occurring around the time a client would first need to close a period in the live database.

Other Tyler Education Resources

KnowledgeBase

The Munis KnowledgeBase is a searchable database of Munis product information. The KnowledgeBase contains procedural documents, file layouts, release notes, user conference documents, videos, and other information related to the use of Munis products. Information on the KB can help to complement user training, as well as be used as a baseline for clients to create their own custom documentation. Users must register on the Tyler Tech site in order to access the KnowledgeBase.

<http://www.tylertech.com/client-support/munis-support>

Logistics

Tyler and the <<Client>> will work together to define education logistics. The following table should be used as a starting point for defining logistics. The final logistics table will become part of the Education Plan.

Software/Hardware	
How many databases will be utilized?	
Will we establish a Financials Training environment separate from Payroll and/or Revenue?	
Who will refresh the Training databases?	
Will a second server be utilized?	
Availability	
What are your standard working hours?	
What will the standard training hours be?	
Are there days during the standard week that work better than others?	
Are there any conferences, internal training sessions, auditor visits, and so on that we need to schedule around?	
What is the standard weekly work schedule? Does any staff have Fridays off?	
Staff	
How many students per teacher?	
How many students per workstation?	
Who will conduct attendance?	
Will management be present for each session?	
Who will train the end users?	
Who will have access to the KB?	
Who will have access to SharePoint?	
Schedule	
Who will notify staff members of appropriate training sessions?	
How far in advance will the training schedule be built?	

Facilities	
Will there be more than 1 training room? (room detail should be notated in the Facility Matrix in the Resource Plan)	
Is there internet access available in the training room for Tyler staff?	

Action Plan

The final logistics table will be placed into the following table format which will become the Action Plan

Logistic Item	Owner	Date Needed	Date Completed
List of users to attend Functional Leader sessions by module	Client PM		
List of users to be trained in Core User sessions by module	Client PM		
List of users to be trained in End User sessions by module	Client PM		

Implementation Management Plan Delivery Acknowledgement

Date:
Client:
Client Project Manager:
Tyler Project Manager:
Project Phase:

This memo indicates client acceptance that the Implementation Management Plan has been delivered by the Tyler Project Manager and reviewed by the Client Project Team. Per the contract, Tyler shall invoice the Project Planning Services upon delivery of the Implementation Management Plan. The following plans are included in the Implementation Management Plan:

- Scope Management Plan
- Communication Management Plan
- Quality/Testing Management Plan
- Risk Management Plan
- Schedule Management Plan
- Resource Management Plan

Please acknowledge receipt and acceptance of the Implementation Management Plan by signing and dating the bottom of this page.

Please return this sign off to <<Tyler PM>>. If we do not receive it within 5 business days, we will consider the sign off complete and the Implementation Management Plan accepted.

Client Project Manager: _____ Date: _____

Appendices

SAMPLE

A. Tyler Change Management Process

SAMPLE

Change Management Preparation

1. Establish the Project Sponsor(s), Steering Committee, Project Manager, and Project Team
2. Identify a Change Management Functional Lead(s) as part of Project Team
3. Identify and Document Strategic Goals, Objectives and Project Vision for ERP Project
 - Goals
 - Identify objectives – in order to best recommend areas of improvement, knowing the mission and vision of the organization is imperative.
 - Identify Process Improvement goals that will best align business processes to the objectives and priorities. Optimizing business processes, reducing costs, improving operational efficiencies, and providing quality services should be inherent goals and the cornerstone of the project vision.
 - Participants
 - Project Sponsor(s), Steering Committee, Project Team, Change Management Functional Lead(s)
 - Activities
 - Review Project Mission/Vision Statements and review Strategic Operating Plan. Determine the strategic goals/objectives of the project and the project vision that will be supported by change management strategy. Document project mission, goals, vision, expectations, etc. to be included in project communications.
4. Identify and Document available Communication Modes
 - Goal
 - Identify the available communication modes that will use change management strategy to prepare and promote ERP Project success in achieving the organizational goals, objectives and project vision.
 - Participants
 - Project Manager, Change Management Functional Lead(s)
 - Activities
 - Review available communication modes
 - Do we need permission to use communication modes?
 - Is there an employee intranet available?
 - Document access/ownership of communication modes
 - Document specific timing of existing communications (newsletters, project updates, etc.) existing scheduled meetings (project team meetings, steering committee meetings, departmental meetings, principal and/or campus meetings, if applicable)
 - Executive mandate letter to introduce project to the organization
 - Executive communication quarterly
5. Brainstorm to develop ideas for the ERP Project BRAND
 - Goal
 - A project BRAND is a “friendly” name and/or “logo” that will represent the ERP Project. The project will be referred to as the BRAND and the BRAND will be used in all communications. Branding creates a familiar name and icon/logo that will build project recognition and acceptance.
 - Participants
 - Project Manager, Project Team, Change Management Functional Lead(s)
 - Activities
 - Use the objectives, goals, mission statement and project vision to create a familiar name and an icon/logo that reflect these project elements

- Encourage Staff participation – create a few names/icons/logs and let Staff vote for the winning name and logo/icon (Build buy-in)
- Get permission from Sponsor(s), Steering Committee on winning name logo
- PDF the winning design and name so that the image can be used in project posters, project resource intranet page and all other communication vehicles

SAMPLE

Discovery/Preparing for Change

Objective: This phase of the change management process commences once a contract has been signed. Discover/preparing for change includes activities to understand the scope of the change, the organizational readiness and culture for change. The results of these activities will be used to prepare the project manager, change management functional lead(s) and project team for change management, to enable the sponsors to support the change and to help the project manager, change management functional lead(s) and project team architect a high-level Change Management strategy.

Discovery Activities

Objective: Understand the characteristics of the change and the organization, and the capacity for change within the organization. This understanding will help the project manager, change management functional lead(s) and project team to establish the change management strategies to support the implementation process.

Resources: Project Manager, Project Team, Change Management Functional Lead(s)

Outputs:

- **Scope Analysis**

Objective: To define the scope of the change and the impact on organization departments. Specifically, this describes the scope of the project change.

Resources: Project Manager, Change Management Functional Lead(s), Project team

Outputs:

- What is the project change?
- Who does the project change impact? Is it a change impacting only one department or the entire organization? How many employees will be impacted?
- When will staff be impacted? Will some staff be impacted at different times; in differing ways?
- What is the time frame for the project?
- Is there a defined "go-live" date?
- Will there be a change to job roles?
- Do you anticipate process/procedure change?
- Do you anticipate a reorganization in staff due to the change?

- **Organizational Assessment**

Objective: To define the organizational culture and readiness for change. Specifically, this describes the culture of the organization.

Resources: Organization Project Manager, Change Management Functional Lead(s), Project Team

Outputs:

- What is the perceived need for change among management? Among employees?
- What is the history of past changes, success or failures?
- Are there other change initiatives happening within the organization at the same time? How many? What are they?
- Do managers and employees have a shared vision of the organization in relation to this project change?
- Are there resources and funding available to support this project change?
- Is the organization responsive to change initiatives; or is the culture closed and resistant to new ideas and change?
- What is the leadership and power distribution of the organization?
- Will managers and employees believe that the organization will sustain the project change? Have other project changes not been sustained?
- Are "middle – managers/supervisors" predisposed to resist change projects? What has the history of project change support been with managers/supervisors?

Answers to these questions will assist the project manager, change management functional lead(s) and project team to develop communication strategies that will address the areas of project scope and organizational culture as well as highlight any organizational negative history.

Project Kick-Off

Objective: This is the transition from Sales to Implementation. Project teams are introduced, an overview of the project process is reviewed, and expectations are discussed.

Resources: All interested parties.

Outputs: Acknowledgement and recognition of the new project change, the project brand and the commitment of the organization to support and sustain the project change.

Impact Index Evaluation

Objective: To understand the project impact on individual departments/divisions of the organization.

Resources: Organization Project Manager and a representative (manager/supervisor) from each department/division that will be functionally impacted by the project change. For example; if implementing the MUNIS Financial Module impacted departments/divisions would be: Accounting, Budgeting, Purchasing, Accounts Payable, Fixed Assets, Etc., Change Management Facilitator

Outputs:

- o How many impacted staff in the department?
- o What percentage of impact on the daily work of this group?
- o What percentage of impact on the process/ procedure of this group?
- o What percentage of impact to the tools of this group?
- o Does staff perceive the need for this project change? Are they dissatisfied with the current state? Do they view the change as necessary?
- o What is the impact of past changes on staff? Were they positive or negative?
- o Are there additional changes underway in your department? What are they?
- o Does your staff share a unified vision and direction for the organization concerning this project change?
- o What is the culture of the communication within your department? Is there a preferred mode of communication with your staff?
- o Is staff open and receptive to new ideas and project changes?
- o Do you reward staff for adapting to change?
- o Do you anticipate any unique challenges with your department? Please explain.

Discovery Analysis

Objective: Compile assessment results and prepare change management analysis to drive change management strategy for project implementation success.

- **Prepare Analysis**

Objective: Prepare follow up and analysis of assessments. What does the information tell you about the change and the impact on the organization? What departmental impact and culture has been discovered? How will you use this information? How will the information drive communication strategy; meeting strategy; training strategy; sponsorship involvement; and reinforcement planning?

Resources: Organization Project Manager, Change Management Functional Lead(s), Project Team

Outputs: Presentation of analysis results and strategy recommendations to Sponsors/Steering Committee by Organization Project Manager, Change Management Functional Lead(s), Project Team.

Supporting the Change Process – Managing Change

Objective: This phase of the change management process commences once Discovery and Analysis are complete. Change management strategies/plans will be designed based on Discovery and deployed throughout the organization. Execution of change management strategies and plans is the responsibility of the Organization Project Manager, Change Management Functional Lead(s), Project Team

Change Management Strategies/Plans

Objective: Change Management Strategies/Plans will be designed and implemented throughout the organization; these plans will be specific to the organization based on the analysis results of Discovery/Preparing for Change.

Communication Strategies

Objective: Understand the concepts of change management communications and provide communication strategy for inclusion in the over-all project communication plan

Resources: Organization Project Manager, Change Management Functional Lead(s), Change Management Facilitator

Outputs: High level Change Management Communication strategies that will assimilate with the project communication plan

- Advertise the project “brand” to cultivate understanding and commitment to the project
- Create an executive mandate announcing the project and the project expectations right before the project kick-off; this communication will secure commitment to the project change
- Prepare staff by beginning the communication strategy early in the project
- Communication must be repeated to be successful – deliver a clear message
- Create a project resource section on the staff intranet to house all project communication, documents, calendar or events
- Have a feedback mechanism in place; respond to all feedback
- Engage managers and supervisors to be communicators of the project change (Coach Strategy)
- Share what the change will mean to the employee:
 - How will the change impact individual staff?
 - What will staff do differently after the project change?
 - What’s in it for me (staff)?
 - What are the business reasons for the change?
 - What is the impact on the organization?
- Use effective communication modes:
 - Face to face is the most powerful communication method
 - Group meetings and presentations
 - One on one sessions
 - Posters
 - Bulletin boards
 - Videos
 - Flyers

Coaching Plan

Objective: Train and build a core group of organization employees to understand change management concepts and to develop change management leaders in project support strategies.

Resources: Project Manager, Project Team, Change Management Functional Lead(s), Managers and Supervisors of impacted employees

Outputs: Coach Training Sessions

- Train managers and supervisors of impacted staff

- Understand “why” change can be difficult for some staff
- Understand the project change and the impact on their staff
- Understand process and/or procedure change
- Understand the importance of consistent and repetitive communication to prepare staff for the project change
- Prepare with project information, FAQ’s, demonstrations, project timeline and calendar of events
- Prepare managers and supervisors to recognize and address resistant behavior

Sponsorship Plan

Objective: Roadmap of project events where Sponsors can be visible and active. The number one indicator of project success is active and visible project sponsorship

Resources: Organization Project Manager, Change Management Functional Lead(s), Executive Sponsor (s)

Outputs: Sponsor Plan – events, dates and times for Executive Sponsor to participate in project activities

- Direct communication with staff
- Share the vision of the project change
- Build a coalition with managers and supervisors to ensure their commitment to the project change
- Stay active and visible throughout the project implementation

Resistance Management Plan

Objective: Diagnosing gaps and managing resistance is an ongoing process in a change management strategy plan

Resources: Organization Project Manager, Change Management Functional Lead(s), Executive Sponsor (s), Key Stakeholders and front line managers/supervisors.

Outputs: Resistance Management Plan – guidelines to help diagnose the root cause of gaps and/or resistance and appropriate steps to address problem areas.

- What might resistance look like in the organization?
 - Direct or indirect challenge
 - Lack of acknowledgement
 - Open hostility towards project information
 - Feigned ignorance
 - Confusion
 - Absenteeism
 - Nonattendance at project sessions
 - Noncompliance with business process
- Where are likely areas for resistance to occur?
 - BPI Sessions
 - SET (Static Environment Test) Sessions
 - End-user Training Sessions
 - Project Feedback from Project Website
 - Supervisor input
 - Compliance audits
- What are some causes of resistance?
 - Lack of understanding?
 - Misinformation?
 - Resistant manager/supervisor in department?
 - Does a process or procedure decision not work?
 - Is it a software issue?

- Define the process flow for resistance management once a resistant issue has been raised to project management
 - What is the path for resistance management by staff level or issue type?

Business Process Transition Plan and Worksheet

Objective: A Business Practice Transition Plan/Worksheet is a detailed plan to address changes in job roles, responsibilities, procedures/process and/or organization structure.

Resources: Organization Project Manager, Change Management Functional Lead(s), Executive Sponsor (s), Key Stakeholders, Human Resources and front line managers/supervisors.

- Outputs: Business Process Transition Worksheet – Record where the project team identifies the impacted positions and the business/HR leaders use the record information to meet and discuss direct impacts to individuals.
 - What is the “delta” between the current and future state (process/procedure change)
 - Create a key role map – a diagram of each impacted department with a pyramid of impacted job roles and the staff associated with these roles
 - Use the key role map to understand and map the transition impact of each job role
 - Use the key role map as a communication tool to prepare each of the impacted staff for the specific impact to their job role

Execute Change Management Strategies and Plans

Objective: Delivery of change management plans/strategies:

- Communication strategies to be incorporated into the project communication plan
- Sponsor Plan
- Resistance management strategy
- Coach training sessions

Resources: Organization Project Manager, Change Management Functional Lead(s), Change Management Facilitator

Outputs: Supporting the Change Process - Plans and Strategies – the organization is responsible for managing and executing the change management plans

Objective: To ensure that all change management plans are consistently executed and implemented

Reinforce to Sustain the Change

Objective: This phase of the change management process is ongoing throughout a project transition although presented here sequentially. Reinforcement of the project change actually begins at project kick-off; reviewing feedback, auditing and implementing corrective actions as necessary will be part of the project from beginning to end.

Monitoring and Controlling

Objective: Taking action to ensure compliance with project expectations.

Monitor Project Compliance

Objective: To understand if there are gaps or resistance to the project change or process

Resources: Organization Project Manager, Project Team, Change Management Functional Lead(s)

Outputs:

Collect and analyze feedback- Suggested tools to use:

- Training feedback surveys
- Competency tests
- Review FAQ's or project feedback specific to your department
- Periodic process review

Diagnose gaps:

- Review feedback survey's for trends, comments or issues that may affect your department
- Review competency tests for low scoring areas or for trends or comments. Additional training may be required. Be an advocate.
- Provide feedback from the FAQ's. This will reinforce the fact that project questions and concerns are being addressed
- During periodic process review, are people reverting back to old habits- Example: Is the clerk using the old spreadsheet rather than the new system tools? Ask staff to walk you through a newly implemented process using the new tools.

Execute Corrective Action Plans

Objective: To correct gaps in process or issues with application

Resources: Organization Project Manager, Project Team, Change Management Functional Lead(s)

Outputs: Implement corrective actions:

- Root Cause Analysis: If gaps in the process are discovered, perform root cause analysis to discover why there are gaps
- Training: Are there additional training requirements?
- Technical: Are there technical issues preventing the process from being completed?
- Process Redesign: Does the planned process have gaps that were not identified in the original design?

Knowledge Transfer/Execution

Objective: Support go-live events

After Action Review

Objective: What worked? What did not work? What will we do differently next phase?

Resources: Organization Project Manager, Project Team, Change Management Functional Lead

Outputs: Lessons Learned will provide guidance for the next phase or next project

Phase Closure

Objective: Transition from Implementation to Support and Customer Care. Introductions are made; Support and Customer Care are made aware of any outstanding issues or concerns.

SAMPLE

B. Risk Management Planning Doc

A Risk Management Plan involves defining methods and procedures for assessing and dealing with possible threats that could arise inside or outside the organization. Although the exact nature of potential issues or their resulting consequences are sometimes difficult to determine, it is beneficial to perform a comprehensive risk assessment of all threats that can realistically occur to impact the organization.

The Risk planning process should identify and measure the likelihood of all potential risks and the impact on the organization if that threat occurred. To do this, each department should be analyzed separately since there may be variances in levels of automation, recovery processes, and so on. The ultimate goal of the Risk Management Plan is to protect the organization, its employees and infrastructure from liabilities. In this instance, the Risk Management planning focuses on risks that may impact the Tyler Implementation project.

Risk Register

The project's risk register will be created and maintained during the risk management process and will become part of the Implementation Management Plan. All identified risks should be entered in the register. The risk register is located on the project SharePoint site under the heading Project Planning > Risk Register and may include the following points:

Entered in the risk register during or after Risk Identification:

- Risk ID – A unique identifier for the risk. To be used when referring to risks in meetings and communications.
- Title – A description of the risk.
- Description of Impact on Project if Risk Occurs – If the risk occurs, will it impact scope, schedule, cost, user satisfaction, etc.
- Possible Triggers – Listing of the triggers of the risk.
- Date Reported – The date the risk was identified.
- Status – Identifies whether the risk is a priority, on the watch list, or closed (see risk response section below).
- Category – The category for the risk (i.e. personnel, training, conversion, etc.).

Entered in the risk register during or after Risk Analysis:

- Probability – The likelihood that the risk will occur. See the "Risk Analysis" section below for possible values.
- Impact – The effect on project objects if the risk event occurs. See the "Risk Analysis" section below for possible values.
- Risk Score – Reflects the severity of the risks effect on objectives. The risk score is determined by multiplying the risk probability and risk impact values. The intent is to assign a relative value to the impact on project objectives if the risk in question should occur.

Entered in the risk register during or after Risk Response Planning:

- Current Owner – Person(s) responsible for the risk if it should occur.

- Response Strategy – The strategy that is most likely to be effective.
- Risk Response Plan – Specific actions to enhance opportunities and reduce threats to the project's objectives based on the most likely strategy.
- Plan Type - Risk

Risk Identification

The following techniques may be used to develop a comprehensive list of risks for the project. A minimum of one technique must be used. However, it is recommended that two, or more for larger projects, should be used to ensure that as many risks and opportunities have been identified for the project as possible. (i.e. brainstorming and expert interview or affinity diagram)

In addition to identifying the risks, the causes and effects of the risk should be identified and recorded in the risk register. The causes may lead to the identification of additional risks. Finding and eliminating the root cause may eliminate several project risks. For example, if the risk is that training may have to be repeated, the causes may be that users don't attend, users aren't aware of the schedule, users had other tasks that were higher priority, users were on vacation, etc. The effect of this risk is that the project costs may overrun by repeating training sessions, or the schedule may be increased because of having to reschedule training and rework the Project Plan.

Described below are five techniques for risk identification. Choose a minimum of one technique to use for this project. Enter your choices in the Risk Identification Procedures table in the Implementation Management Plan.

Option 1: Brainstorming - SWOT Analysis

A SWOT Analysis is a strategic planning tool used to evaluate the Strengths, Weaknesses, Opportunities, and Threats involved in a project or in a business venture. Strengths and weaknesses are internal to an organization. Opportunities and threats originate from outside the organization.

A SWOT analysis, usually performed early in the project development process, helps organizations evaluate the environment, factors and internal situations facing a project. Strengths and weaknesses are attributes that measure your internal capability.

Opportunities and threats refer to how the external environment affects your team/business/group. Ideally a cross-functional team or a task force that represents a broad range of perspectives should carry out SWOT analyses.

SWOT Analysis Template

Project Name:
Prepared by:
Date:
Project Manager:
SWOT Analysis Facilitator:

SWOT Analysis Participants:
SWOT Analysis Recorder:
Date of SWOT Analysis:
Project Strengths: (What potential strengths exist about the project, the project team, the sponsor, the organization structure, the client, the project schedule, the project budget, the product of the project, and so on?) 1. 2. 3. 4.
Project Weaknesses: (What potential weaknesses exist about the project, the project team, the sponsor, the organization structure, the client, the project schedule, the project budget, the product of the project, and so on?) 1. 2. 3. 4.
Project Opportunities: (What potential opportunities exist in regard to achieving the project requirements, the product requirements, the project schedule, the project resources, the project quality, and so on?) 1. 2. 3. 4.
Project Threats: (What potential threats exist in regard to achieving the project requirements, the product requirements, the project schedule, the project resources, the project quality, and so on?) 1. 2. 3. 4.

Option 2: Brainstorming – Prompt List Analysis

This technique uses a list of categories to prompt stakeholders to think of threats and opportunities. It is held in a discussion forum and the facilitator discusses the project, then brings up each category and asks users to identify the risks associated with each category. The risks are written on a board for all attendees to view and discuss, and later transferred to the risk register.

Categories:

- Schedule/timeline
- Cost/budget

- Resources – project team and users
- Resources – training rooms, computers, etc.
- Business process changes
- Training
- Conversions
- Interfaces

Option 3: Expert Interview

Members of the project team sit with identified stakeholders (high power/influence people, subject matter experts, etc.) to discuss the project and identify associated risks. This technique is time consuming, but may be a good option for any remote or less available stakeholders.

Option 4: Delphi Technique

An e-mail or memo is sent to subject matter experts asking them to identify risks associated with the project. The memo should contain project information to allow users to understand the scope of the project in order for them to raise valid concerns or opportunities. Time should be allowed for them to respond with their list of risks. The Risk Manager will compile the results, categorize them and send them back out to the participants for review, to gain consensus and to identify additional risks. This is usually done anonymously (contributors names are not shown on the risk register or in team communications during this process).

Option 5: Affinity Diagram

This technique is typically used after other techniques such as those listed above. This will allow users to put the identified risks in a diagram based on category. It stimulates teamwork and allows the team to agree on the risks, discuss their causes and triggers more thoroughly and identify risks or opportunities that may have not otherwise been thought of. Using sticky notes or forms, users will place the identified risks under the appropriate risk category on a board or wall.

Risk Analysis

Each identified risk should be assigned a probability score and an impact score and these should be recorded on the risk register. The scores may change over the course of the project, so should be reviewed and updated regularly. For instance, a risk may have a low impact at the start of the project, but may have a high impact as the project progresses.

Likelihood or Probability of each risk

5	Very likely to occur
4	Probably will occur
3	May occur
2	Unlikely to occur
1	Very unlikely to occur

Potential Impact of each risk on the project

5	Event poses very high cost, schedule, or other failure
---	--

4	Event poses major cost, schedule, or other increases
3	Event poses moderate increases, but requirements may still be met
2	Event poses small increases, but requirements may still be met
1	Event has little impact on the project

Probability and Impact Matrix

After determining risk scores for each risk's probability and impact, use the following scale to determine the risk priority. Risks with ratings (Risk rating = probability score x impact score) of 10 or higher should be evaluated and reviewed regularly, and should appear on the status reports. Medium and Low risks should be monitored and scores should be re-evaluated throughout the project, as impact and probability change.

		Impact				
Probability		1	2	3	4	5
	5	5	10	15	20	25
	4	4	8			
	3	3	6	9		
	2	2	4	6	8	
	1	1	2	3	4	5

After determining the risk ratings for each identified risk, the Risk Register should be updated to reflect the appropriate status for each risk. At this time, each risk will have a status of either "Watch List" for risk scores less than 10, or "Priority" for risk scores of 10 or higher.

Risk Response Planning

Responses should be planned for all high priority risks (risk score of 10 or greater) to plan for what will need to happen if the risks trigger. Risks will be assigned risk owners who will be responsible for watching the risks and implementing these responses if the causes that trigger the risks have occurred, or are about to occur. The risk owners should also identify secondary risks that occur as a result of implementing the risk response, or risks that remain after the response has been implemented.

The following strategies will be used for determining the appropriate response for each risk or opportunity and should be recorded for each high priority risk, along with the chosen response for the risk.

- Threats:
 - *Avoid* – Risk avoidance entails changing the Project Plan to eliminate the risk or condition or to protect the project objectives from its impact.
 - *Transfer* – Risk transference is seeking to shift the consequence of a risk to a third party together with ownership of the response. Transferring the risk simply gives another party responsibility for its management; it does not eliminate it.
 - *Mitigate* – Risk mitigation seeks to reduce the probability and/or consequences of an adverse risk event to an acceptable threshold. Taking early action to reduce

the probability of a risk's occurring or its impact on the project is more effective than trying to repair the consequences after it occurs.

- *Accept* – This technique indicates that the project team has decided not to change the Project Plan to deal with a risk or is unable to identify any other suitable response strategy.
- Opportunities:
 - *Exploit* – Exploitation entails taking actions to ensure that the opportunity will occur and that the project will benefit from it.
 - *Share* – Sharing the opportunity is seeking to shift the consequence of a risk to a third party in order to gain benefit for the project. Transferring the risk simply gives another party responsibility for its management; it does not eliminate it.
 - *Enhance* – Enhancing seeks to increase the probability and/or impact of an opportunity. Taking early action to increase the probability of an opportunity occurring or its impact on the project is more effective than taking no proactive action, yet hoping that it might occur.
 - *Accept* – This technique indicates that the project team has decided not to change the Project Plan to deal with an opportunity or is unable to identify any other suitable response strategy.

The Risk Register should be updated upon completion of risk response planning. If the risk plan is to mitigate, the original probability and impact scores should be updated to reflect the current status, as the scores will likely be lower than before risk response planning. Risk Owners should be assigned to all risks at this time.

The Project Plan should be updated to incorporate any activities associated with risk response plans that will be implemented. Risk response activities that will be implemented only if a risk trigger has occurred or is about to occur should not be entered into the Project Plan at this time.

Risk Monitoring and Control

Risks must be continuously reviewed, monitored and controlled throughout the project. Newly identified risks should be added to the Risk Register and the steps performed earlier in the process (risk analysis and response planning) should be performed. In addition, identified risks should be monitored and updated, as probability and impact change throughout a project. Risks may also no longer pose a threat or opportunity and may be closed.

Risk Owners should review their assigned risks regularly to determine if a trigger is about to occur, or if it has occurred, so they can implement the risk response plan.

Regular updates to the Risk Register and the Project Plan are necessary throughout this process.

C. Risk Register

The Risk Register is located on the Client SharePoint site as a list, not a document, under Project Planning > Risk Register. Please update with information obtained during the processes described above. This is meant to be an ongoing list with regular monitoring and updating.

Project Documents	ID	Title	Description of Impact	Possible Triggers	Date Reported	Status	Category	Probability	Impact	Risk Score (Prob x Impact)	Current Owner	Strategy	Response Plan	Plan Type	Issue/Action?
Agendas	70	Weather/Travel delays cause a planned session to be delayed or cancelled.	If the day is critical, the schedule can be impacted. Scope is unlikely to be impacted.	Weather Nature	8/14/2015	New	Training	0=May occur	2=Event poses small increase, but requirements may still be met	6 = Watch list	Tyler and Client Project Managers	Accept	Sessions can be conducted remotely. Additional days may need to be built into schedule.	Risk	No
Implementation Site Reports	71	Employee Turnover Risk	Key employees retiring or leaving current position. Can impact schedule and budget depending on timing.	Retirement; change aversion	3/10/2015	Priority Risk	Personnel	3=May occur	5=Event poses vary high cost, schedule, or other failure	15 = Priority	Client PM and Dept heads	Mitigate	Will have discussions with key employees entering retirement see to determine their plans. Will adjust key project representatives as needed.	Risk	No
Conversion Documents	Add new item														
Tyler Forms															
Process Documentation															
Project Planning															
Master Project Calendar															
Master Project Plan															
Master Issues & Actions															
Communication Plan															
Testing Plan															
Risk Register															

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

Order 67-16/17
~~*Tab 5 10-5-16*~~
~~*Tab 12 10-17-16*~~
Tab 8 11-7-16
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS
RE: BUILDING ENERGY USE DISCLOSURE ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

WHEREAS, the City seeks to embed sustainability best practices into City operations, the City Code and across the community; and

WHEREAS, the City has an interest in reducing energy consumption citywide by increasing the energy efficiency of existing buildings located within its city limits and wishes to lead area economic development and environmental protection; and

WHEREAS, the City finds it to be in the interest of the public to adopt a standard policy regarding the efficient use of energy and water in buildings that supports economic development, improves the economic standing of the community, produces better public health outcomes and reduces emissions of greenhouse gases; and

WHEREAS, the use of fossil fuels to heat and cool buildings is a significant cause of CO2 emissions that cause global climate change; and

WHEREAS, the City is vulnerable to sea level rise and other effects of global climate change that may threaten public safety and property; and,

WHEREAS, the City wishes take action via among other things the energy efficiency best practices contained in this ordinance to mitigate the negative impacts of global climate change by reducing emissions of CO2;

NOW, THEREFORE, BE IT ORDERED, that, pursuant to 30-A M.R.S. §3001, the Code of Ordinances, City of Portland, Maine, is hereby amended by adding the following section, to be numbered City of Portland General Provisions Code of Ordinances Chapter 6 Article X, which said section shall read as follows:

ARTICLE X.

6-205. General.

The energy and water use of municipal and covered buildings shall be benchmarked in accordance with this article.

6-206. Purpose.

To encourage efficient use of energy and water and to reduce the emission of greenhouse gases, this ordinance requires owners of Covered Properties and Municipal Properties to annually measure and disclose energy usage to the Department. Furthermore, this Ordinance will authorize the Department to collect energy and water usage data to enable more effective energy and climate protection planning by the City and others and to provide information to the real estate marketplace to enable its members to make decisions that foster better energy performance.

6-207. Applicability.

This Ordinance shall be applicable to all Municipal and Covered Properties as defined in this Ordinance.

6-208. Definitions.

Benchmarking information shall mean information generated by the Benchmarking Tool, as herein defined including descriptive information about physical property and its operational characteristics. The information shall include, but need not be limited to:

- (a) Property address;
- (b) Primary use type;
- (c) Gross floor area;

(d) Site Energy Use Intensity (EUI) as defined in this section;

(e) Weather normalized source EUI;

(f) Annual greenhouse gas emissions;

(g) Water use;

(h) The energy performance score that compares the energy use of the building to that of similar buildings, where available; and

(i) Compliance or noncompliance with this Ordinance.

Benchmarking Tool shall mean the Internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance and water usage of buildings nationwide.

Covered Property shall mean a parcel, as described in public records or as determined by the Department, containing any of the following:

(a) One or more non-residential building(s) where such building(s) singly or together contain more than 20,000 square feet ("Non-Residential Covered Property"); and

(b) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units whether they are rental Dwelling Units or Dwelling Units owned as condominiums, cooperatives or otherwise ("Residential Covered Property").

Department means the City of Portland Energy and Sustainability Coordinator and his or her department or office.

Dwelling Unit shall mean a single residential unit consisting of one or more habitable rooms, occupied or arranged to be occupied as a residential unit separate from all other residential units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

Energy shall mean electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

Energy Performance Score shall mean the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the department that compares the energy usage of the building to that of similar buildings.

ENERGY STAR shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.

ENERGY STAR Portfolio Manager shall mean the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

Energy Use Intensity (EUI) shall mean the kBTUs (1,000 British Thermal Units) used per square foot of gross floor area.

Gross Square Feet shall mean the gross floor area of the property.

Municipal Property shall mean a property with one or more buildings that is 5,000 gross square feet or more that is owned by the City of Portland.

Owner shall mean:

(a) An individual or entity having title to a Covered Property;

(b) An agent authorized to act on behalf of the owner of a Covered Property;

(c) The net lessee in the case of a property subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options;

(d) The board of managers or trustees in the case of a condominium; and/or

(e) The board of directors or trustees in the case of a cooperative apartment corporation.

Qualified Benchmark is an entity that meets the Department's qualifications for inputting Benchmarking Information into the Benchmarking Tool.

Residential Property shall mean a property containing one or more Dwelling Units.

Site Energy shall mean the amount of heat and electricity consumed by a Covered Property or Municipal Property as reflected in utility bills or other documentation of actual energy use.

Source Energy shall mean all the energy used in delivering energy to a Covered Property, including power generation and transmission and distribution losses, to perform a specific function, such as but not limited to space conditioning, lighting, or water heating.

Tenant shall mean a person or entity leasing, occupying or holding possession of a Covered Property or Municipal Property.

Utility shall mean an entity that distributes and sells Energy for Covered Properties or Municipal Properties.

6-209. Benchmarking for Municipal and Covered Properties.

(a) No later than one (1) year after the effective date of this Ordinance, and no later than May 1 every year thereafter, the total Energy and Water consumed by each Municipal Property, along with all other descriptive information required by the Benchmarking Tool, shall be entered into the Benchmarking Tool for the previous calendar year.

(b) Owners of Covered Property shall annually input the total Energy and Water consumed by each Covered Property, along with all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool for the previous calendar year. The Owner shall input this information according to the following schedule:

- (1) A Residential Covered Property no later than two (2) years after the effective date of this Ordinance and by every May 1 thereafter;
- (2) A Non-residential Covered Property by no later than two (2) years after the effective date of this Ordinance and by every May 1 thereafter; and
- (3) A new Covered Property that has not accumulated twelve (12) months of energy and water use data by the first applicable date following occupancy for inputting Energy and Water use into the Benchmarking Tool shall comply with this Ordinance in the following year.

6-210. Notification Of Covered Properties.

Between September 1 and December 1 of each year, the City shall notify Owners of Covered Properties of their obligation to input Energy and Water use into the Benchmarking Tool. By January 15 of each year, the City shall post the list of the addresses of Covered Properties on a public website.

6-211. Qualifications of Benchmarkers.

The City Manager or his or her designee, including but not limited to the Department, may establish certification and/or licensing requirements for the users of Benchmarking Tools.

6-212. Disclosure And Publication Of Benchmarking Information.

(a) Owners shall annually provide Benchmarking information to the Department, in such form as established by the Department, by the date provided by the schedule in Section V.

(b) An exemption from this reporting requirement for any current reporting period may be granted if:

- (1). The Owner demonstrates to the Department that he or she has been unable to obtain tenant authorization to obtain tenant utility data, despite a good faith effort to obtain such consent; or

- (2). The Owner or Tenant demonstrates to the Department that such disclosure may result in the release of proprietary information which can be characterized as a trade secret.

(c) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

- (1) No later than a year and a half after the effective date of this Ordinance and by September 1 of each year thereafter for Municipal Properties; and
- (2) No later than two and a half years after the effective date of this Ordinance and by September 1 of each year thereafter for Covered Properties. Benchmarking Information received by the Department for the first year a Covered Property is required to input the total Energy and Water consumed and other descriptive information as required by the Benchmarking Tool into the Benchmarking Tool will be not be published except to disclose whether or not the Covered Property is in compliance with this Ordinance.

(d) The Department shall make available to the public and update at least annually, the following information:

- (1) Summary statistics on energy and water consumption for Municipal Properties and Covered Properties derived from aggregation of Benchmarking information for both;
- (2) Summary statistics on overall compliance with this Ordinance including an assessment of accuracy;
- (3) For each Municipal Property and Covered Property:
 - (i) The status of compliance with the requirements of this Ordinance;
 - (ii) Annual summary statistics for the Municipal Property or Covered Property, including EUI, annual greenhouse gas emissions, and an energy performance score where available; and

- (iii) A comparison of Benchmarking Information across calendar years for any years such Municipal Property or Covered Property has input the total Energy consumed and other descriptive information for such Properties as required by the Benchmarking Tool into the Benchmarking Tool.

6-213. Provision of Benchmarking Information by Tenants.

(a) Each Tenant located in a Covered Property shall, within thirty (30) days of a request by the Owner and in a form to be determined by the Department, provide all information that cannot otherwise be acquired by the Owner and that is needed to comply with the requirements of this Ordinance. Failure to provide information to an Owner may result in penalties as provided in the City Code and this Ordinance.

(b) Where the Owner is unable to input the total energy consumed by the Covered Property as well as all other descriptive information for such Covered Property as required by the Benchmarking Tool into the Benchmarking Tool due to the failure of any or all Tenants to report the information required by this Ordinance, the Owner shall input alternate values as established by the Department prior to the implementation of this Ordinance, into the Benchmarking Tool.

6-214. Assessing Results and Annual Report to City Council.

(a) By December 31, 2020, the Department shall review the effect of this Ordinance on improving energy and water performance for Covered Buildings. If energy and water performance for Covered Buildings has not improved significantly, the Department shall make recommendations to the City Manager as to whether amendments to this Ordinance or other measures are necessary to improve building energy and water performance for Covered Buildings.

(b) In December of each calendar year, the Department shall prepare and submit an annual report to the City Council, which evaluates the administration and enforcement of the Ordinance and contains a summary of the benchmarking data provided to the City as required by this Ordinance, as

well as any other necessary data or recommendations on the Ordinance could be improved.

6-215. Maintenance of Records.

(a) Owners shall preserve and maintain records as the Department determines is necessary for carrying out the purposes of this Ordinance, including but not limited to energy and water bills and any and all other documents received from Tenants and/or Utilities. Such records shall be preserved by Owners for a period of three (3) years. At the request of the Department, such records shall be made available for inspection and audit by the Department.

(b) At the time any occupied Covered Building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer all information necessary for the buyer to report Benchmarking information for the entire year in a timely manner. It shall be a violation of this Ordinance for any seller to fail to so provide any such information.

6-216. Violations.

It shall be unlawful for any entity or person including, but not limited to, Owners or Tenants to fail to comply with the requirements of this Ordinance or misrepresent any material fact in a document required to be prepared or disclosed by this Ordinance.

6-217. ENFORCEMENT AND ADMINISTRATION.

(a) The City Manager, the Department or their designee shall enforce the provisions of this Ordinance.

(b) The City Manager, the Department or their designee may promulgate regulations relative to the administration of the requirements of this Ordinance, as necessary.

(c) If any person or entity including, but not limited to, Owners or Tenants violate any provision of this Ordinance, the following enforcement measures may be taken:

- (1) For the first violation, a written warning may be issued; and

- (2) Any subsequent or ongoing violation will be subject to a fine of up to \$20.00 per day pursuant to the provisions of Chapter 1, Section 1-15 herein.

6-218. SEVERABILITY.

If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Troy Moon

DATE: 7/23/2016

DISTRIBUTION: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: Order ...

SPONSOR: Jon Hinck, Chair, Energy and Sustainability Committee

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading X Final Action

Can action be taken at a later date: X Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

SUMMARY OF ISSUE (Agenda Description)

During their meeting on September 21, the Energy and Sustainability Committee voted 2-1 (Hinck and Thibodeau in favor, Suslovic opposed) to recommend the draft Building Energy Use Disclosure ordinance to the full City Council for adoption. This ordinance would require the owners of non-residential buildings with more than 20,000 square feet and residential buildings with 50 or more units to measure the amount of energy and water they consume on an annual basis and report it to the City. It would also require the City to measure and report the energy and water consumption of all municipal buildings with more than 5,000 square feet. If enacted, the ordinance would provide building owners with valuable data to assist them in decision making about energy efficiency. It would provide participants in the real estate market with valuable information that will help them understand the cost of energy in a building or unit they may wish to purchase or rent. It will also help the City plan for energy conservation and climate protection.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Operating buildings accounts for about 40% of the nation's energy use. More than 20 cities across the United States including Boston, Cambridge, New York, Atlanta, San Francisco, Chicago, and Seattle have adopted mandatory benchmarking and disclosure ordinances. Such ordinances require effected properties to measure the total energy use for each covered building based on their usage of oil, electricity, natural gas, steam, hot water, or other fuel sources used for building operations. Many ordinances also require measurement and reporting of water consumption. The United States Environmental Protection Agency provides a free online tool call Energy Star Portfolio Manager that allows property owners to enter their building data and create reports that show how each building's energy performance compares to similar buildings across the country. This tool has become the standard energy reporting platform in the US.

Data from other cities indicates that buildings covered by benchmarking ordinances use less energy over time. According to a recent report, New York City found that benchmarked buildings realized 5.7 percent energy savings, while buildings in San Francisco reduced energy use by almost 8%. (Zachary Hart, "The Benefits of Building Benchmarking", Institute for Market Transformation, December, 2015)

III. INTENDED RESULT

IV. COUNCIL GOAL ADDRESSED

The City Council has a stated goal of promoting energy efficiency in the City of Portland.

V. FINANCIAL IMPACT

Enacting the ordinance would require staff to

VI. STAFF ANALYSIS

VII. RECOMMENDATION

We recommend approval of the order authorizing the City Manager to negotiate and execute the agreements necessary to implement the Ocean Avenue Solar Project within the parameters of the term sheet offered by Revision Energy.

VIII. LIST ATTACHMENTS

Project Term Sheet

Prepared by: Troy Moon

Date: 7/22/2016

AMENDMENT TO ORDER 67-16/17 RE: START DATE OF BENCHMARKING
REQUIREMENT

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR JON HINCK

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS
RE: BUILDING ENERGY USE DISCLOSURE ORDINANCE

...

6-208. Definitions.

...

Utility shall mean an entity that distributes and/or sells Energy—energy, including, but not limited to, natural gas, propane, electric or thermal energy for Covered Properties or Municipal Properties.

6-212. Disclosure And Publication Of Benchmarking Information.

(a) Owners shall annually provide Benchmarking information to the Department, in such form as established by the Department, by the date provided by the schedule in Section V.

...

(c) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

- (1) No later than a year and a half after the effective date of this Ordinance and by September 1 of each year thereafter for Municipal Properties; and
- (2) No later than two and a half years after the effective date of this Ordinance or no later than

one year after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, whichever date comes later, and by September 1 of each year thereafter for Covered Properties. Benchmarking Information received by the Department for the first year a Covered Property is required to input the total Energy and Water consumed and other descriptive information as required by the Benchmarking Tool into the Benchmarking Tool will be not be published except to disclose whether or not the Covered Property is in compliance with this Ordinance.

(d) The Department shall make available to the public and update at least annually, the following information:

...

AMENDMENT 2 TO ORDER 67-16/17
RE: EXCLUSION OF SEPARATE SINGLE AND 2-FAMILY DWELLINGS
FROM BENCHMARKING REQUIREMENT

PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR JON HINCK

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6 BUILDINGS AND BUILDING REGULATIONS
RE: BUILDING ENERGY USE DISCLOSURE ORDINANCE

...

6-208. Definitions.

...

Covered Property shall mean a parcel, as described in public records or as determined by the Department, containing any of the following:

(a) One or more non-residential building(s) where such building(s) singly or together contain more than 20,000 square feet ("Non-Residential Covered Property"); and

(b) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units whether they are rental Dwelling Units or Dwelling Units owned as condominiums, cooperatives or otherwise ("Residential Covered Property"). Residential covered property shall not include separate free-standing single family or two-family dwelling units

...

Order 73-16/17
Tab 14 10-17-16
Tab 9 11-5-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**Moratorium
Re: City Parks and Public Grounds in the
R-6 Zone on the Portland Peninsula**

WHEREAS, the Comprehensive Plan for the City of Portland acknowledges that “Being virtually encircled by water, Portland owes much of its beauty to the surrounding water bodies including freshwater rivers, the ocean, a working harbor and an enclosed cove”; and

WHEREAS, the Comprehensive Plan further describes the importance of “Vistas from Promenades and High Points,” stating that City parks were established on the Eastern and Western Promenades “precisely because of the scenic views they afforded of Casco Bay, the Fore River, the surrounding countryside, and the White Mountains”; and

WHEREAS, Fort Sumner, which was first listed as a City park in 1934, offers unparalleled views not only of the cityscape but also of the Back Cove and Mount Washington while also providing Portland residents and visitors with the ability to experience open space, a view of the shoreline, long sightlines, and a feeling of expansiveness not often achieved in a public space in an urban environment; and

WHEREAS, a City master plan for Fort Sumner completed in 2006 includes elements designed to highlight the park’s most valued asset: its view; and

WHEREAS, at present there is a lack of regulation in City Code to ensure that developments on parcels abutting City parks and public grounds as defined in City Code, Chapter 18, section 18-11 in the R-6 Zone of the 1st Council District (hereinafter “District 1”) on the City of Portland Peninsula (hereinafter referred to as “City parks and public grounds”) in Portland do not infringe upon the natural beauty or compromise the quality of open space provided by such City parks and public grounds; and

WHEREAS, development pressure concentrated in District 1 on the Portland Peninsula, which contains many public parks, has resulted in two (2) recent citizen initiative petitions to address and preserve parks and view corridors; and

WHEREAS, this development pressure has not been adequately accounted for in the existing Portland City Code; and

WHEREAS, there is a strong likelihood that District 1 on the Portland Peninsula, and specifically the R-6 zone located in that District, will continue to be subjected to this

development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(A), the continued development of projects directly abutting City parks and public grounds in the R-6 Zone of District 1 on the Portland Peninsula pursuant to the existing City Code requirements could pose serious threats to the public health, safety and welfare of the residents of the City of Portland through the over-development of and overburdening of the City's public facility (i.e. public parks and grounds) which is reasonably foreseeable as a result of the development pressure; and

WHEREAS, pursuant to 30-A M.R.S. § 4356(1)(B), since the application of existing Portland City Code provisions or regulations or other applicable laws are inadequate to address the development pressure and prevent the public harm from the potential residential, commercial and/or industrial development in the R-6 zone of District 1 of the City of Portland on the Portland Peninsula; and

WHEREAS, after sufficient notice and a public hearing, there is strong support for this Moratorium on the City Council; and

WHEREAS, the City will need at least ninety (90) days to develop and implement the necessary amendments to the City Code to address these development pressures through-out the City of Portland; and

WHEREAS, in the judgment of the Portland City Council, these facts create an emergency within the meaning of 30-A M.R.S. § 4356(1) and the City Charter, and require the following Moratorium as immediately necessary for the preservation of the public health, safety and welfare;

NOW THEREFORE, pursuant to its authority in 30-A M.R.S. §§ 3001 and 4356, the Portland City Council hereby ordains that a Moratorium is imposed on any and all site plan or subdivision proposals for property located in the R-6 zone in District 1 on the Portland Peninsula [see map attached hereto as Exhibit A] which directly abuts a City park or public ground [i.e. directly touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground]; and

BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone of District 1 on the Portland Peninsula which directly abuts a City park and/or public ground, from and after October 5, 2016 to and including January 4, 2017; and

BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until January 4, 2017, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall only apply to any site plan or subdivision proposal or application to

develop property, excluding applications for building permits, located in the R-6 zone in District 1 on the Portland Peninsula which directly abuts [i.e. touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground] a City park and/or public ground, whether or not an application or proceeding to establish said development proposal would be deemed a pending proceeding under 1 M.R.S. § 302; and

BE IT FURTHER ORDERED, that to the extent any provision of this Moratorium is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium that shall remain shall be considered valid; and

BE IT FURTHER ORDERED, that in view of the emergency cited in the preamble above, that it is hereby found and determined by the Portland City Council that it is necessary that this Moratorium take effect immediately as an emergency pursuant to Article II, Section 8 of the City of Portland Charter.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Councilor Belinda S. Ray

DATE: October 6, 2016

SUBJECT: Moratorium Re: City Parks and Public Grounds in the R-6 Zone in the 1st District on the Portland Peninsula

SPONSOR: Councilor Belinda S. Ray

(If sponsored by a Council committee, include the date the committee met, the results of the vote, and the meeting minutes.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading 10/17/2016 Final Action 11/7/2016

Can action be taken at a later date: ____ Yes ____ ☒ No (If no why not?) Action now is needed to prevent the acceptance of site plan or subdivision applications by the Planning and Urban Development Department for projects on properties affected by the moratorium. This will provide city staff with adequate time to craft regulations designed to preserve the essential character and open space of the city parks and public grounds in the geographic area defined in the moratorium.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

This order would stop consideration of any site plan or subdivision applications submitted on or after October 5, 2016 on property adjacent to City parks in the R-6 Zone in the 1st District on the Portland Peninsula until January 4, 2017, in order to allow ordinances designed to preserve the essential character and open space of city parks in the defined area to be drafted and considered.

II. AGENDA DESCRIPTION

All parks have elements which contribute to their essential character, such as views and sightlines, landscape features, historic associations, trails, athletic fields, meadowlands, and wildlife habitat. Development that occurs adjacent to public parks can affect one or more of these defining elements, thereby compromising the essential character of a park and decreasing the quality and availability of open space in the City. Councilor Belinda Ray has proposed that the City Council consider a 90-day moratorium on the approval of site plans and subdivisions from

October 5, 2016 until January 4, 2017, in order to allow time to draft ordinances that could guard against such infringement on the essential character and open space of city parks.

The moratorium would affect only projects on properties that directly abut city parks, and not any on properties across a city street. It would only apply to such properties in the R-6 Zone in the 1st Council District on the Portland Peninsula. According to the Planning and Urban Development Department, this moratorium would affect now under consideration.

Should the City Council approve the moratorium, staff would follow up by developing language designed to limit the potential for damage caused by development projects to the essential character and primary assets of the city's parks in the defined area. That language would likely return to the City Council for review and approval prior to the expiration of the moratorium.

III. BACKGROUND

In response to a proposed development directly abutting Fort Sumner Park which—in its initial iteration—would have substantially blocked views from the park plaza, citizens began organizing to determine what they could do to ensure such a development would not have an adverse impact on the park. Fort Sumner has long been valued for its expansive views of the cityscape as well as the Back Cove. Thus it was surprising to find that there was no existing language in the City Code to protect and preserve the park's essential character and primary assets.

Open space is an extremely valuable commodity in an urban environment. This is recognized in Division 8.5 of Article III of the Portland City Code, Section 14-153, which defines the Recreation and Open Space (R-OS) Zone. It states the purpose of this Division is as follows:

1. To preserve and protect open space as a limited and valuable resource;
2. To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of urban development;
3. To coordinate with and carry out federal, state, regional, and city recreation and open space plans;
4. To provide a suitable location for large-scale regional sports and athletic facilities; and
5. To develop a open space system throughout the downtown, which provides the highest quality parks, plazas, and pedestrian environment.

In addition to traditional uses in the R-OS Zone (including but not limited to parks, picnic areas, playgrounds, cemeteries, scenic overlooks, trails, community gardens, sewage treatment facilities, and sports complexes) there are also provisions for conditional uses, such as wind energy systems and recreational facilities that are open to the public. However, written into the

standards the Board of Appeals must consider for such conditional uses in the R-OS Zone is the following language:

“Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.”

And yet, there are no such restrictions on developments on properties directly abutting R-OS Zones, even though such developments could have equally detrimental effects on R-OS Zone properties.

Likewise, when 52 parks and public grounds, including Fort Sumner, were officially dedicated and placed under the provisions of Article 1B of Chapter 18 of the City Code, the use and maintenance requirements for these properties were addressed, but the potential impact from development on abutting parcels, was not.

This is an oversight that requires remedy. In creating, protecting, and preserving open space within the city, both the footprints of public parks and grounds and the way in which these spaces interact with the surrounding landscape must be considered in the City Code.

Article III, Section 14-46* of the City Code, which states the purpose for all zoning in the city, specifically points to zoning as a tool for use in “providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city.”

If approved, this 90-day moratorium will provide City staff time to develop language to protect and preserve open space in Portland by limiting the potential for negative impacts from developments abutting city parks in the defined area. Again—any language developed would be specific to the area defined in the moratorium: properties in the R-6 Zone in the 1st District on the Portland Peninsula that directly abut city parks.

While it is possible that information gleaned during this process could, in the future, be extrapolated to help create regulations to protect and preserve open space in other areas of the city, that is a long-term goal and not the focus of this moratorium.

* Below is the full text of Article III, Section 14-46:

“This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city.”

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The intended result of the moratorium is to provide enough time for City staff to address the need to protect and preserve open space in the defined area in Portland.

The moratorium also allows the Council to begin to address one goal set for the Energy and Sustainability Committee in January 2016. This goal was tied for 5th place among ESC goals and highlighted with four dots:

Create a plan for protecting and investing in green space and parks.

While the strategies and language crafted to protect city parks and public grounds in this well-defined area of the moratorium may eventually be extrapolated in order to preserve the essential character and primary assets of other City parks and public grounds, it is important to be clear that at this time staff is not being asked to craft a comprehensive plan for protecting open space in Portland. They are being asked to look at the geographic area defined in the moratorium and to make recommendations for that area alone.

V. FINANCIAL IMPACT

This action may postpone development, thereby postponing any tax revenues that would have been generated by that development.

On the other hand, according to the American Planning Association, "Parks provide intrinsic environmental, aesthetic, and recreation benefits to our cities. They are also a source of positive economic benefits. They enhance property values, increase municipal revenue, bring in homebuyers and workers, and attract retirees. At the bottom line, parks are a good financial investment for a community."¹

Thus, taking the time to craft language to preserve the essential character and primary assets of Portland's city parks, could ultimately have a positive financial impact on the city.

¹ Lewis, Megan. "How Cities Use Parks for Economic Development." *American Planning Association*. American Planning Association, 2007. Web. 10 Oct. 2016.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

See information provided by Jeff Levine, Director, Department of Planning and Urban Development.

VII. RECOMMENDATION

The moratorium is approved as to form by Corporation Counsel.

VIII. LIST ATTACHMENTS

Order

Memo from Jeff Levine, Director of the Department of Planning and Urban Development

Prepared by: Nancy English

Date: 10/11/2016

Bean/agendarequestmemo/rev 11/2015



Jeff Levine, AICP
Director, Planning & Urban Development Department

Memorandum

To: City Council
Jon Jennings, City Manager

From: Jeff Levine, Director

Date: October 11, 2016

Re: Proposed Moratorium Re: City Parks and Public Grounds
R-6 Zone on the Portland Peninsula - Potentially Impacted Projects

I have been asked to comment on the potential impact of the proposed moratorium on currently proposed development projects.

The directly applicable language in the order is as follows:

"BE IT ORDERED, that no site plan or subdivision application shall be accepted or processed and no site plan or subdivision approval shall be issued or granted by the Planning Authority or the Planning Board for any and all property located in the R-6 zone in the 1st District of the City of Portland on the Portland Peninsula which directly abuts a City park and public ground, from and after October 5, 2016 to and including December 5, 2016; and

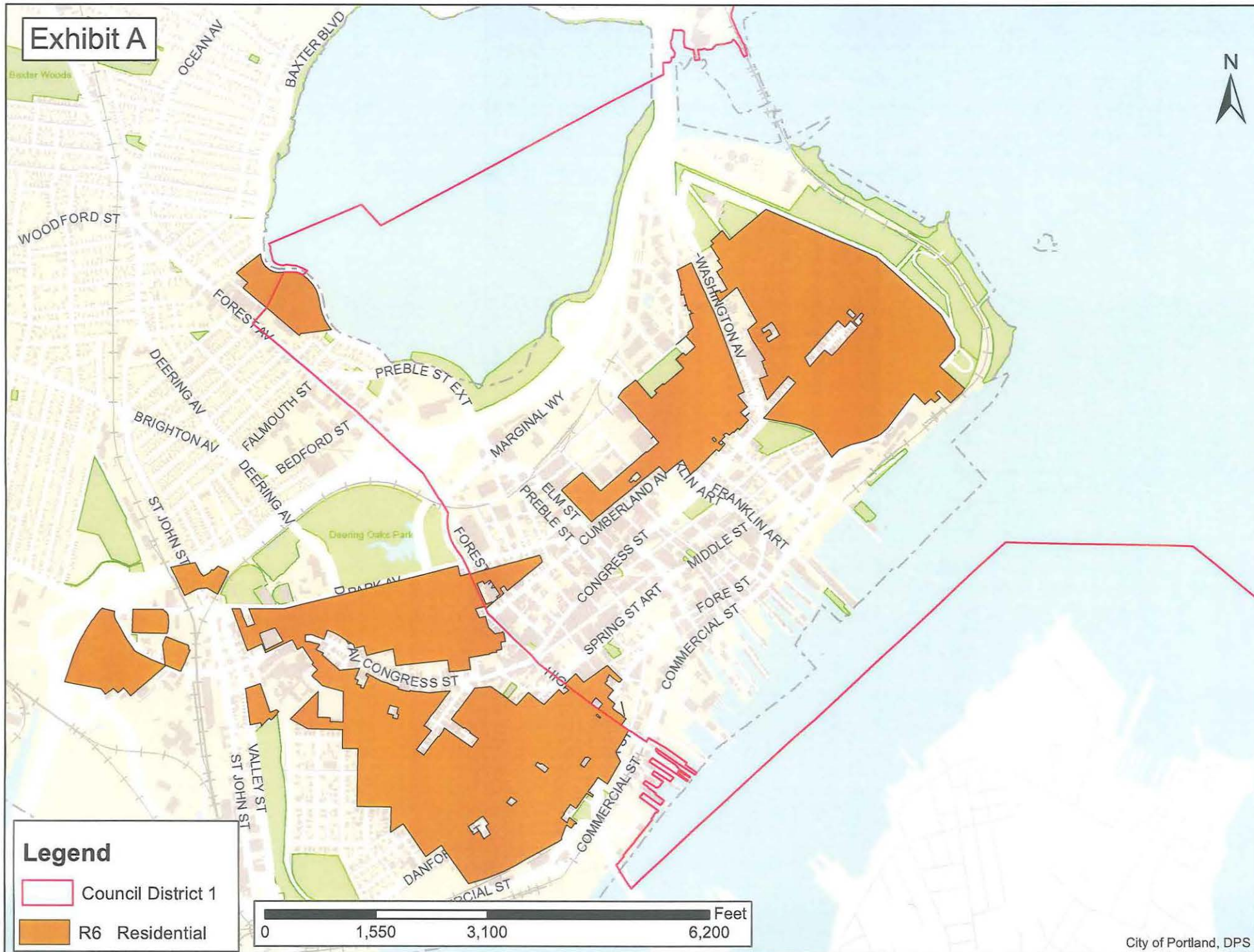
BE IT FURTHER ORDERED, that this Moratorium shall go into effect on October 5, 2016 and shall remain in effect until December 5, 2016, unless extended, repealed, or modified by the Portland City Council; and

BE IT FURTHER ORDERED, that notwithstanding the provisions of 1 M.R.S.A. §302, this Ordinance shall apply to any site plan or subdivision proposal or application to develop property, excluding applications for building permits, located in the R-6 zone in the 1st District of the City of Portland on the Portland Peninsula which directly abuts [i.e. touches a City park or public ground, and specifically does not include properties located across the street from a City park or public ground] a City park or public ground, whether or not an application or proceeding to establish said development proposal would be deemed a pending proceeding under 1 M.R.S. § 302..."

I have consulted with staff in my office and the only project we are aware of to which this might apply would be the proposed development at 155 Sheridan Street next to Fort Sumner. This evaluation is based on the assumption that this language does not apply to Building Permits for projects that have already received Planning Board approval.

Please let me know if you have any questions.

Exhibit A



ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 74-16/17
~~Tab 14 10-17-16~~
Tab 10 11-7-16

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE, ARTICLE V. SITE PLAN
Re: Street Trees

**I. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Chapter 14, Sections 14-526 of the Portland City Code
are hereby amended to read as follows:*

Sec. 14-526. Site plan standards.

*Requirements for approval. The Planning Board or Planning
Authority shall not approve a site plan application unless the
development proposal meets the following criteria:*

(a) *Transportation Standards*

...

(b) *Environmental Quality Standards*

1. *Preservation of Significant Natural Features:*

...

2. *Landscaping and Landscape Preservation:*

a. *Landscape Preservation.*

...

b. *Site Landscaping.*

(i) *Landscaped Buffers:*

...

(iii) *Street Trees:*

(a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees are intended to benefit public spaces by providing green and natural elements that contribute to the streetscape and the urban forest ecosystem, provide health benefits, and increase the tree canopy to maximize shade and reduce energy use. Street trees shall be planted in the ~~right-right-of-of-way~~, as specified in Section 4 of the Technical Manual, except where section (b) below applies. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the ~~Portland City~~ Arborist or his/her designee.

(b) ~~Waiver.~~ Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City ~~right-right-of-of-way~~, the Reviewing Authority may permit the following to be counted towards the street tree requirement, subject to the detailed standards set out in the Technical Manual: the planting of street trees in the front yard, within ten feet of the property line. Existing preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. ~~If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.~~

i. The planting of new street trees on public land or public facilities in the neighborhood where a reasonable chance of good health and longevity is documented;

- ii. The provision of measures to enhance tree survival (such as raised planters, irrigation and structural soils, as recommended by the City Arborist) in association with a street tree will be counted towards the total street tree requirement, based on the cost of the measure divided by the current street tree contribution for a new tree;
- iii. The preservation of existing healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and on the site within twenty feet of the property line;
- iv. The planting of street trees where visible from the right-of-way on the site and within twenty feet of the property line;
- v. The installation of other planted features in the right-of-way or within 10 feet of the right-of-way and visible from the right-of-way, which are documented to the satisfaction of the City Arborist and Planning Authority to meet the objectives of street trees and to be feasible, viable and long-term street features;
- vi. A contribution for each required street tree made to the City of Portland's Tree Fund as outlined in the Technical Manual where the other alternatives are not feasible. The contribution would primarily be for new trees in the neighborhood of the development, but would include an element of maintenance; and/or
- vii. Where the proposed development includes the removal of an existing street tree determined by

the City Arborist to be a Heritage
or feature tree, the applicant
shall be required to contribute to
the Tree Fund at the designated
rate in the Technical Manual so
that the total replacement cost is
significantly higher than planting
a new street tree/contributing for
a new street tree.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Jeff Levine, Director, Planning and Urban Development Department

DATE: September 29, 2016

SUBJECT: **Street Tree Text Amendment-** to Portland City Land Use Code Article V. *Site Plan* - Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees*

SPONSOR: Elizabeth Boepple, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading October 17, 2016 **Final Action** November 7, 2016

Can action be taken at a later date: X Yes No (If no why not?) Note that public notices will be placed in the newspaper and mailed in advance of the final action hearing, so the date needs to be confirmed in advance.

PRESENTATION: Chair of the Planning Board; brief explanation.

I. ONE SENTENCE SUMMARY

The Planning Board recommends the City Council adopt the text amendment to convert the current street tree “waiver” provision into a street tree “standard”, which would streamline the review and give site plan applicants alternatives and technical guidance for addressing the street tree requirement.

II. AGENDA DESCRIPTION

The proposed text amendment would allow applicants to meet the site plan street tree requirements through a number of alternatives where planting street trees along the frontage of the development site is not feasible. Alternatives include planting trees on public land in the neighborhood; provision of measures to enhance street tree survival; preservation/planting of trees on the site near the ROW; green features; and a contribution to the Tree Fund. The amendment also includes provisions to encourage the preservation of mature existing street trees.

III. BACKGROUND

The current ordinance text includes a waiver provision which has been increasingly requested by applicants because the planting of street trees along the site frontage is not feasible. The waiver review is cumbersome, and the proposed conversion to a standard allows the applicant more flexibility and encourages tree planting in public settings and greater street tree preservation and survival.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The amendment would help meet the Council Goals: “Boost the urban tree canopy 15%” and “Create more efficient permitting process with specifics”.

V. FINANCIAL IMPACT

One of the alternatives for providing street trees is to make a contribution to the City’s Tree Fund, which is used by the City Arborist to plant and maintain street trees. The associated Technical Standards (approved by the Planning Board) would increase the contribution to \$400 per tree, still below the full cost of planting a street tree.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

The proposed text amendment streamlines the street tree review process and allows alternatives that are more responsive to the development and local circumstances. The associated increase in the street tree contribution addresses the need to ensure adequate funding for street tree maintenance. The amendment seeks to discourage the removal of heritage and mature street trees to help maintain the existing tree canopy.

VII. RECOMMENDATION

On September 13, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland's Comprehensive Plan, the information provided at the Planning Board meetings:

Text Amendments to Site Plan Ordinance (Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees*

That the Planning Board finds that the proposed text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees* as presented in this Report are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees*, as amended at the PB Hearing to add in text to clarify the purpose of street trees.

[The Board also approved the amended Technical Standards relating to street trees].

VIII. ATTACHMENT: City Council Report (to follow)



CITY COUNCIL REPORT

from

PLANNING BOARD

PORTLAND, MAINE

Text Amendment to Portland City Land Use Code Article V. *Site Plan*
Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees*

To convert the current street tree “waiver” into a street tree “standard”

City of Portland, Applicant

Submitted to: Portland City Council	Prepared by: Portland Planning Division
First Reading: October 17, 2016	Jean Fraser, Planner
Second Reading: November 7, 2016	Date: September 30, 2016

I. INTRODUCTION

The Site Plan Ordinance (Section 14-526 (b) 2. *Landscaping and Landscape Preservation* b. *Site Landscaping* (iii) *Street Trees* requires applicants for development to plant street trees in the right-of-way (ROW) and provides a waiver where this is not feasible. In summary the waiver allows for three alternatives to a tree planted in the ROW:

- Preserve existing trees near ROW;
- Plant new trees within 10 feet of the back line of the ROW;
- Make a contribution to the City’s Tree fund for any required street tree not provided (since 2010 this has been \$200 per tree).

The waiver, particularly the contribution to the Tree Fund, has been increasingly requested because applicants are not able to plant required street trees in the ROW. This has become a frequent situation largely because:

- In some parts of Portland the street trees are already closely spaced;
- The zoning setback requirements in central Portland are often “no setback” or a setback of 5 feet, so any new building would crowd out new street trees, and preserved or new trees could not be located in the setback;
- In the more urban redevelopment locations it is difficult to achieve the 5 ft wide sidewalk to meet ADA requirements, while at the same time providing tree wells of sufficient size for tree health.

The amendment allows the waiver be converted to a requirement that can be met in a number of specified ways and reviewed by staff, who would give comments and recommendations as with other site plan requirements. This approach recognized that the requirement for waivers was a cumbersome approach when the constraints are recognized and acceptable alternatives can be identified.

The Planning Board held a Workshop on August 9, 2016 where there was one public comment (Attachment 1) and as a result of the Workshop discussion staff developed three new alternatives to the planting of a street tree and qualified three of the existing alternatives. The Board also approved the amended Technical Standards (Attachment 2) that confirmed a higher Tree Fund contribution per street tree not planted, including a higher contribution when replacing mature or heritage trees. The Technical Standards are not before the City Council but are included as they support the amended text.

II. PLANNING BOARD RECOMMENDATION

On September 13, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland's Comprehensive Plan, the information provided at the Planning Board meetings:

A. Text Amendments to Site Plan Ordinance (Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees*

That the Planning Board finds that the proposed text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees* as presented in this Report are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees*, as amended at the PB Hearing to add in text to clarify the purpose of street trees.

B. Amendments to the City or Portland Technical Manual *Section 4- Landscaping and Landscape Preservation*

That the Planning Board **approves/does not approve** the amended text for the *Section 4.6 STREET TREES* as set out in Attachment 3 to this Report. [*Att 2 to the CC Report*]

III. BACKGROUND

The staff and Planning Board considered a number of the issues that currently constrain the potential of the current street tree ordinance to result in new and viable street tree planting and preservation. These informed the development of the three new alternative ways of meeting the street tree requirements that are more responsive to the development and local circumstances. These include:

Location of street trees if not in the Right-of Way

The suggestion from Will Savage (for street trees on abutting land - Attachment 1) raised a number of issues to do with the risk of the trees disappearing in the future if planted on private land not subject of a site plan. This risk is contrasted with the fact that trees in the right of way are generally "protected" by virtue of the location, and their longevity is more assured because the City has identified all street trees on a GIS data base and has a capital budget for ongoing maintenance (after they are established).

The introduction of easements or deed references to try and secure protection of a tree on private property that has been planted to meet the street tree requirement is seen as overly complicated and difficult to enforce in the long term. The Board and staff concluded that it is preferable that an option be clarified to allow the street tree to be located on public land (including parks, play grounds, school property etc) rather than private land wherever possible.

Costs of planting new street trees

Where applicants have contributed to the Tree Fund this has been used by the City Arborist to cover the costs of acquiring trees to replace and expand the street tree network in the neighborhoods where development is occurring. The Tree Fund has not been used to cover the full cost of planting the tree nor the more intense early period of maintenance and watering. The full costs would be up to \$300 for the tree itself, plus approximately another \$400 for planting and maintenance. Therefore a contribution to the Tree Fund for a new tree of, say, \$400 would still not cover all of the costs and remains a "contribution".

Street Tree survival and longevity

The City Arborist has noted that maintenance - both costs and ensuring that it is carried out- is a key concern and that ideally the ordinance should be strengthened to address current concerns.

The amended street tree ordinance could address these concerns by:

- Promoting “best practice” techniques for street tree planting that ensure adequate water and root protection for the newly planted street trees so to improve the long term viability of the street tree and reduce the initial and ongoing maintenance costs. These could include irrigation, structure soils, Silva cells, raised planters and similar. The capital costs for such measures is considerable (for example, a raised granite tree planter can be \$1200). It is suggested that the street tree ordinance could provide an incentive to encourage the developer to make this additional investment in association with the planting of street trees along the frontage of the site, and that this could be balanced against the total number of trees.
- Clarifying that Tree Fund expenditures could include the costs for early establishment of new trees (where necessary in addition to the Defect Guarantee) or replacement of old trees. This would help offset the maintenance cost of establishing a young tree, and the costs of replacing trees that are at the end of their lives. Staff suggest that the text amendment/technical standards could identify this need and confirm that maintenance costs could utilize up to 15% of the annual Tree Fund contributions.

Costs of Replacing Heritage and Feature trees

In thinking about the cost of replacement of street trees removed by development (as distinct from the cost of planting new street trees) the City Arborist has noted that the value of particular species (termed “Heritage Trees”) and mature “feature” trees is more than the replacement cost of a new tree. The GIS identifies most of these trees and the City Arborist is responsible for facilitating their preservation (see Chapter 29 *Vegetation* Article II *Trees*).

Other cities (eg Portland, Oregon) have required a larger Street Tree contribution for a tree that replaces an existing important street tree- partly to discourage unnecessary loss of fine trees. Given the increasing pressure on existing street trees and frequent removal of mature trees for driveways or because of the proximity of new buildings, staff suggest the higher replacement cost might be incorporated into the text amendment/technical standards.

IV. ASSOCIATED AMENDMENTS TO THE TECHNICAL STANDARDS

Attachment 2 sets out amendments to the Technical Standards that augment and support the proposed text amendments above. The Planning Board approved these Standards on September 9, 2016 and they do not require City Council approval.

The Technical Manual amendment includes a number of technical clarifications and specifies that Tree Fund contribution levels. It is suggested that \$400 would be the revised “regular” Tree Fund contribution (per tree) and \$100 per inch diameter for the Tree Fund would be the contribution where a “heritage” or feature mature tree is removed. If the applicant is supplying the replacement tree for a removed “heritage” or feature tree, the required Tree Fund contribution would be \$100 per inch diameter (of removed tree) less \$400.

V. PROPOSED TEXT AMENDMENTS

The text amendments:

- Add three new alternatives that could be counted towards the street tree requirement subject to the provisions;
- Clarified that the contribution to the Tree Fund would be where other alternatives were not feasible and would include a contribution toward maintenance; and
- Address the need to encourage the preservation of “heritage” and feature mature trees (as identified by the City Arborist) with a higher replacement cost if these were proposed to be removed.

The amended text is below (underlined is new text; ~~strike through~~ text is from the current site plan ordinance wording):

Proposed Amendments to the Site Plan Ordinance (Section 14-526 (b) 2. Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees

(iii) *Street Trees:*

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees are intended to benefit public spaces by providing green and natural elements that contribute to the streetscape and the urban forest ecosystem, provide health benefits, and increase the tree canopy to maximize shade and reduce energy use. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual, except where section b) below applies. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.
- (b) ~~Waiver~~. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the following to be counted towards the street tree requirement, subject to the detailed standards set out in the Technical Manual;
- i. The planting of new street trees on public land or public facilities in the neighborhood where a reasonable chance of good health and longevity is documented.
 - ii. The provision of measures to enhance tree survival (such as raised planters, irrigation and structural soils, as recommended by the City Arborist) in association with a street tree will be counted towards the total street tree requirement based on the cost of the measure divided by the current street tree contribution for a new tree.
 - iii. The preservation of existing ~~preserved~~ healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and on the site within ~~ten (10)~~ twenty feet of the property line. may be counted towards this requirement.
 - iv. The planting of street trees ~~in the front yard~~ where visible from the right-of-way on the site and within ~~ten~~ twenty feet of the property line.
 - v. The installation of other planted features in the right-of-way or within 10 feet of the right-of-way and visible from the right-of-way, which are documented to the satisfaction of the City Arborist and Planning Authority to meet the objectives of street trees and to be feasible, viable and long term street features.
 - vi. ~~If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees. A contribution for each required street tree may be made into the City of Portland's Tree Fund as outlined in the Technical Manual where the other alternatives are not feasible. The contribution would primarily be for new trees in the neighborhood of the development, but would include an element of maintenance.~~
 - vii. Where the proposed development includes the removal of an existing street tree determined by the City Arborist to be a "Heritage" or feature tree, the applicant shall be required to contribute to the Tree Fund at the designated rate in the Technical Manual so that the total replacement cost is significantly higher than planting a new street tree/contributing for a new street tree.

VI. CONSISTENCY WITH COMPREHENSIVE PLAN

The proposed amendments are consistent with the Comprehensive Plan as it includes the adopted "*Green Spaces, Blue Edges: An Open Space and Recreation Plan for the City of Portland*" (1995, updated 2001) which includes policies to promote tree preservation and planting in the public realm.

VII. PLANNING BOARD DELIBERATION AND RECOMMENDATION

The Planning Board considered the issues that were limiting the street tree program (see above under III above) and discussed the likely effectiveness of various alternatives to street trees planted in the Right-of-Way. These included measures to help street trees survive; alternative features such as "green screens"; and street trees planted on private land. The concern regarding the removal of mature and heritage street trees was also considered. The amendments include those considered most realistic and potentially successful.

During the deliberation the Board suggested that it would be useful to include the objectives that street trees would achieve, as this was not set out in the Site Plan standards nor in the associated Technical Standards for street trees. The City's Code of Ordinances Chapter 29 *Vegetation* Article II *Trees* clearly reflects the City's objectives of promoting "public trees" and includes the following:

Sec. 29-17 Authority of the city arborist

(a) The city arborist shall have the authority to regulate the planting, maintenance, preservation and removal of trees and shrubs in all public places for the benefit and welfare of the public and to protect and preserve the symmetry and beauty of such trees and public places."

Other municipalities eg Boston have described street trees as helping to define streets and having an urban design function and being an important component of the urban forest ecosystem. The City of Portland Energy and Sustainability Committee sees street trees as important in increasing the tree canopy over the City as a way of providing shade and reducing energy consumption. The proposed ordinance includes a statement to reflect these objectives.

On September 13, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland's Comprehensive Plan, the information provided at the Planning Board meetings:

A. Text Amendments to Site Plan Ordinance (Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees*

That the Planning Board finds that the proposed text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees* as presented in this Report are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees*, as amended at the PB Hearing to add in text to clarify the purpose of street trees.

B. Amendments to the City or Portland Technical Manual *Section 4- Landscaping and Landscape Preservation*

That the Planning Board **approves/does not approve** the amended text for the *Section 4.6 STREET TREES* as set out in Attachment 3 to this Report. *[Att 2 to the CC Report]*

Attachments:

1. Public Comment from Will Savage 8.9.2016
2. Proposed Amendments to Technical Standards for Street Trees (extract from Section 4)



Barbara Barhydt <bab@portlandmaine.gov>

Street Tree Waiver - Public Comment

1 message

William Savage <wsavage@acorn-engineering.com>

Tue, Aug 9, 2016 at 2:53 PM

To: "Stuart \"Tuck\" O'Brien (sgo@portlandmaine.gov)" <sgo@portlandmaine.gov>, Barbara Barhydt <BAB@portlandmaine.gov>

Barbara,

As the owner of 120A Brackett St and Acorn Engineering I would like to offer my support for the proposed Street Tree Text Amendment. For multi-family residential developments within the R-6, the required minimum number of street trees, when combined with the spacing requirements of thirty to forty five feet typically exceed the property line street frontage (Section 4.6.1). Take a forty by eighty foot lot in the East End. The net residential density would allow for four units but the street frontage (forty feet) would only allow for one tree to meet the spacing requirements once you include the driveway.

I would suggest one additional alternative. With a written agreement the ability to plant street trees on adjacent properties within 500 ft of the subject parcel and within twenty feet of the street frontage. The goal is to be able to plant trees within the neighborhood of the proposed development versus a contribution to the Tree Fund.

Best,

Will Savage, PE**Principal**

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4.6 STREET TREES: [Underlined is proposed new text]

Arrangement and spacing of trees proposed in the City Right of Way shall be coordinated with the Portland City Arborist or their designee. If it is determined by the City Arborist that there is not adequate space or conditions for street trees in the public right of way or if there is a conflict between the location of proposed street trees and the location of existing or proposed underground utilities, the required number of street trees shall be provided on private property or through a contribution to the City of Portland Tree fund as specified in para 4.6.4. ~~within 10 feet of the property line along the street frontage. within 10 feet of the property line along the street frontage.~~ Tree species shall be selected according to the City of Portland recommended tree list (Figure IV-1). Trees proposed in the sidewalk shall be planted with approved tree planters or grates, as shown in figure IV-6.

4.6.1 Residential Development:

Single-family residential: Single-family residential developments shall provide a minimum of two (2) street trees per unit, planted in the City right of way unless otherwise approved and spaced twenty-five (25) to thirty-five (35) feet on center.

Multi-family residential: Multi-family residential developments shall provide a minimum of one tree per unit, planted in the City right of way unless otherwise approved and spaced thirty (30) to forty five (45) on center.

Single-family residential subdivisions: Single-family residential subdivisions shall provide a minimum of two (2) trees per lot, planted in the City right of way unless otherwise approved and spaced thirty (30) to forty five (45) feet on center.

Standards for Manufactured Housing: Where manufactured housing is proposed within traditional single family subdivision or within a manufactured housing park, landscaping for such housing shall comply with the standards as set forth in Section 14-499.5 of the City Code- Additional Requirements for Manufactured Housing Parks.

Where a single family, single component manufactured house is sited in a residential zone, landscaping and street tree requirements shall correspond to the standards for single-family residential development of the City Code and of this section.

4.6.2 Planned Residential Unit Developments (PRUDs): Where a manufactured housing park or subdivision is also a planned residential unit development (PRUD), the development shall provide a minimum of two (2) street trees per unit, planted within 8-10 ft of the City right of way and/or private roadway proposed as part of the development.

4.6.3 Commercial, Industrial and Institutional Development: Commercial, industrial and institutional developments shall provide street trees thirty (30) to forty five (45) feet apart on center in the City right of way along all street frontages unless otherwise approved.

(NEW) 4.6.4 Street tree alternatives: The Site Plan Ordinance Section Section 14-526 (b) 2. *Landscaping and Landscape Preservation b. Site Landscaping (iii) Street Trees* states that where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the following to be counted towards the street tree requirement. The alternatives to a street tree in the ROW should help achieve the objectives of a street tree and contribute to the street environment. The following specifications are provided to guide the applicant; the acceptability of the alternative to a street tree shall be at the discretion of the City Arborist.

- a. The preferable location for new street trees that can not be located in the ROW along the frontage of the site is on public land or facilities elsewhere in the neighborhood. Locations may include esplanades and sidewalks in the neighborhood, and also places such as parks, playgrounds and other areas where the public benefit would be derived from the addition of new trees. Evidence that the planting site was unlikely to be redeveloped in the near future and that the trees would be protected and looked after would also be required.
- b. The requirement for street trees may be met by incorporating measures to enhance tree survival (such as raised planters, irrigation and structural soils where these have been recommended and agreed by the City Arborist. The objective is to improve the likelihood of the new tree becoming established and to reduce the need for costly maintenance in the future. The cost of the agreed measure(s) would be the basis for the calculation, as follows:

$$\frac{\text{Cost of measure(s)}}{\text{Contribution currently assessed for a new street tree}} = \text{\# of street tree equivalent}$$

4. c. Existing healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and on the site within 20 (twenty) feet of the property line may be counted as street trees. Plans for the protection and preservation of these trees during construction shall be included as part of the development review.
- a.d. New street trees may be planted where visible from the right-of way within 20 (twenty) feet of the property line, subject to the species being appropriate to the location and from the Recommended Tree List (Figure IV-1). Applicants should note that trees planted within the site would be subject to the Performance Guarantee Defect Period provisions and should be documented on deed plans for future preservation.
- e. Where the option to install other planted features is being considered, applicants will need to submit comprehensive information and document that the prpospal would fully meet the ordinance requirements.
- d.f. Where the other alternatives are demonstrated to be not feasible, a contribution for each required street tree may be made into the City of Portland's Tree Fund in accordance with the table below. The contribution would be used by the City to provide street trees in the right-of-way or in the neighborhood of the proposals site. The contribution would be considered a "one-time" Infrastructure Contribution which is payable prior to the issuance of a building permit. It should be noted that at least 85% of the Tree Fund would be allocated towards new trees and 15% towards maintenance to ensure trees get established or to replace failing trees.

<u>Contribution for new street tree</u>	<u>\$400</u>
<u>Contribution for tree to replace "heritage" or feature mature tree</u>	<u>\$100 per inch diameter of the removed existing "heritage" or feature mature tree</u>
<u>Contribution where applicant plants a tree to replace "heritage" or feature mature tree</u>	<u>\$100 per inch diameter of the removed existing "heritage" of feature mature tree less \$400</u>

Order 25-16/17
~~Tab 15~~ 10-17-16
Tab 11 11-7-16

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE, ARTICLE X. ALTERNATIVE ENERGY
Re: Solar Energy Generation**

**I. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Chapter 14, Sections 14-430 and 14-775 to 14-784 of
the Portland City Code are hereby amended to read as follows:*

Sec. 14-430. Height limits.

(a) *Roof structure.* Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings. Roof-mounted wind and solar energy systems shall not be considered to be roof structures for the purposes of Article X, Alternative Energy.

(b) *Public art.* Except in residential zones, public art that has been individually accepted by the city council for inclusion within the public art collection, pursuant to Article XI, Public Art Program of the Land Use Code, (Section 14-852(c)), shall not be subject to the height limitations for buildings within the underlying zone.

(c) *Temporary wind anemometer towers.* Temporary wind anemometer towers may be erected above the height limitation for buildings within the underlying zone, subject to receiving Board of Appeals approval and FAA approval, if necessary.

(d) *Wind energy systems.* Wind energy systems may be erected above the height limitation for principal buildings within the underlying zone, pursuant to Article X, Alternative Energy.

(e) Roof mounted solar energy systems: Photovoltaic panels and thermal water heating panels may be erected above the height limitation for principal or accessory buildings, subject to historic preservation approval, as follows:

1. For all residential zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 5 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.
2. For B4 and Industrial zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 4 feet above the maximum height allowed in the underlying zone. In the case of flat roofs, there are no height limits.
3. For all other zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 8 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

...

Division 2. Solar Energy Generation

Sec. 14-775. Reserved. Purpose.

The purpose of this division is to allow for the construction and operation of public or private solar energy generation systems to produce energy for use on site or off site, by establishing appropriate standards to ensure safe, effective and efficient use of solar energy systems compatible with surrounding uses.

Sec. 14-776. Reserved. Applicability.

All applicants for the installation or replacement of all solar energy systems or devices, expansion of any existing solar energy system, or installation of associated facilities must obtain a building permit and, as determined by the Planning Authority, site plan approval as outlined in section 14-779.

Sec. 14-777. Reserved. Definitions

For the purposes of this division, the following words and phrases shall have the following meanings:

Abandonment means the date at which a solar energy system has been out of service for a continuous period of 12 months.

Building integrated solar energy system means a solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

Dual-Use Systems means solar energy systems where photo-voltaic panels are introduced in conjunction with a primary use eg photo-voltaic panels on structures cantilevered over parked cars in a parking lot. These tend to include emerging technologies and multiple systems with potential impacts, and would require site plan review.

Expansion of a Solar Energy System means any physical modification to an existing solar energy system which alters the total rated capacity, the size, type or location of the system or its associated equipment.

Ground mounted solar energy system (also known as free-standing solar energy systems) means a solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Operations and Maintenance Plan means a plan outlining the operation and maintenance of a solar energy system, to include safety measures and procedures for maintenance.

Physical size of solar energy system means, for the purposes of this division, the size of the system will be based on the physical size based on total airspace projected over the ground. It should be noted that the physical size as defined here is different from the area that would be the basis for calculating the impervious surface associated with the system.

Public industrial, utility or highway facility means a facility operated by a public entity that contains industrial or utility operations or is an unused part of such a facility.

Roof-mounted solar system means a solar energy system in

which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Small, Medium and Large solar energy systems means for the purposes of this division physical size as defined herein. Based on current technology the small systems are about 20 kW or less; medium systems are between about 20kW and 250kW; and large systems are over 250kW.

Solar Access means space open to the sun and clear of overhangs or shade, including orientation of buildings and lots to the sun, so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Energy System means a complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems.

Total height of solar energy system means the total vertical distance as measured from the average elevation of the finished grade adjacent to the fixed base of the support structure, to the highest part of the system.

Total rated capacity means the maximum rated output of electrical power production of the photovoltaic system in watts of Direct Current (DC)

Sec. 14-778. Reserved.

Sec. 14-779. Reserved. Permitting.

(a) Solar systems are allowed in most zones subject to permits/approvals as set out in the table below and subject to compliance with the associated standards in Section 14-780. The level of review relates to the scale of the proposed system, whether they comply with zoning, and the zoning context.

P = allowed as a **permitted** use if the system complies with zone requirements and section 14-780 of this Division, and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).

S = allowed subject to **site plan** review as indicated, to meeting performance standards in section 14-780, and to meeting the submittal requirements in 14-782 and the technical standards outlined in the Technical Manual; a

building permit would also be required (and historic preservation review if a landmark or in an historic district*)).

C= allowed as a **conditional** use reviewed by the Planning Board and subject to meeting performance standards in section 14-780, the submittal requirements in 14-782, and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*)).

<u>Zone</u>	<u>Roof Mounted and Building Integrated</u>	<u>Small Scale Ground Mounted</u>	<u>"Dual Use" systems</u>	<u>Medium Scale Ground Mounted</u>	<u>Large Scale Ground Mounted</u>
<u>Physical Size (see Definitions)</u>	<u>N/A</u>	<u>< 1000 sq ft</u>	<u>Any size</u>	<u>1001 to 9,999 sq ft</u>	<u>10,000 sq ft or greater</u>
<u>Residential; RP; Business zones except B4; waterfront zones</u>	<u>P</u>	<u>P</u>	<u>S (Level II)</u>	<u>S (Level II)</u>	<u>Not allowed</u>
<u>Industrial zones and B4 zone</u>	<u>P</u>	<u>P</u>	<u>S (Level II)</u>	<u>S (Level II)</u>	<u>C (Planning Board)</u>
<u>ROS, Shoreland</u>	<u>P</u>	<u>S (Level II)</u>	<u>S (Level II)</u>	<u>C (Planning Board)</u>	<u>C (Planning Board)</u>
<u>Historic Landscapes</u>	<u>P</u>	<u>S (Level II) & HP</u>	<u>S (Level II) & HP</u>	<u>S (Level II) & HP</u>	<u>Not allowed</u>
<u>Cemeteries</u>	<u>P</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Not allowed</u>
<u>Stream Protection zones</u>	<u>Not allowed (Unless on legally non-conforming structure)</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Not allowed</u>

**Historic Resource:* Where any part of the proposed solar energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with Article IX Historic Preservation prior to a review under this ordinance. Where any part of the proposed solar energy system

(including support structures and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall meet the site plan Sections 14-526(d)5 regarding compatibility with the landmark or historic district.

Sec. 14-780. Reserved. Performance Standards.

All solar energy systems shall meet the following performance standards as indicated (section numbers are included to allow for reference).

(a) Standards applicable to all solar energy systems, whether permitted, site plan or conditional use:

<u>Roof Mounted and Building Integrated</u>	<u>Small Scale Ground Mounted</u>	<u>"Dual Use" systems</u>	<u>Medium Scale Ground Mounted</u>	<u>Large Scale Ground Mounted</u>
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater

- i. Application requirements for permitted solar energy systems: All applications for permitted solar energy systems shall meet the submittal requirements as specified by the Permitting and Inspections Department. Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the rear or side of the site.
- ii. Application requirements for site plan and conditional use review of solar energy systems: submissions for approval under this ordinance shall address the submittal requirements set out in section 14-782 Submittal Requirements.
- iii. Height: The maximum height for all solar energy systems shall be as specified in that zone's dimensional requirements. Where the total height of the support structure/building plus the solar energy system is equal to or below the zone-based height maximum (including any allowance under 14-430), the absolute height of the solar energy system shall be:
 - a. Ground mounted: 20 feet above the ground as measured from the base of the support.
 - b. Roof mounted (on any type of roof, and applies to systems that are parallel or angled to the roof):
 - For all residential and RP zones: 5 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

- For B4 and Industrial zones: no limit.
- For all other zones: 8 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

For height limitations for roof-mounted solar energy systems that exceed the zone dimensional requirements for height, see 14-430(e).

- iv. Technical and Safety: All solar energy systems shall meet the technical, safety and maintenance standards as set out in the City of Portland Technical Manual. These standards may include the prohibition of panels containing cadmium to minimize the potential for hazardous waste.
- v. Impact of construction and connection to the grid: The applicant shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.
- vi. Conditions: The reviewing authority may impose conditions to ensure compliance with the standards and purposes set out in this ordinance, including but not limited to post-construction certification of compliance by a licensed professional engineer or authorized factory representative.
- vii. Glare: Solar panels are designed to absorb (not reflect) sunlight and are generally less reflective than other varnished or glass exterior materials. However, solar panel placement should minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.
- viii. Solar Access: All applicants are encouraged to ensure the maximum solar energy generation from their system by obtaining solar access easements. Solar access easements may be filed consistent with Maine State law. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement would be purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.

(b) Additional performance standards for particular systems subject to site plan or conditional Use (PB) review

<u>Roof Mounted and</u>	<u>Small Scale Ground</u>	<u>"Dual Use" systems</u>	<u>Medium Scale Ground Mounted</u>	<u>Large Scale Ground Mounted</u>
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<u>Building Integrated</u>	<u>Mounted</u>			
<u>N/A</u>	<u>< 1000 sq ft</u>	<u>N/A</u>	<u>1001 to 9,999 sq ft</u>	<u>10,000 sq ft or greater</u>
<u>N/A</u>	a) <u>Meet 14-780 (1) above</u>	a) <u>Meet 14-780 (1) above</u> b) <u>Demonstrate that the energy generation is not the principal use of the site;</u> c) <u>Demonstrate that scale of the installation does not create adverse impacts.</u>	a) <u>Meet 14-780 (1) above</u> b) <u>Designed to avoid safety impacts;</u> c) <u>Located in side or rear yards, wherever possible;</u> d) <u>Set back 50 feet from residential, RP, B1 and B2 zones</u> e) <u>Located away and screened from public ways and nearby residential /institutional uses to extent possible;</u> f) <u>Co-locate with other land uses on lots in residential, B1, B2, B3, B7 & waterfront zones</u>	a) <u>Meet 14-780 (1) above</u> b) <u>Designed to avoid safety impacts;</u> c) <u>Located in side or rear yards, wherever possible;</u> d) <u>Set back 75 feet from residential, RP, B1 and B2 zones;</u> e) <u>Located away and screened from public ways and nearby residential /institutional uses to extent possible.</u>

(c) Additional performance standards for solar energy systems located in ROS & Shore-land Zones.

<u>Roof Mounted and Building Integrated</u>	<u>Small Scale Ground Mounted</u>	<u>"Dual Use" systems</u>	<u>Medium Scale Ground Mounted</u>	<u>Large Scale Ground Mounted</u>
<u>N/A</u>	<u>< 1000 sq ft</u>	<u>N/A</u>	<u>1001 to 9,999 sq ft</u>	<u>10,000 sq ft or greater</u>

			a) <u>Meet 14-780 (1 and (2) above</u> b) <u>If over 10,000 sq ft, locate on landfills or co-terminus with public industrial, utility or highway facilities</u> c) <u>Be supported by Land Bank Commission and Parks Commission where applicable</u> d) <u>Layout and fencing to be integrated with the landscape to the extent possible</u> e) <u>Screen from abutters and minimize impact on significant scenic views to the extent possible</u> f) <u>Not required to meet the conditional use requirements of the zone; for ROS see 14-156</u> g) <u>Prohibited within the 75 ft setback from High Water mark in Shoreland Zones and meeting other Shoreland Zone requirements</u>
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(d) Additional performance standards for solar energy systems in Business and Industrial Zones.

<u>Roof Mounted and Building Integrated</u>	<u>Small Scale Ground Mounted</u>	<u>"Dual Use" systems</u>	<u>Medium Scale Ground Mounted</u>	<u>Large Scale Ground Mounted</u>
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater

				a) <u>Meet 14-780 (1) (2) above</u> b) <u>Be located on areas already paved or built upon, or where other development is documented to be unlikely due to local conditions.</u>
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Sec. 14-781. Reserved.

Sec. 14-782. Reserved. Submittal requirements for site plan and conditional use review of solar energy systems.

(a) The following information shall be submitted with a site plan application for a review of a solar energy system and associated facilities under this ordinance (S or C in 14-779) in addition to the submittal requirements set out in section 14-527 (a), (c), (d) and (e) of the Site Plan ordinance:

1. A narrative describing the proposed solar energy system, including an overview of the project; the project location; the generating capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance). Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the side or rear of the site.
2. An accurate scaled site plan of the subject property showing the planned location of the proposed solar energy system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; potential shade from nearby trees and structures; vegetation; driveways, parking, and curb cuts on the subject property; and specifications for all proposed electrical cabling/transmission lines, accessory equipment, and landscaping.
3. A scaled elevation drawing showing the proposed solar energy system and all proposed structures, foundations, supports, fencing, vegetation and

landscaping, indicating the size, color and materials of the system. Drawings of structures and foundations shall be stamped by a licensed Professional Engineer.

4. Information on any proposed connections to the grid including any proposed off-site modifications to provide grid connections, access the installation, or to maintain the proposed solar energy system and grid connections.
5. In the case of medium and large ground mounted solar energy systems, the applicant shall provide an Operations and Maintenance Plan prepared and stamped by a licensed Professional Engineer or other licensed professional as appropriate.

Sec. 14-783. Reserved. Abandonment and Removal of Medium and Large Scale Ground Mounted Solar Energy Systems.

(a) In the case of medium and large ground mounted solar energy systems, the submitted Operations and Maintenance Plan shall include an estimate of the life of the project and outline the anticipated options/action when it has reached the end of its estimated useful life.

(b) The Owner and Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment. "Removal" includes restoration of the site to its approximate original condition, unless a valid approved site plan is intended to be pursued in which case a performance guarantee for the restoration would be required until the approved redevelopment has received a certificate of occupancy.

(c) The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner and Operator's expense in the following circumstances:

1. The solar energy system is not complete and operating within 24 months from the date of approval under this ordinance; or
2. The solar energy system is determined by the City to be in an unsafe condition in respect to federal, state and local safety standards and timeframes; or
3. The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or

4. The solar energy system is defective or abandoned and has not been removed from the site within the required timeframe.

14-784. Reserved. Appeals.

For all appeals, the date of the decision shall be the date of the hearing, if an oral decision was made, or the date of the written decision.

(a) Any aggrieved party may appeal a decision by the Permitting and Inspections Department under the provisions of this ordinance by requesting in writing that it be referred to the Zoning Board of Appeals within 30 days of the decision being rendered.

(b) Any aggrieved party may appeal a decision by the Planning Authority under the provisions of this ordinance by requesting in writing that it be referred to the Planning Board within 30 days of the decision being rendered.

(c) Any aggrieved party may appeal a decision of the Planning Authority determination under provision 14-761(b)(2) of this ordinance (compatibility if within 100 feet of a designated landmark, Historic District or Historic Landscape District) by requesting in writing that it be referred to the Historic Preservation Board within 30 days of the determination. This appeal is de-novo.

(d) Any aggrieved party may appeal the final decision of the Planning Board or the Historic Preservation Board under provision 14-761 (b) 2 of this ordinance to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Jeff Levine, Director, Planning and Urban Development Department

DATE: September 29, 2016

SUBJECT: **Division 2: Solar Energy Generation Ordinance: Text Amendment-**
to Portland City Land Use Code Article X *Alternative Energy*

SPONSOR: Elizabeth Boepple, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading October 17, 2016 **Final Action** November 7, 2016

Can action be taken at a later date: X Yes No (If no why not?) Note that public notices will be placed in the newspaper and mailed in advance of the final action hearing, so the date needs to be confirmed in advance.

PRESENTATION: Chair of the Planning Board/City Planning Director; brief explanation.

I. ONE SENTENCE SUMMARY

The Planning Board recommends the City Council adopt the new Solar Energy Generation ordinance, which encourages solar installations by clarifying the permitting framework for systems of all sizes.

II. AGENDA DESCRIPTION

The proposed new ordinance introduces a streamlined permitting framework to allow: a) installation of smaller solar energy systems with just a building permit and minimal limitations; and b) installation of larger systems (including community solar farms and City initiatives) subject to site plan review to ensure that performance standards are addressed. The size of the solar energy system would be measured in terms of the physical land area over which the system projects. The ordinance is relatively permissive and also takes account of any potential impacts.

III. BACKGROUND

The ordinance would be the second division under *Alternative Energy*; the first division was the Wind Energy Generation Ordinance adopted in 2012. The ordinance is necessary because the existing Land Use Code is “silent” in respect of solar energy systems and technically does not allow the larger systems in most areas of the City.

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The amendment would help meet the Council Goals: “Create more efficient permitting process with specifics” and Energy & Sustainability sub goal to “install 13 megawatts new solar”.

V. FINANCIAL IMPACT

Solar energy systems of all types and locations would not only bring financial benefit to the owners in terms of reduced electricity costs over the medium term, but also would contribute to the reduction of Portland’s carbon footprint and help mitigate the costs of climate change.

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

The proposed ordinance was informed by similar ordinances from across the country including South Portland, and is customized to integrate with the current Portland Land Use Code. Smaller systems are proposed to be limited by the current zone dimensions, with exceptions for roof mounted systems and with some requirements regarding location and safety. The larger and “dual use” systems are proposed to be subject to site plan review to ensure that any potential impacts are addressed. Solar energy generation is proposed to be allowed as an accessory or principal use in most zones.

The ordinance includes provisions regarding submittal requirements and abandonment, but the bulk of the technical and safety requirements would be set out in the City’s Technical Manual so that the latest technical advice can be incorporated.

The ordinance is focused on providing a framework for solar energy installations that are likely in the near future. Staff expect to add sections in the future to address questions that have been raised regarding solar energy systems in Historic Districts/Cemeteries, how to encourage solar access and solar readiness, and possibly the introduction of incentives for solar energy installations.

VII. RECOMMENDATION

On September 27, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland’s Comprehensive Plan, the information provided at the Planning Board meetings:

- i. That the Planning Board finds that the proposed text amendments to create a new Division 2 *Solar Energy Generation* under Article X *Alternative Energy* in the Land Use Code, as presented in this Report and Attachment 1 to this Report, are consistent with the Comprehensive Plan for the City of Portland; and
- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to create a new Division 2 *Solar Energy Generation* under Article X *Alternative Energy* in the Land Use Code.

VIII. ATTACHMENT: City Council Report (to follow)



CITY COUNCIL REPORT
from
PLANNING BOARD
PORTLAND, MAINE

New Ordinance Division 2: Solar Energy Generation
Text Amendments to the Land Use Code Article X

City of Portland, Applicant

Submitted to: Portland City Council	Prepared by: Portland Planning Division
First Reading: October 17, 2016	Jean Fraser, Planner
Second Reading: November 7, 2016	Date: September 30, 2016

I. INTRODUCTION

The Planning Board recommends the new Solar Energy Ordinance ([Attachment 1](#)) as the second division under *Alternative Energy*. The first division was the Wind Energy Generation Ordinance that was adopted in 2012. The ordinance is necessary because the existing Land Use Code is “silent” in respect of solar energy systems and technically does not allow the larger systems in most areas of the City.

The impetus to move forward now with the Solar Energy ordinance has come from a number of sources:

- *Environment Maine's* 2014 Report “*Shining Cities: At the Forefront of America's Solar Energy Revolution*” which compiled data on solar installations nationwide, and found Portland to be 44th out of the 57 major cities studied in terms of PV solar capacity installed;
- The City Council and Mayor have identified reduction of energy as a priority, and are also moving towards approving the installation of a large solar PV array at the former Ocean Avenue landfill;
- The Sierra Club and other non-profits and community groups are moving forward with proposals for community solar farms within Portland;
- Federal government initiatives to support solar eg US Dept. of Energy *Sun Shot* and *SolSmart*.

Solar energy is an important option for residents and businesses interested in distributed generation in Portland. Portland has a good solar resource with an average of 4.71 hours per day of sunlight, with 7 months having an average between 5 and 6 hours a day- which is better or similar to most of the USA except the very southwest. At present installation of solar energy systems is mostly small roof-mounted systems that meet existing zoning requirements. However, interest in installing solar energy systems is expected to grow as the economic and technological environment becomes more supportive, and there is a need to adapt the Land Use Ordinance to facilitate and regulate solar energy installations.

The proposed text amendment creates a new separate solar energy ordinance (text in [Attachment 1](#)) to provide clarity and predictability for the installation of solar systems by removing any omissions or vagueness in the ordinance, and to be as permissive as possible while limiting any potential foreseeable negative impacts and land use conflicts.

II. PLANNING BOARD RECOMMENDATION

On September 27, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland's Comprehensive Plan, the information provided at the Planning Board meetings:

- i. That the Planning Board finds that the proposed text amendments to create a new Division 2 *Solar Energy Generation* under Article X *Alternative Energy* in the Land Use Code, as presented in this Report and Attachment 1 to this Report, are consistent with the Comprehensive Plan for the City of Portland; and
- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to create a new Division 2 *Solar Energy Generation* under Article X *Alternative Energy* in the Land Use Code.

III. BACKGROUND

Best practice across the country suggests that the most user-friendly approach is to adopt a single ordinance that clearly sets out where and under what circumstances solar energy systems are permitted. The challenge is to broadly allow solar energy systems almost anywhere in Portland but ensure any potential adverse impacts are minimized. As drafted, the ordinance intends that solar energy generation may be a principal use on sites in most zones. This would allow for community solar farms (usually ground mounted solar arrays up to about a quarter of an acre but may be larger in the future) which are an increasingly effective way for urban dwellers to invest in/benefit from solar energy.

The development of the ordinance has been informed by:

- Ongoing discussions on the Portland Comprehensive Plan and its climate change and energy efficiency policies;
- Reference to national and regional generic guides and specific ordinances in other comparable USA cities and European examples; (key provisions included in [Attachment 2](#))
- Comments from the Energy and Sustainability Committee and Planning Board; and
- Consultations with internal and external experts on technical issues;
- Noticing as part of the review process, although the Planning Division has not received any written public comments.

Unlike the Wind Energy ordinance, there is considerable variation in the solar energy ordinances elsewhere in the country as they are associated with different land use development control frameworks and different patterns of development. Therefore the proposed ordinance has been "customized" to relate to local Portland issues and priorities.

While the ordinance is relatively "permissive" compared to similar ordinances in other USA cities/towns, it consciously intends to be a first phase ordinance to provide an immediate framework based on a wide base of support. However, it is anticipated that the ordinance would need some adjustment in the near future to address key questions, such as about solar energy systems in Historic Districts/Cemeteries, how to manage solar access and solar readiness, and whether the ordinance should include incentives for solar energy installations.

IV. PROPOSED TEXT AMENDMENTS (See [Attachment 1](#) for the full text)

Permitting

The review framework for the Wind Energy Ordinance was the Zoning Administrator and Zoning Board of Appeals. The proposed Solar Energy ordinance allows small solar energy systems with a Zoning Administrator review and a building permit, but the larger scale systems would be reviewed by Planning staff and the Planning Board within the site plan ordinance framework. This reflects the greater land area occupied by solar energy systems and the associated local impacts that are akin to those addressed under the site plan ordinance.

One key feature is that solar energy is proposed to be permitted as principal land use in most zones. The draft ordinance would allow any solar energy system in any zone where allowed under this new ordinance to be a principal use or an accessory use. The thinking behind these provisions is that there are many sites

where limited access and ground conditions make development unrealistic and that these sites would potentially be appropriate for solar energy generation.

In residential areas it is unlikely that solar energy generation would be viable as a principal use as only small systems are allowed in the residential zones. Staff were concerned that along arterials and in the more dense urban parts of the City the larger solar energy systems should be integrated or alongside other uses that form part of the street scene and the community, so the Performance Standards have introduced some limitations. In most zones the limitations include language to encourage ground-mounted systems to be in the side and rear yards wherever possible.

The large systems in business and industrial zones are proposed to be limited to areas that are already paved or built upon or difficult to develop. The objective of this provision is to retain land for employment generating uses and encourage the solar energy systems to utilize brownfield or undevelopable areas.

The following table and legend is included in the proposed ordinance to clarify the basis of permitting:

Sec. 14-779 Permitting

- (a) Solar systems are allowed in most zones subject to permits/approvals as set out in the table below and subject to compliance with the associated standards in Section 14-780. The level of review relates to the scale of the proposed system, whether they comply with zoning, and the zoning context.

P = allowed as a **permitted** use if the system complies with zone requirements and section 14-780 of this Division, and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).

S = allowed subject to **site plan** review as indicated, to meeting performance standards in section 14-780, and to meeting the submittal requirements in 14-782 and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in on historic district*).

C = allowed as a **conditional** use reviewed by the Planning Board and subject to meeting performance standards in section 14-780, the submittal requirements in 14-782, and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

Zone	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Physical Size (based on airspace area over ground)	N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
Residential; RP; Business zones except B4; waterfront zones	P	P	S (Level II)	S (Level II)	Not allowed
Industrial zones and B4 zone	P	P	S (Level II)	S (Level II)	C (Planning Board)
ROS, Shoreland	P	S (Level II)	S (Level II)	C (Planning Board)	C (Planning Board)
Historic Landscapes	P	S (Level II) & HP	S (Level II) & HP	S (Level II) & HP	Not allowed
Cemeteries	P	Not allowed	Not allowed	Not allowed	Not allowed
Stream Protection zones	Not allowed (Unless on legally non-conforming structure)	Not allowed	Not allowed	Not allowed	Not allowed

**Historic Resource:* Where any part of the proposed solar energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with article IX historic preservation prior to a review under this ordinance. Where any part of the proposed solar energy system (including support structures and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall meet the site plan Sections 14-526 (d) 5 regarding compatibility with the landmark or historic district.

Performance Standards - Requirements for all systems:

In discussion with the Zoning Administrator it was concluded that all solar energy generation systems, however small, would need to be reviewed against more specific criteria than currently apply under the dimensional requirements of the zones. Therefore section 14-780 (1) seeks to guide the review of all solar energy systems by specifying or referencing the following:

- ***Application requirements:*** Included for clarification. There is a concern that the installation of a large number of small solar energy systems in the front yards of small-lot residential areas would be detrimental to Portland's character. The wording in the proposed text for permitted solar energy systems is that they be "located to the rear and side of the site wherever possible". The proposed ordinance specifies that the submissions should include documentation justifying the location of the solar energy system when proposed for the front part of the site.
- ***Height limits:*** This has been included here because where a solar energy system is the principle use it potentially could be as high as the height for a principle structure. So the maximum of 20 feet is specified for ground mounted systems but does not override the zone dimensional standards for permitted systems where they are stated to be lower (ie 18 feet for most accessory structures). Setbacks and absolute height limits for roof mounted solar energy systems are also introduced to avoid excessively high or disproportionate installations.
- ***Technical and Safety:*** It is proposed to follow the format of the site plan ordinance in placing the technical, safety and maintenance standards in the Technical Manual. Further detail in relation to toxic materials and abandonment could also be included.
- ***Impact of Construction:*** It is expected that there will be impacts since underground conduits and electrical connections are necessary. The provision requests applicant to try and minimize these impacts.
- ***Conditions; Glare; Solar Access:*** Included to bring these to the attention of applicants.

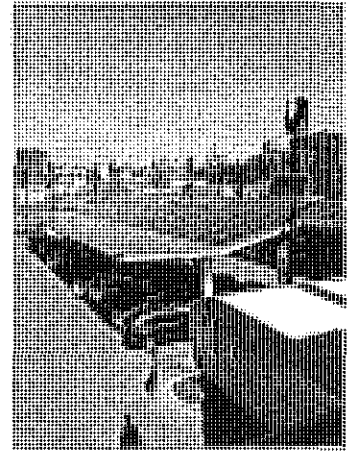
Performance Standards - Specific standards depending on scale/zone

The standards have been developed to address potential impacts of the proposed solar energy system and most are based on provisions recommended in guidance documents or included in other municipal ordinances (see Summary of key provisions in [Attachment 2](#)).

The following discussion of the standards is organized around the potential impact that the standards are trying to address. The size of the solar energy system would be measured in terms of the physical land area over which the system projects:

- Where the solar energy generation use is a principal use and potentially covers most or all of the lot, the standards focus on ensuring integration with the surrounding uses and built fabric. The proposed setbacks relate to the more sensitive zones and allow for more buffer landscaping. The standard requiring co-location with other land uses aims to maintain the street definition and street liveliness in the non-industrial zones.
- Many potentially "good" locations for solar energy systems happen to be located within ROS and Shoreland zones, often because the areas around them are ROS/Shoreland. The ordinance seeks to allow solar energy systems in such locations and the standards are intended to ensure that they do not overwhelm the limited parkland resource.
- While it is generally agreed that industrial and B4 zones are the preferred location for the large solar energy systems, staff are concerned that this could result in the loss of excessive land available for employment generating uses in these zones. Therefore the large systems in these zones are specified to be located on areas already paved or built upon, or where other development is documented to be unlikely due to local conditions.
- Dual use systems: The ordinance text introduces this category of system because of the increasing installation of solar PV panels on posts over parking spaces, on a large scale

(see photo right). Other variations on this idea are anticipated to evolve and the potential impacts are somewhat unknown while the cumulative scale could be very large. It is proposed that this category be subject to site plan review (rather than “permitted” with a building permit) to allow these more innovative solar energy systems to go forward but with some review of impacts.



Submittal Requirements

The Performance Standard that applies to all systems (14-780 (1) includes a general provision that allows the Permitting and Inspections Department to develop some specific requirements as necessary. The separate section regarding submittal requirements for site plan reviews of solar energy systems (14-782) complements the Site Plan Submittal requirements to add some detailed requirements specific to solar energy.

Abandonment - See discussion below under Section VI of this Report.

Appeals - These are standard provisions similar to those for the Wind Energy Generation ordinance.

V. CONSISTENCY WITH COMPREHENSIVE PLAN

The current Comprehensive Plan (from 2005) does not explicitly address climate change and associated issues such as energy use reduction and alternative energy generation. The objective is addressed indirectly by a number of goals and policies under the State Goal F:

“To protect the Stat’s other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas”.

The proposed text amendments generally are consistent with the Comprehensive Plan and it is noted that the City is currently undertaking the creation of a new comprehensive Plan which is expected to be more specific regarding the role of solar energy in achieving community goals.

VI. PLANNING BOARD WORKSHOP DELIBERATION AND RECOMMENDATION

The Planning Board discussions centered around the following:

- **Roof mounted solar energy systems:** The Board identified a concern that the ordinance did not include any limit on the height of a roof mounted system on a flat roof. The Board were also were concerned that all roof mounted systems should be able to access the solar resource but also respect the surrounding architectural patterns. The final version introduces limits and setbacks from the edge of the roof, and the limits are understood to be realistic in the context of solar energy installation technology.
- **Abandonment:** The Board were concerned that an abandoned solar energy system may remain in place and blight the site, and that the cadmium in some PV panels (understood to be the older and less expensive PV panels) would deter removal because of the toxic nature of the materials. Staff suggest that Technical Standards should be prepared to support the new ordinance, particularly in relation to safety and technical issues, and that this question could be amplified in the Technical Standards based on further research. Staff do not feel that the introduction of a Performance Guarantee for the larger installations (which is included in the proposed South Portland ordinance) is constructive, as that would discourage investment in solar energy.

- Submittal requirements: The Board were concerned that some of the draft requirements were not necessary in relation to some of the smaller systems. Staff have clarified that the Submittal Standards (in the separate section) apply only to proposals that require site plan review and have edited the text to focus on those related to solar energy systems. The requirement for a PE stamp is considered important in relation to the structural elements.

The Board sought wording that would be clear and ensure a streamlined permitting framework to allow: a) installation of smaller solar energy systems with just a building permit and minimal limitations; and b) installation of larger systems (including community solar farms and City initiatives) subject to site plan review to ensure that performance standards are addressed.

On September 27, 2016 the Planning Board voted 7-0 to approve the following motion:

On the basis of the material provided in this report, public testimony, a review of current operation and applicable policies, Portland's Comprehensive Plan, the information provided at the Planning Board meetings:

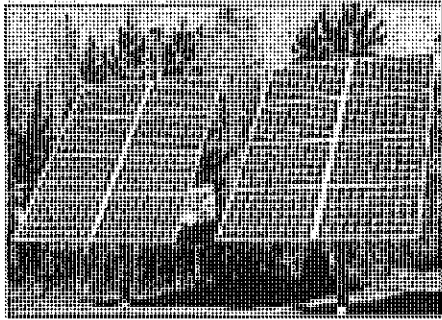
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- ii. Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to create a new Division 2 *Solar Energy Generation* under Article X *Alternative Energy* in the Land Use Code.

Attachments:

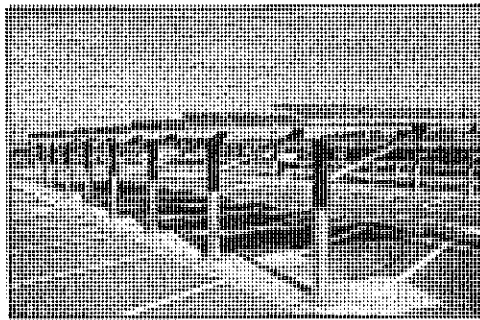
1. Proposed text amendments for adoption: *Solar Energy Generation Ordinance*
2. Summary of relevant provisions in other USA and European solar energy ordinances (to follow)

Rev 10.12.2016 FINAL FOR CITY COUNCIL

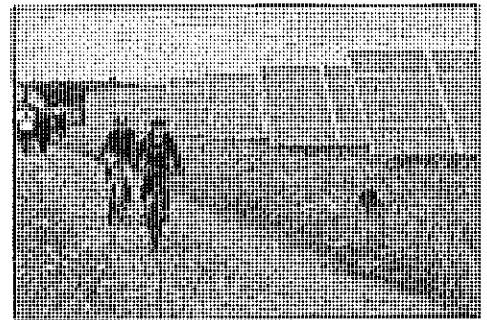
TEXT AMENDMENT: DIVISION 2. SOLAR ENERGY GENERATION



Small



Dual Use



Community

Division 2. Solar Energy Generation

Sec. 14-775. Purpose.

The purpose of this division is to allow for the construction and operation of public or private solar energy generation systems to produce energy for use on site or off site, by establishing appropriate standards to ensure safe, effective and efficient use of solar energy systems compatible with surrounding uses.

Sec. 14-776. Applicability.

All applicants for the installation or replacement of all solar energy systems or devices, expansion of any existing solar energy system, or installation of associated facilities must obtain a building permit and, as determined by the Planning Authority, site plan approval as outlined in section 14-779.

Sec. 14-777. Definitions

For the purposes of this division, the following words and phrases shall have the following meanings:

Abandonment means the date at which a solar energy system has been out of service for a continuous period of 12 months.

Building integrated solar energy system means a solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

Dual-Use Systems means solar energy systems where photo-voltaic panels are introduced in conjunction with a primary use eg photo-voltaic panels on structures cantilevered over parked cars in a parking lot. These tend to include "emerging technologies" and multiple systems with potential impacts, and would require site plan review.

Expansion of a Solar Energy System means any physical modification to an existing solar energy system which alters the total rated capacity, the size, type or location of the system or its associated equipment.

Ground mounted solar energy system (also known as free-standing solar energy systems) means a solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Operations and Maintenance Plan means a plan outlining the operation and maintenance of a solar energy system, to include safety measures and procedures for maintenance.

Physical size of solar energy system means, for the purposes of this division, the size of the system will be based on the physical size based on total airspace projected over the ground. It should be noted that the physical size as defined here is different from the area that would be the basis for calculating the impervious surface associated with the system.

Public industrial, utility or highway facility means a facility operated by a public entity that contains industrial or utility operations or is an unused part of such a facility.

Roof-mounted solar system means a solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Small, Medium and Large solar energy systems means, for the purposes of this division physical size as defined herein. Based on current technology the small systems are about 20 kW or less; medium systems are between about 20kW and 250kW, and large systems are over 250kW.

Solar Access means space open to the sun and clear of overhangs or shade, including orientation of buildings and lots to the sun, so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Energy System means a complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems.

Total height of solar energy system means the total vertical distance as measured from the average elevation of the finished grade adjacent to the fixed base of the support structure, to the highest part of the system.

Total rated capacity means the maximum rated output of electrical power production of the photovoltaic system in watts of Direct Current (DC)

Sec. 14-778. Reserved.

Sec. 14-779 Permitting

- (a) Solar systems are allowed in most zones subject to permits/approvals as set out in the table below and subject to compliance with the associated standards in Section 14-780. The level of review relates to the scale of the proposed system, whether they comply with zoning, and the zoning context.

P = *allowed as a **permitted** use if the system complies with zone requirements and section 14-780 of this Division, and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).*

S = *allowed subject to **site plan** review as indicated, to meeting performance standards in section 14-780, and to meeting the submittal requirements in 14-782 and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).*

C= allowed as a **conditional** use reviewed by the Planning Board and subject to meeting performance standards in section 14-780, the submittal requirements in 14-782, and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

Zone	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Physical Size (see Definitions)	N/A	≤ 1000 sq ft	Any size	1001 to 9,999 sq ft	10,000 sq ft or greater
Residential; RP; Business zones except B4; waterfront zones	P	P	S (Level II)	S (Level II)	Not allowed
Industrial zones and B4 zone	P	P	S (Level II)	S (Level II)	C (Planning Board)
ROS, Shoreland	P	S (Level II)	S (Level II)	C (Planning Board)	C (Planning Board)
Historic Landscapes	P	S (Level II) & HP	S (Level II) & HP	S (Level II) & HP	Not allowed
Cemeteries	P	Not allowed	Not allowed	Not allowed	Not allowed
Stream Protection zones	Not allowed (Unless on legally non-conforming structure)	Not allowed	Not allowed	Not allowed	Not allowed

**Historic Resource:* Where any part of the proposed solar energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with article IX historic preservation prior to a review under this ordinance. Where any part of the proposed solar energy system (including support structures and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall meet the site plan Sections 14-S26 (d) 5 regarding compatibility with the landmark or historic district.

Sec. 14-780. Performance Standards

All solar energy systems shall meet the following performance standards as indicated (section numbers are included to allow for reference):

[see table below]

- (a) Standards applicable to all solar energy systems, whether permitted, site plan or conditional use:

	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Physical Size (See Definitions)	N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
14-780 (1) Standards applicable to all solar energy systems, whether permitted, site plan or conditional use	i. <i>Application requirements for permitted solar energy systems:</i> All applications for permitted solar energy systems shall meet the submittal requirements as specified by the Permitting and Inspections Department. Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the rear or side of the site. ii. <i>Application requirements for site plan and conditional use review of solar energy systems:</i> submissions for approval under this ordinance shall address the submittal requirements set out in section 14-782 <i>Submittal Requirements</i>. iii. <i>Height:</i> The maximum height for all solar energy systems shall be as specified in that zone's dimensional requirements. Where the total height of the support structure/building plus the solar energy system is equal to or below the zone-based height maximum (including any allowance under 14-430), the absolute height of the solar energy system shall meet the following requirements: a. Ground mounted: 20 feet above the ground as measured from the base of the support. b. Roof mounted (on any type of roof, and applies to systems that are parallel or angled to the roof): • For all residential and RP zones: 5 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height. • For B4 and Industrial zones: no limit. • For all other zones: 8 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height. For height limitations for roof-mounted solar energy systems that exceed the zone dimensional requirements for height, see 14-430(e). iv. <i>Technical and Safety:</i> All solar energy systems shall meet the technical, safety and maintenance standards as set out in the City of Portland Technical Manual. These standards may include the prohibition of panels containing cadmium to minimize the potential for hazardous waste. v. <i>Impact of construction and connection to the grid:</i> The applicant shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections. vi. <i>Conditions:</i> The reviewing authority may impose conditions to ensure compliance with the standards and purposes set out in this ordinance, including but not limited to post-construction certification of compliance by a licensed professional engineer or authorized factory representative. vii. <i>Glare:</i> Solar panels are designed to absorb (not reflect) sunlight and are generally less reflective than other varnished or glass exterior materials. However, solar panel placement should minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system. viii. <i>Solar Access:</i> all applicants are encouraged to ensure the maximum solar energy generation from their system by obtaining solar access easements. Solar access easements may be filed consistent with Maine State law. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement would be purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.				

(b) Additional performance standards for particular systems subject to site plan or conditional use (PB) review

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
N/A	a) Meet 14-780 (a) above	a) Meet 14-780 (a) above b) Demonstrate that the energy generation is not the principal use of the site; c) Demonstrate that scale of the installation does not create adverse impacts.	a) Meet 14-780 (a) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) Set back 50 feet from residential, RP, B1 and B2 zones e) Located away and screened from public ways and nearby residential /institutional uses to extent possible; f) Co-locate with other land uses on lots in residential, B1, B2, B3, B7 & waterfront zones	a) Meet 14-780 (a) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) Set back 75 feet from residential, RP, B1 and B2 zones e) Located away and screened from public ways and nearby residential /institutional uses to extent possible;

(c) Additional performance standards for solar energy systems located in ROS & Shoreland Zones

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
			a) Meet 14-780 (a) and (b) above b) If over 10,000 sq ft, locate on landfills or co-terminus with public industrial, utility or highway facilities c) Be supported by Land Bank Commission and Parks Commission where applicable d) Layout and fencing to be integrated with the landscape to the extent possible e) Screen from abutters and minimize impact on significant scenic views to the extent possible f) Not required to meet the conditional use requirements of the zone; for ROS see 14-156 g) Prohibited within the 75 ft setback from High Water mark in Shoreland Zones and meeting other Shoreland Zone requirements	

(d) Additional performance standards for solar energy systems in *Business and Industrial* Zones

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
				a) Meet 14-780 (a) (b) above b) Be located on areas already paved or built upon, or where other development is documented to be unlikely due to local conditions.

Sec. 14-781. Reserved

Sec. 14-782 Submittal requirements for site plan and conditional use review of solar energy systems.

- (a) The following information shall be submitted with a site plan application for a review of a solar energy system and associated facilities under this ordinance (S or C in 14-779) in addition to the submittal requirements set out in section 14-527 (a), (c),(d) and (e) of the Site Plan ordinance:
1. A narrative describing the proposed solar energy system, including an overview of the project; the project location; the generating capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance). Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the side or rear of the site.
 2. An accurate scaled site plan of the subject property showing the planned location of the proposed solar energy system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; potential shade from nearby trees and structures; vegetation; driveways, parking, and curb cuts on the subject property; and specifications for all proposed electrical cabling/transmission lines, accessory equipment, and landscaping.
 3. A scaled elevation drawing showing the proposed solar energy system and all proposed structures, foundations, supports, fencing, vegetation and landscaping, indicating the size, color and materials of the system. Drawings of structures and foundations shall be stamped by a licensed Professional Engineer.
 4. Information on any proposed connections to the grid including any proposed off-site modifications to provide grid connections, access the installation, or to maintain the proposed solar energy system and grid connections.

5. In the case of medium and large ground mounted solar energy systems, the applicant shall provide an Operations and Maintenance Plan prepared and stamped by a licensed Professional Engineer or other licensed professional as appropriate.

Sec. 14-783 Abandonment and Removal of Medium and Large Scale Ground Mounted Solar Energy Systems

- (a) In the case of medium and large ground mounted solar energy systems, the submitted Operations and Maintenance Plan shall include an estimate of the life of the project and outline the anticipated options/action when it has reached the end of its estimated useful life.
- (b) The Owner and Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment. "Removal" includes restoration of the site to its approximate original condition, unless a valid approved site plan is intended to be pursued in which case a performance guarantee for the restoration would be required until the approved redevelopment has received a certificate of occupancy.
- (c) The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner and Operator's expense in the following circumstances:
 1. The solar energy system is not complete and operating within 24 months from the date of approval under this ordinance; or
 2. The solar energy system is determined by the City to be in an unsafe condition in respect to federal, state and local safety standards and timeframes; or
 3. The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
 4. The solar energy system is defective or abandoned and has not been removed from the site within the required timeframe.

14-784. Appeals.

For all appeals, the date of the decision shall be the date of the hearing, if an oral decision was made, or the date the written decision.

- (a) Any aggrieved party may appeal a decision by the Permitting and Inspections Department under the provisions of this ordinance by requesting in writing that it be referred to the Zoning Board of Appeals within 30 days of the decision being rendered.
- (b) Any aggrieved party may appeal a decision by the Planning Authority under the provisions of this ordinance by requesting in writing that it be referred to the Planning Board within 30 days of the decision being rendered.
- (c) Any aggrieved party may appeal a decision of the Planning Authority determination under provision 14-761 (b) 2 of this ordinance (compatibility if within 100 feet of a designated landmark, Historic District or Historic Landscape District) by requesting in writing that it be referred to the Historic Preservation Board within 30 days of the determination. This appeal is de-novo.
- (d) Any aggrieved party may appeal the final decision of the Planning Board or the Historic Preservation Board under provision 14-761 (b) 2 of this ordinance to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Associated amendment to existing ordinance text 14-430
(SEE PROPOSED UNDERLINED TEXT)

Sec. 14-430. Height limits.

(a) *Roof structure.* Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings. Roof-mounted wind and solar energy systems shall not be considered to be roof structures for the purposes of Article X, Alternative Energy.

(b) *Public art.* Except in residential zones, public art that has been individually accepted by the city council for inclusion within the public art collection, pursuant to Article XI, Public Art Program of the Land Use Code, (Section 14-852(c)), shall not be subject to the height limitations for buildings within the underlying zone.

(c) *Temporary wind anemometer towers.* Temporary wind anemometer towers may be erected above the height limitation for buildings within the underlying zone, subject to receiving Board of Appeals approval and FAA approval, if necessary.

(d) *Wind energy systems.* Wind energy systems may be erected above the height limitation for principal buildings within the underlying zone, pursuant to Article X, Alternative Energy.

(e) *Roof mounted solar energy systems:* Photovoltaic panels and thermal water heating panels may be erected above the height limitation for principal or accessory buildings, subject to historic preservation approval, as follows:

1. For all residential zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 5 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

2. For B4 and Industrial zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 4 feet above the maximum height allowed in the underlying zone. In the case of flat roofs, there are no height limits.

3. For all other zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 8 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

Summary of Key Provisions from other Solar Energy Ordinances

AT 1-2

Guide/Ordinance	Allowing ground mounted in front yard	Maximum Height gable/hip/gambrel roof	Maximum Height flat roof	Roof mounted setbacks	Maximum height ground mounted	Ground mounted setbacks
NY State "Model Solar Energy Law" 2016	All in residential districts shall be installed in the side or rear yards	As per zone dimensions		As per zone dimensions	As per zone dimensions	As per zone dimensions
California County Planning Directors Assoc. "Model SEF Permit Streamlining Ordinance" 2012		Res: 2 ft above roof surfaces; Other: 4 ft above roof surface			Res: 10 ft Other: 15 ft-25ft	Res: as for zone; other: 30 ft and up to 100 ft
NC "Template Solar Energy Development Ordinance" 2016	Max 50% of footprint of primary structure;	Per zone			20 ft	Setbacks generally as for zone, except up to 100 ft from res du for large systems
South Portland Solar Ordinance Spring 2016	Res: Shall not be located in front yards unless 100 ft from front property line; shall not be located in side yards unless more than 50 ft from side property line	Res: Not exceed max bldg. ht for zone; Other zones: treat as mechanical appurtenances		3 ft wide pathway required along 3 sides of solar roof	Res: 12 ft; if set back 30 ft from property line may be 20 ft; Other zones: max ht as for buildings in zone	Must meet setbacks for principal buildings
Minneapolis Solar Ordinance	In res districts area of solar collector surface shall not exceed 3% of the lot area; other areas 5% of lot area	3 ft above ridgeline	10 above roof surface	1 ft from edge for every 1 ft of system height above roof	20 ft or principle structure, which ever is less	Up to 16 ft, meet setbacks as for accessory structure; above 16 ft meet setbacks as for principle structure
Portland Oregon	Ground mounted no closer to the street than primary street-facing facade	Res: 1 ft above surface and no higher than ridgeline	Res: 5 ft above roof surface and screened by parapet or set back as**	Res: ** Flat roof: set back from street-facing roof edges by 4 feet for each foot of system height; pitched roof: 3 feet from edge	8 feet	1 ft for each foot of height in res zones
Maplewood Miss Renewable Energy Ordinance		Up to max height allowed by zone			Up to max height for accessory structure allowed in zone	Meet accessory structure setback
UK (Small solar energy systems under permitted development)	Res: No part of a freestanding panel is closer to the road than the part of the house nearest the road	Res: Max 20 inches above roof slope/surface and not higher than highest part of roof	Res: 5 ft above roof surface		Res: No higher than 13 ft	Res: 16 ft from property boundary

*Order 80-16/17
Tab 1a 11-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER APPROVING A LICENSE TO EIGHT MIDDLE LAND COMPANY LLC

ORDERED, that a license allowing encroachments by foundation footings and the foundation in the public right-of-way at or near 16 Middle Street is hereby approved for Eight Middle Land Company LLC in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager Jon Jennings, Mayor Ethan Strimling, Assistant City Manager Anita LaChance, Danielle West-Chuhta, Corporation Counsel; Victoria Morales, Associate Corporation Counsel; Sonia Bean, Nancy English, and Julie Sullivan

FROM: Jeff Levine, Director, Planning and Urban Development Department

DATE: October 20, 2016

SUBJECT: Building Foundation License Request for 16 Middle Street

SPONSOR: Department of Planning and Urban Development

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ **Final Action** November 7, 2016

Can action be taken at a later date: X Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. AGENDA DESCRIPTION

The Department of Planning and Urban Development is forwarding a request from Eight Middle Land Company, LLC seeking the City Council's acceptance of a building foundation license under the City's right-of-way . The footings and foundation will extend into the license area on Middle and Hancock Streets.

On May 26, 2015 the Planning board approved the Level III Mixed Use Retail and Office Building at 16 Middle Street. The Planning Board voted unanimously (6-0) to approve the application with waivers and conditions.

II. BACKGROUND

Eight Middle Land Company, LLC was approved for a Level III Subdivision and Site Plan Application for the property located at 16 Middle Street. The applicant proposes to construct a five story mixed use building that contains 5,305 square feet of retail use on the first floor and four professional office condominium units on the second through fifth floors (one per floor). A total building floor area is 49,875 square feet, with a footprint of 7,250 square feet.

As part of the condition of approval, the applicant is required to obtain the irrevocable license for the building foundation.

III. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

The request is for the approval of a foundation license to enable the construction of the proposed project and the authorization of the City Manager to grant the license on the City's behalf.

IV. FINANCIAL IMPACT

The project will ultimately result in tax revenue to the city.

V. RECOMMENDATION

The Corporation Counsel's office has reviewed the license and has approved the draft as presented here. As noted above, the Planning Board approved the proposed development on May 16, 2015 with the conditions that the applicant obtains the required license.

The irrevocable license requires City Council approval and, per Corporation Counsel, qualifies as a one-reading item

VII. LIST ATTACHMENTS

1. Foundation Easement between the City of Portland and Bateman Partners, LLC.

Prepared by: Shukria Wiar

Date: 10/20/16

Bean/agendarequestmemo/rev 11/2015

LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into as of the _____ day of October, 2016, between the **CITY OF PORTLAND**, a Maine body corporate and politic, with a mailing address of City Hall, 389 Congress Street, Portland, Maine 04101 (the "City" or "Licensor"), and **EIGHT MIDDLE LAND COMPANY, LLC**, a Maine limited liability company with a place of business in Portland, Maine and its successors and assigns (hereinafter the "Licensee"), who hereby agree as follows:

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, a revocable license is hereby granted to Licensee to occupy portions of land owned by the City at or near 16 Middle Street in the City of Portland, Cumberland County, Maine, which property abuts the property of Licensee described in a Quitclaim Deed with Covenant from Hancock & Middle LLC dated May 1, 2013 to Licensee and recorded in the Cumberland County Registry of Deeds in Book 30623, Page 314; as affected by Abutters Agreement by and between Ocean Gateway Garage LLC and Eight Middle Land Company LLC dated May 1, 2013 and recorded in the Cumberland County Registry of Deeds in Book 30623, Page 318 ("Licensee's Property"), for the purpose of permitting the encroachment of (i) concrete foundation footings, and used as described and depicted in **Exhibits A**, attached hereto and made a part hereof (the "Licensed Areas"), together with the right from time to time to bring upon the Licensed Areas and areas adjacent thereto workers, materials and machinery necessary for the use and enjoyment of the License granted herein, all in connection with the development of Licensee's construction project being developed on the Licensee's Property comprised of constructing a four story building with eight residential condominium units and one commercial condominium unit (the "Project"). Occupancy of the Licensed Areas is subject to the following conditions:

1. All work performed upon and use of the Licensed Areas for the purposes set forth herein shall be at Licensee's sole cost and expense (unless otherwise agreed in writing), the parties acknowledging that there may be temporary interruptions in enjoyment of the City's property adjacent to the Licensed Areas related to the conduct of any work related to this License. Licensee agrees at its sole expense shall restore any portion of the Licensed Areas and adjacent City property damaged by work conducted by Licensee related to this License to substantially its condition prior to such work, or as shown on the Site Plan (as defined below) for the Project, or as close to that condition as is reasonably practicable. Licensee, its successors and assigns, shall defend, indemnify and hold the City, its officers, agents, and employees harmless from any and all claims, including but not limited to claims for damage to City property and reasonable attorney's fees, which arise out of Licensee's use, or the use of others, of the City's property as described above.

2. At all times during the Term of this License Agreement, Licensee, its agents and assigns, specifically including, but not limited to any condominium association as soon as any

unit is transferred, shall exclusively be responsible for repairing, keeping and maintaining the Licensed Areas in a safe condition generally, by, among other things: ensuring prompt removal of, or otherwise eliminating snow and ice from all encroachments and in a manner that does not endanger pedestrians; preventing, by design and rules and supervision, objects stored or otherwise present on the encroachments from falling or being dropped or thrown onto the City's sidewalk; repairing, replacing or removing all encroachments as necessary for public safety; taking any and all other measures necessary to protect pedestrians in the sidewalk from injury or other harm arising out of the presence of the encroachments.

3. Licensee its successors or assigns shall procure and maintain liability insurance in an amount of at least Four Hundred Thousand Dollars (\$400,000) combined single limit (or the amount stated in the Maine Tort Claims Act as the same may be amended from time to time), covering claims for bodily injury, death and property damage. Licensee shall either name the City of Portland as an additional insured or shall obtain a contractual liability endorsement for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B and § 8111. This provision shall not be deemed a waiver of any immunities or limitations of damages available under the Maine Tort Claims Act, other Maine statutory law, judicial precedent or common law. Licensee shall provide City with evidence of such insurance coverage and shall obtain an endorsement providing City with no less than ten (10) days notice prior to non-renewal or cancellation thereof. Such notice shall be sent to City of Portland, Corporation Counsel, 389 Congress Street, Portland, ME 04101. Failure of Licensee to procure or maintain such insurance coverage shall be an Event of Revocation as set forth in Section 4 below.

4. The benefits and obligations of Licensee shall apply to any subsequent owners of the building and portions thereof located on the land described on the approved site and subdivision plan for 16 Middle Street, Portland, Maine, recorded in the Cumberland County Registry of Deeds in Plan Book _____, Page _____ (the "Site Plan").

5. Subject to the provisions of Sections 6 and 7 hereof, this Agreement may be revoked six (6) months after receipt by the Licensee of written notice that an Event of Revocation has occurred, identifying such Event of Revocation, provided that such Event of Revocation is not cured within six (6) months after receipt of such notice by Licensee except as set forth in clause 3) below. "Event of Revocation" shall mean: 1) the building shown on the Site Plan fails to be constructed substantially in accordance with the Site Plan or any amendments thereto; 2) the building as shown on the Site Plan is destroyed, removed or otherwise thereafter ceases to exist on Licensee's Property and construction to rebuild said building has not begun within twelve (12) months of said destruction or removal, or 3) failure to maintain insurance as required under Section 2 above, and such failure is not remedied within thirty (30) days after written notice thereof. City acknowledges that Licensee may amend this Agreement, upon the written approval of the City, for the purpose of correcting and/or revising Exhibit A, to more accurately show the encroachments described above that are being licensed under this Agreement.

6. Any notice of an Event of Revocation delivered pursuant to Section 5 of this Agreement must be sent by certified mail, return receipt requested to the Licensee at the address

for Licensee set forth above, or at such other address as the Licensee may provide to the City in writing from time to time. Copies of any notices sent to Licensee shall also be sent to:

16 Middle Street Associates, LLC
c/o Bateman Partners, LLC
Attn: Nathan Bateman, Vice President
P.O. Box 3572
Portland, Maine 04104

7. Notwithstanding any other provision herein, in the event that a notice of an Event of Revocation is delivered pursuant to Section 5 hereof, any mortgagee of Licensee's Property shall be entitled to cure the matter set forth in such notice within the time frames set forth in Section 5 hereof, and the City agrees to accept such performance by any such mortgagee of Licensee's obligations hereunder.

IN WITNESS WHEREOF, the City of Portland has caused this Revocable License to be executed by Jon P. Jennings, its City Manager thereunto duly authorized, as of the day and year first written above.

CITY OF PORTLAND

By: _____
Jon P. Jennings
City Manager

STATE OF MAINE
CUMBERLAND, ss

October ____, 2016

Personally Appeared the above-named Jon P. Jennings, City Manager of the City of Portland as aforesaid, 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 Portland.

Before me,

Notary Public/Attorney at Law

Print name: _____

My commission expires: _____

Seen and Agreed to:

EIGHT MIDDLE LAND COMPANY LLC

By: _____

Name:

Title: Its

EXHIBIT A

License Area 1

A certain lot or parcel of land situated in India Street in the City of Portland, County of Cumberland and State of Maine described as follows:

Commencing at a point on the easterly sideline of India Street at the northwesterly corner of land now or formerly of the East India Land Company as described in deed book 30624 page 17;

Thence, S 46°24'57" E along the easterly sideline of said India Street 6.10 feet to the Point of Beginning;

Thence, from the Point of Beginning continuing S 46°24'57" E along the easterly sideline of said India Street 20.02 feet;

Thence, S 41°12'03" W into said India Street 0.99 feet;

Thence, N 48°47'57" W a distance of 6.00 feet;

Thence, N 41°12'03" E a distance of 1.03 feet;

Thence, N 48°47'57" W a distance of 14.00 feet;

Thence, N 41°12'03" E a distance of .79 feet to the easterly sideline of said India Street and the point of beginning containing 14 square feet more or less.

The above described parcel of land is shown as License Area 1 on "Amended Recording Plat 185 Fore Street, Fore Street, Portland, Maine made for East India Land Company LLC" dated April 15, 2015 by Owen Haskell, Inc.

License Area 2

A certain lot or parcel of land situated in India Street and Fore Street in the City of Portland, County of Cumberland and State of Maine described as follows:

Beginning at a point at the intersection of the easterly sideline of India Street with the northerly sideline of Fore Street;

Thence, N 57°57'41" E along the northerly sideline of said Fore Street 2.16 feet;

Thence, S 41°12'03" W into said Fore Street and said India Street 2.43 feet;

Thence, N 46°24'57" W a distance of 52.75 feet;

Thence, N 41°12'03" E a distance of .33 feet to the easterly sideline of said India Street;

Thence, S 46°24'57" E along the easterly sideline of said India Street 52.13 feet to the point of beginning containing 18 square feet more or less.

The above described parcel of land is shown as License Area 2 on "Amended Recording Plat 185 Fore Street, Fore Street, Portland, Maine made for East India Land Company LLC" dated April 15, 2015 by Owen Haskell, Inc.

License Area 3

A certain lot or parcel of land situated in Fore Street in the City of Portland, County of Cumberland and State of Maine described as follows

Commencing at a point at the intersection of the easterly sideline of India Street with the northerly sideline of Fore Street;

Thence, N 57°57'41" E along the northerly sideline of said Fore Street 7.75 feet to the Point of Beginning;

Thence, N 57°57'41" E along the northerly sideline of said Fore Street 7.31 feet;

Thence, S 48°47'57" E into said Fore Street 0.67 feet;

Thence, S 41°12'03" W a distance of 7.00 feet;

Thence, N 48°47'57" W a distance of 2.78 feet to the northerly sideline of said Fore Street and the point of beginning containing 12 square feet more or less.

The above described parcel of land is shown as License Area 3 on "Amended Recording Plat 185 Fore Street, Fore Street, Portland, Maine made for East India Land Company LLC" dated April 15, 2015 by Owen Haskell, Inc.

License Area 4

A certain lot or parcel of land situated in Fore Street in the City of Portland, County of Cumberland and State of Maine described as follows

Commencing at a point at the intersection of the easterly sideline of India Street with the northerly sideline of Fore Street;

Thence, N 57°57'41" E along the northerly sideline of said Fore Street 38.53 feet to the Point of Beginning;

Thence, N 57°57'41" E along the northerly sideline of said Fore Street 4.13 feet;

Thence, S 41°12'03" E into said Fore Street 3.95 feet;

Thence, N 48°47'57" W a distance of 1.19 feet to the northerly sideline of said Fore Street and the point of beginning containing 2.4 square feet more or less.

The above described parcel of land is shown as License Area 4 on "Amended Recording Plat 185 Fore Street, Fore Street, Portland, Maine made for East India Land Company LLC" dated April 15, 2015 by Owen Haskell, Inc.

*Order 81-16/17
Tab 13 11-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE PROFESSIONAL AND TECHNICAL CITY EMPLOYEE ASSOCIATION
(PRO TECH)**

ORDERED, that the attached Collective Bargaining Agreement with the Professional and Technical City Employee Association (Pro Tech) for July 3, 2016 through June 30, 2019, is hereby approved.

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Mayor Ethan Strimling and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager 

DATE: October 31, 2016

RE: Order/First Reading of Professional and Technical City Employee Association (Pro Tech) Contract

The collective bargaining agreement with the Professional and Technical City Employee Association expired on July 2, 2016. The Association is comprised of approximately 140 Professional and Technical employees, namely engineers, nurses and nurse practitioners and other jobs located throughout the City.

The City staff has reached a tentative agreement for a three year contract. Terms of the three year agreement include a 2.0% general wage increase for Fiscal Year (FY) 2017 retroactive to July 3, 2016; a 2.0% general wage increase effective July 2, 2017 and a 2.0% general wage increase effective July 1, 2018. The general wage increases are consistent with guidance received by Council on July 6, 2016 and again on September 19, 2016.

Other terms of the tentative agreement include:

Article 10 – mandatory direct deposit and paperless pay stubs.

Article 11 – changes to comp time accruals and payouts. Small increases to shift differentials

Article 13 – changed the maximum vacation accumulation for employees with 20 plus years of service.

Article 20 – small increases and/or changes to clothing allowances.

Appendix A – upgraded Cook II from PT Grade 4 to Grade 5 and changed the title.

Other than 2016 wages, all other changes and/or additions to the contract are effective upon approval by Council.

The total direct cost for the three year agreement is approximately \$821,000.

Pro Tech members have ratified the three (3) year tentative agreement.

This order will require a second reading at the November 21, 2016 Council meeting.

Cc: Jon P. Jennings – City Manager
Anita LaChance – Deputy City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Chris Branch – Public Works Director
Paul Bradbury – Airport Director
Sally Deluca – Director of Parks, Recreation & Facilities Management
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

Protech FY17-FY19

*Based on 118.9 FTEs

ADMINISTRATIVE RECOMMENDATION

Item Description	Base Cost	Year 1 FY17	% Incr	Year 2 FY18	% Incr	Year 3 FY19	% Incr	3 Yr Cumulative Cost Est.	Notes
#1 COLA (FY Increased Value; Non-Cumulative): Cumulative COLA Cost:	\$6,311,622	\$126,232	2.0%	\$128,757	2.0%	\$131,332	2.0%	\$767,542	City Proposed 2.0% COLA for 3 yrs 3 Yr COLA Cost: \$767,542
#2 Mid-Level Health Practitioner New 7th Yr Step (1 EE):	* \$28,002	\$845	3.0%	---	---	---	---	\$845	No Mid-Level Health Practitioners FTEs After 12/31/16
#3 Cook II Upgrade (from PT4 to PT5: 1 EE):	** \$44,753	\$4,602	10.3%	\$4,700	10.3%	\$4,797	10.3%	\$14,099	
#4 Airport Admin Coord 6% Stipend Aviation Masters Degree (Pos #951: 1 EE):	** \$50,558	\$3,033	6.0%	\$3,188	6.0%	\$3,350	6.0%	\$9,571	Implemented during FY16
#5A Shift-Differential (Non-BC):	\$5,603	\$1,642	29.3%	\$1,642	---	\$1,642	---	\$4,926	
(a) 2nd Shift: \$0.40 to \$0.45/hr (+\$0.05/hr)	\$2,655	\$331	12.5%	\$331	---	\$331	---		
(b) 3rd Shift: \$0.45 to \$0.65 (+\$0.20/hr)	\$2,948	\$1,311	44.5%	\$1,311	---	\$1,311	---		
Wages:	\$6,317,225	\$136,354	2.2%	\$138,287	2.1%	\$141,121	2.1%	\$796,983	
#6 Overtime Cumulative OT Cost:	\$200,000	\$4,000	2.0%	\$4,080	2.0%	\$4,162	2.0%	\$24,322	Based on increase in base wages (OT Base: 2 Yr History) 3 Yr OT Cost: \$24,322
Direct Costs:	\$6,517,225	\$140,354	2.2%	\$142,367	2.1%	\$145,282	2.1%	\$821,305	
Health Insurance (FY Increased Value; Non-Cumulative): Cumulative Health Insurance Cost:	\$1,214,987	\$121,499	10.0%	\$133,649	10.0%	\$147,013	10.0%	\$778,807	Inflationary increase Only 3 Yr Health Cost: \$778,807
Health Insurance - Plan Changes		(\$40,095)	-3.0%	(\$44,104)	-3.0%	---	---	(\$84,199)	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension (FY Increased Value; Non-Cumulative): Cumulative Pension Cost:	\$580,033	\$52,437	9.0%	\$13,525	2.1%	\$13,802	2.1%	\$115,980	Based on Increase in total wages w/ FY17 Pension Rate Increase 3 Yr Pension Cost: \$115,980
Workers' Compensation	\$174,662	\$3,762	2.2%	\$3,815	2.1%	\$3,894	2.1%	\$11,471	Based on increase in total wages
Indirect Costs:	\$1,969,682	\$137,603	7.0%	\$106,885	5.1%	\$164,709	7.4%	\$822,058	
TOTAL:	\$8,486,907	\$277,957	3.3%	\$249,252	2.8%	\$309,991	3.4%	\$1,643,363	

* Base Already Included in Initial Base Wages

** Base Changes w/ FY Step or Grade Movement (Base Already Included in Initial Base Wages)

*Order 82-16/17
Tab 14 11-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME) LOCAL 481-07 SUPERVISORS**

ORDERED, that the attached Collective Bargaining One-Year Extension to Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors for July 3, 2016 through July 1, 2017, is hereby approved.

CITY OF PORTLAND
MEMORANDUM

To: Mayor Ethan Strimling and Members of the City Council

From: Thomas Caiazzo, Labor Relations Manager *TC*

Date: October 31, 2016

RE: Order/First Reading of AFSCME Local 481-07 Supervisors

City staff has reached a tentative one (1) year agreement with AFSCME Supervisors representing approximately 39 supervisors and foremen. The tentative agreement is within guidance received from Council on August 1, 2016.

The parties have tentatively agreed to a one (1) year contract extension with a general wage increase of 2% effective July 3, 2016. In consideration of the above, the union has tentatively agreed to the City's proposed Direct Deposit and paperless pay stub system. The Union is expected to ratify the tentative agreement and the Administration recommends your support for the agreement.

The contract term is July 3, 2016 through July 1, 2017. The total direct cost of the general wage increase is approximately \$39,500.00.

All other provisions of the contract remain intact for the term of the agreement.

The Supervisors members have ratified the one (1) year agreement.

This order will require a second reading at the November 21, 2016 Council meeting.

Cc: Jon P. Jennings – City Manager
Anita LaChance – Deputy City Manager
Danielle West-Chuhta – Corporate Counsel
Anne Torregrossa – Associate Corporate Counsel
Chris Branch – Public Works Director
Paul Bradbury – Airport Director
Sally Deluca – Director of Parks, Recreation & Facilities Management
Gina Tapp – Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

- ADMINISTRATIVE RECOMMENDATION

ITEM	BASE COST	YEAR 1 (FY17)	% INCR	NOTES:
Base Wages	1,747,554	34,951	2.0%	
Night Shift Differential	2,496			
Specialty Pay	58,594			
Sub-Total Wages	1,808,643	34,951	1.9%	
Overtime	227,784	4,556	2.0%	Based on increase in base wages
Clothing Allowance				
Total Direct Costs	2,036,427	39,507	1.9%	
Health Insurance	348,164	34,816	10.0%	Inflationary increase only
Health Insurance-Plan Changes		-11,489	-3.0%	Projected 9% Savings less 3% Cost of Wellness Initiative
Pension	181,242	15,972	8.8%	Based on increase in total wages and MEPERS employer rate
Workers' Compensation	48,472	969	2.0%	Based on increase in total wages
Total Indirect Costs	577,877	40,268	7.0%	
Total	2,614,305	79,775	3.1%	

Tentative Agreement

City of Portland

and

AFSCME Local 481-07

Portland Supervisors

One year extension, no changes except the following:

Change all Public Services to Public Works

Change MIS Division to IT Division

11. WAGES AND SALARIES

Change 11.1 to read

- 11.1 Effective ~~July 3~~^{2nd} 2016, employees will receive a 2% across the board increase in accordance with the classification and seniority step pay plan attached hereto as Appendices B(1) and B(2).

New 11.9

Effective upon the signing of this agreement and upon implementation of kiosks with printers available to the employees, the City shall implement a paperless pay stub system. Also effective upon the signing and as soon as the re-loadable debit cards are available, all current and newly hired employees will have mandatory direct deposit for all monies owed by the City. The re-loadable debit card will be supplied and replaced by the City at no cost to the employees. The City agrees to give a two week notice to all employees prior to implementation.

 10-14-16

*Order 83-16/17
Tab 15 11-7-16*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ACCEPTING A HOUSING AND URBAN DEVELOPMENT
LEAD HAZARD CONTROL GRANT AND APPROPRIATING \$1,814,867
FOR LEAD ABATEMENT IN
CUMBERLAND COUNTY RESIDENTIAL HOUSING**

ORDERED, that the Housing and Urban Development (HUD) Lead Hazard Control and Healthy Homes Supplemental Grant of \$1,814,867 is hereby accepted; and

BE IT FURTHER ORDERED, that \$1,814,867 in funding to abate lead in Cumberland County residential units and to perform additional work as allowed and required during the administration of this grant is hereby appropriated for those purposes; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to act as the certifying officer for HUD environmental documents related to this grant and to execute said documents and any other related documents necessary or convenient to carry out the intent of said grant and this Order.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: October 24, 2016

DISTRIBUTION: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan

SUBJECT: Appropriation of \$1,814,867 in Lead Hazard Control and Healthy Homes Supplement Grant Funding from the U.S. Department of Housing and Urban Development for the City of Portland/Cumberland County Lead Hazard Control Program

SPONSOR: Jon P. Jennings, City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading November 7th, 2016 Final Action November 21, 2016

Can action be taken at a later date: ____ Yes ____ **X** No (If no why not?)

HUD has established certain benchmarks and requirements that must be met before grant work can begin.

PRESENTATION: Mary Davis will be available

I. ONE SENTENCE SUMMARY: The City has been awarded a three year grant from U.S. Dept. of Housing and Urban Development Grant for Lead Hazard Control and Healthy Homes Supplement Funding in the amount of \$1,814,867.

II. AGENDA DESCRIPTION: To seek the City Council's authorization to appropriate \$1,814,867 in HUD Lead Hazard Control and Healthy Home Supplemental Funding to abate 88 residential units throughout Cumberland County. Grant goals include testing on 90 units, abatement in 88 units, 22 community outreach/education events and training 50 EPA RRP certified workers. The grant will be for three years and will expire in 2019.

III. BACKGROUND: The City of Portland, in partnership with Cumberland County, applied to the U.S. Department of Housing and Urban Development for \$1,814,867 in Lead Hazard Control and Healthy Homes Supplement Funding. The grant will allow the City to complete lead abatement and healthy home inspections/assessments on 88 units throughout Cumberland County. The target areas are Portland and Westbrook, however, all of Cumberland County is eligible.

IV. INTENDED RESULT: The City will administer and lead hazard control program that will include a healthy homes assessment/inspection. Grant goals include testing on 90 units,

abatement in 88 units, 22 community outreach/education events and training 50 EPA RRP certified workers. The grant will be for three years and will expire in 2019.

V. COUNCIL GOAL ADDRESSED: Assess the housing problem; look regionally; develop agreement on specific market goals and which kinds of housing need the most focus

VI. FINANCIAL IMPACT: Ten percent of the grant can be used for administrative expenses which include 1 new full time staff person to assist in the administration of the grant; salary and fringe benefits for this position will be paid for under the grant. In addition, twenty percent of the salary and fringe benefits of a public health nurse will be paid for under the grant.

VI. STAFF ANALYSIS: Maine CDC reports the highest incidence of children with elevated blood lead levels in Cumberland County are in the City of Portland and the City of Westbrook. This geographic area has the highest concentration of rental units built before 1960 and the highest concentrations of low/moderate income families with children under the age of 6 living in housing built before 1960. These grant funds will be used in conjunction with funds available through the City of Portland and the Cumberland County HOME Consortium's Housing Rehabilitation Program.

VII. RECOMMENDATION: The Housing and Community Development Division staff recommend that the City Council approve appropriating \$1,814,867 in U.S. Dept. of HUD Lead Hazard Control and Healthy Homes Supplemental Funding.

VIII. LIST ATTACHMENTS: None

Prepared by: Mary Davis

Date: October 24, 2016



To: Councilor Mavodones and Members of the Finance Committee
From: Brendan T O'Connell – Finance Director, Anita LaChance – Deputy City Manager
Re: Appropriation of Midtown Sales Proceeds – Public Administration Systems Software
Date: 10/27/16

In June 2016 the Federated Companies, LLC purchased parcels of property from the City in the Bayside neighborhood for \$2,300,225. After payment of the real estate broker commission, the City received net revenue of \$2,135,585. Because this is an unbudgeted one-time revenue the funds need to be appropriated by City Council. This outlines the staff request for appropriation of \$1,000,000 of these funds towards relocation of Public Works to Canco Road and \$1,000,000 of these funds to fund City of Portland RFP #5114 *Proposal for Public Administration Systems Software*.

Request for Appropriation – Canco Road

The relocation of Public Works from West Bayside was first proposed well over a decade ago. The earliest cost benefit analysis done in 2003, contemplated the use of land sale proceeds to accomplish the relocation. Since that time, the City has explored a variety of possible locations including outer Congress St, Riverside St and Presumpscot St., all of which were determined to be inadequate for one reason or another. In 2010, the City Council voted to set aside \$826,500 in sale proceeds for the relocation of Public Works (then Public Services, see attached memorandum and council order).

In 2013, City staff identified a property at 212 Canco Rd, which would allow us to finally begin the relocation Public Works. As part of the FY14 CIP, the City Council authorized bonds in the amount of \$3,050,000 for the purchase of 212 Canco Rd. The bond order stipulated that, should the Bayside property be sold prior to the sale of the bonds, the bond amount would be offset by the net sale proceeds (page 1 of Bond Order, with stipulation highlighted, attached). With the delay of the sale of the Bayside property, there were not offsetting funds and the entire \$3,050,000 was bonded.

In the spring of 2015, the property at 250 Canco Rd., which is contiguous to 212, was put up for sale. Staff brought forward a recommendation to purchase the property through both the Finance Committee and Housing and Community Development Committee, initially in executive sessions and later in public sessions, where both committees voted unanimously to recommend approval. On July 20, 2015, the City Council authorized the purchase of 250 Canco Rd, utilizing a \$3.4 million General Obligation Bond and \$930,000 in sales proceeds. The back-up material noted that this was Phase 1 of the project and that Phase 2 of the project to relocate Fleet Services would require a new addition and was estimated to cost in excess of \$8 million. Also included in the back-up material was a master plan developed by Sebago Technics. The Council agenda memo and master plan are attached.

Request for Appropriation – RFP #5114 Proposal for Public Administration Systems Software

On Wednesday, March 2, 2016 the City of Portland released RFP #5116, *Request for Proposals – Public Administration Systems Software*. The purpose of the RFP was to identify options for a comprehensive public administration software system. The City has been operating with a system which was originally purchased in 1996, Sungard NaviLine. The existing system is extremely

outdated, causes significant inefficiencies in daily operations, and contributes to an often frustrating experience for City employees, residents and taxpayers. Additionally, our existing software provider chose not to bid on RFP #5114 with any potential options for an updated public administrative software solution. The company was recently acquired by Fidelity Investments and it is believed that future investment in their software will be minimal. Technical support for our existing system may cease to exist in the coming years and it is imperative that the City get ahead of the curve in regards to a finding a replacement.

History and Current Status of Public Admin Software in Portland

Over the years several attempts have been made to upgrade the City public administration software, but those efforts failed due to inadequate funding and lack of support, leaving the City further and further behind during a time where technological advances have been coming faster than ever before. Rather than take no action, City staff has been forced to take alternative steps to address our underfunded technology needs. Those actions have included:

1. IT Department “home grown” software solutions - A number of internally programmed Microsoft Access databases are used to perform many of the City’s most important functions (examples include Parking Enforcement, General Assistance, Housing Safety Inspections, the Capital Improvement Plan, Cash Receipts, Budget Adjustment Requests among others).
Pros: Low cost **Cons:** Limited number of internal IT staff with programming ability for customization and internal customer service, and our technology is incredibly basic when compared to industry leading public admin software.
2. Piecemeal software purchases – Individual Departments have often needed software solutions so badly that they requested and/or used operating budget funds to make an individual software purchase (recent examples include HR – CivicHR, Rec & Facilities – Community Pass).
Pros: Immediate band aid for a specific need **Cons:** Lack of integration City wide, higher cost per module than if purchased as part of an overall public administration software system.

Continuing on the current path of IT Department “home grown” solutions and piecemeal software purchases is unsustainable. The number of inefficiencies which exist in daily operations has continued to increase and have an impact on nearly every department. Staff turnover has left the City with fewer and fewer experts who are trained on our existing system, and replacements are nearly impossible to find (the nearest community which still uses a similar system is in Rhode Island).

City Council Support for Technology, Software, and Innovation

In January 2016 the City Council met to develop a clear understanding of key priorities and goals for the Council and its Committees. The implementation of a new public administration software system, would directly address several of these goals:

1. Create a more efficient permitting process with specifics; computer tracking (NOTE: This was the #1 goal of the Economic Development Committee and the Housing Committee also had “Improvement in planning and inspections” listed as one of their goals)

Work has already begun in this area, streamlining our internal processes and forming a standalone Inspections Department. However, adopting state of the art, industry leading permitting and inspections software will be the leading driver of a more efficient permitting process. An updated software solution will include software which can manage automation of planning & project review, permitting, enforcement, inspections, housing safety, business and

other licensing. A new software solution would also be compatible with mobile device usage, with inspections in the field having a fully functional platform of applications for mobile use.

2. Figure out how to make city services run more effectively and efficiently (Finance Committee)

City staff from every department was invited to view a demo from Tyler Technologies, one of the bidders on RFP #5114. A small subset of the positive feedback received is included below:

- Finance
 - **Budget:** Fully customizable, allows comparison of up to 5 budget levels, permits easy downloading of reports into Excel, is much simpler & less rigid than current system.
 - **Financial statements:** generation partially automated (full manual process now)
 - **Grant and fixed asset reporting** modules much more robust than current software
 - **Accounts receivable** module works properly (our current module is broken, errors require manual correction to each period).
 - **Payroll:** Eliminates significant manual work required (calculating garnishments, tracking leave accruals, editing payroll manually, automation of employee self service). Vastly superior reporting capabilities and ability to assist with union costing. Would easily facilitate online pay stubs and our move to mandatory direct deposit / pay cards.
- Human Resources
 - **Performance management** tools, along with tools for tracking corrective actions through the progressive disciplinary process from start to finish (all a manual process now)
 - Permits tracking of union and non-union employee grievances, etc. OSHA/WC capabilities and the enhanced ability to track all training (both required and voluntary).
 - **Benefits:** Allows us to customize and design our annual total compensation statements, easily meet Affordable Care Act 1094C & 1095C tracking and reporting requirements, track benefit payment arrears and set up repayment plans upon return from leave of absence, create onboarding and enrollment forms that could relay information to group benefit administrators, for example, submitting information directly to the dental carrier, Northeast Delta Dental all would bring much more efficiency and modernization to the work we do each day.
 - **Employee self service** feature is also a plus where employees could submit changes in tax withholding, etc. but also perform a "what if" calculation to see the impact is helpful as well.
- For Citizens, Residents, Businesses
 - Shopping cart format so all bills can be paid at one time, in the same transaction
 - "The Citizen Self Serve for the tax billing module allows a citizen to view and reprint any bill generated by the system. It would integrate with our current IAS Assessing system, which is a Tyler product, eliminating the multiple steps of re-entering data from one system to the other. Our current system is a very complex process for generating tax bills and this would streamline that process as well
 - Stormwater Billing – Would eliminate a significant portion of the manual calculations required and would help streamline the billing process overall, saving staff time.

3. Research Best Practices (Economic Development)

City Council has encouraged staff to research and implement best practices. Tyler Technologies public administration software is a municipal government best practice not only here in Maine but nationwide. When recruiting for new City staff, it is incredibly difficult to find anyone with experience using our existing system. If Tyler Technologies software was used by the City, we would be able to find experienced talent from nearly 60 other municipalities in Maine (see Appendix A) and over 500 within New England.

In summary, the adoption of new public administration software is a significant investment which is long overdue. The one-time cost of the software alone is approximately \$500,000, despite a 60% discount. When implementation and data conversion costs are added in, the one-time cost totals \$2,038,000. While these costs are usually paid up front, Tyler has agreed to phase this cost over three years. They have also discounted annual maintenance by 20%, resulting in a manageable impact on the operating budget. Spreadsheets are attached which detail both the one-time and annual costs of this initiative, as well as a copy of the draft contract.

Canco Road Attachments

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Joseph E. Gray, Jr., City Manager

FROM: Ellen Sanborn, Finance Director

DATE: July 1, 2010

RE: Reserving Property Sale Proceeds for DPS Relocation

You will recall that during budget reviews, the Finance Committee proposed allocating a portion of two pending property sales proceeds as revenue in the FY2011 budget to reduce taxes, which was approved by the Council in passing the budget. During that discussion, the Committee expressed interest in reserving the balance of proceeds for the relocation of Public Services out of the Bayside area.

The two pending sales are the Adams School property and a portion of the Riverside Street property, with proceeds estimated at \$1,140,000, which are expected to close within the next couple of months. Of that amount, \$313,500 was applied to the FY2011 budget, leaving \$826,500 as the possible reserve amount.

This would be handled in the same manner as when the City sold the Martin's Point property and reserved the proceeds for relocation of the School Business Offices and future elementary school construction. The funds reside in the City's General Fund Balance as a commitment for that purpose, and the Council appropriates amounts as needed.

This order would establish the reserve, which is now titled "*committed funds*" under the new accounting rules. The Finance Committee, at their June 24 meeting, unanimously voted to recommend establishing the reserve and also allocate to it the remaining proceeds from the two sales mentioned above. The exact amount will not be final until the closings are complete. Other funds can also be allocated to the reserve in the future, and expenditures using these committed funds would need to be appropriated by the City Council for the intended purpose.

Attached also is a copy of the Finance Committee minutes from the June 24 meeting.

NICHOLAS M. MAVODONES (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
JILL C. DUSON (A/L)

**ORDER APPROPRIATING THE PROCEEDS
OF DESIGNATED PROPERTY SALES FOR THE RELOCATION OF THE
DEPARTMENT OF PUBLIC SERVICES FACILITY ~~IN BAYSIDE~~**

ORDERED, that the net sales proceeds, after satisfying amounts included as revenue in the FY2011 budget, of the city-owned property on Munjoy Hill, a/k/a the Adams School property, and on Riverside Street are hereby ~~appropriated to a Cumulative Reserve Fund~~ Committed within the General Fund Balance to pay for the relocation expenses of some of the Department of Public Services facilities currently in Bayside; and.

~~**BE IT FURTHER ORDERED**, that said reserve fund shall be a permanent fund only to be used for the purposes set forth herein and its unexpended balance shall not revert to the general fund at the end of any fiscal year.~~

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
IN AN AMOUNT NOT TO EXCEED \$3,050,000**

FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, IT IS HEREBY

ORDERED THAT:

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Three Million Fifty Thousand Dollars (\$3,050,000) to finance the acquisition of land, buildings and other property in order to consolidate a number of City public operations, including the relocation of some of the Public Services Department operations and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$3,050,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the principal amount of Bonds or BANs authorized hereunder shall be reduced by the amount of net sale proceeds paid to the City due to the sale of Bayside property, which property is currently anticipated to be sold to the Federated Companies.

4. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

5. That any Bond or BAN issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

6. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

7. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

8. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

9. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

10. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

11. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

12. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

13. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

14. That if the Bonds or BANs, or any part of them, are issued on a tax exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

15. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

16. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

17. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost

of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not

inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

NOTE: This item is recommended to be postponed until the September 4th meeting.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: June 22, 2015

SUBJECT: Department of Public Services Bayside Relocation Plan/Purchase and Development of 250 Canco Road:

- Order Authorizing Purchase and Sale Agreement for City to Purchase 250 Canco Road;
- Order Authorizing the Issuance of General Obligations Bonds not to exceed \$3.4 Million for the purchase of 250 Canco Road
- Order Authorizing the Appropriation of General Obligations Bonds for the purchase and development of 250 Canco Road
- Order Authorizing the Appropriation of \$930,000 in Land Sale Revenue for the purchase and development of 250 Canco Road

SPONSORS: Finance Committee/Councilor Mavodones, Chair
Housing and Community Development Committee/Councilor Donoghue, Chair

Council Meeting at which action is requested:

1st Reading: July 6, 2015

2nd Reading/Final Action: July 20, 2015

Can action be taken at a later date? No. If no, why not? The property at 250 Canco Road is currently on the market and City action is needed to allow for this transaction to move forward.

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services (DPS) Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery. This memorandum outlines an approach to address this City policy.

City owned DPS Bayside occupied properties by use include the following:

Property Address/Acreage	City Use	Status
44 Hanover St.	Fleet Services	Active DPS Use
82 Hanover St.	Lower Garage	Active DPS Use
56 Parris St.	Employee Parking	Active DPS Use
55 Portland St.	Administration	Active DPS Use
71 Hanover St.	Satellite Sand/Salt Operation	Site Sold
65 Hanover St./52 Alder St.	Trades/Traffic	Marketed for Sale

City staff recommendation is to proceed with a two phased approach to relocate remaining DPS use out of Bayside, with the exception of the DPS administration and other support activities located at 55 Portland Street, as follows:

PHASE 1 (estimated cost is \$4.33 million including property acquisition)

See attached Phased Development Plan and Budget which includes:

- Purchase 250 Canco Road property at \$2.7 Million – see attached proposed Purchase and Sale Agreement.
- Acquire portion of JB Brown property shown on the attached plan under a proposed land swap.
- Relocate all DPS operations housed in 82 Hanover Street to 250 Canco Road which frees this property up for sale.
- Relocate the DPS satellite sand/salt shed operation located at 71 Hanover Street to the JB Brown property.
- Shared entrance drive, through 250 Canco Road, to JB Brown property.

PHASE 2 (estimated cost is \$8+ Million)

- Requires a community referendum.
- No required property acquisition needed.
- Relocate Fleet Services operations located at 44 Hanover Street to a new addition to 250 Canco Road which frees 44 Hanover Street for sale.

Here is why the phased approach makes sense.

- Acquiring 250 Canco Road and a portion of JB Brown's property is a *strategic investment* in creating a 13+ acre City DPS/City Department campus which is centrally located for service delivery to on Peninsula demands. The timing of acquiring 250 Canco Road needs to be made now because of the site is on the market for sale.
- Relocating DPS operations located in 82 Hanover Street frees up one more DPS Bayside property for sale in addition to the City Council approved sale of 71 Hanover (to Bayside Bowl) and the City's announced interest to sell 65 Hanover/52 Alder Street. Selling 82 Hanover Street creates a significant real estate critical mass (combined with the sale of 71

Hanover Street and 65 Hanover/52 Alder Street properties) to attract new private sector investment to this area of Bayside in need of “catalyst” use type projects like the Bayside Bowl/new Squash Center investment.

II. REASON FOR SUBMISSION

City Council authorization is required to proceed with real estate acquisition and financing options.

III. INTENDED RESULT

The intended result will enable the City to relocate a portion of DPS to a centralized location near the peninsula where a majority of the demand for City governmental services is needed.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside Vision 2000 Plan* to relocate Public Services Bayside operations out of Bayside to support mixed use development.

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

An overview of the financial impacts in the form of sources and uses of funds to support Phase 1 are provided below.

Uses		
250 Canco Road	Acquisition Cost	\$2.7 Million
JB Brown Property	Acquisition Cost	\$0 due to land swap under negotiations.
Redevelopment Cost for 250 Canco Road and Quarry Road Properties		\$1.63 Million
Total Uses:		\$4.33 Million

Sources		
Existing Real Estate Sales	\$930,000	
New City Debt	\$3.4 Million	
Total Sources:		\$4.33 Million

At this time, City staff is not seeking any action from the HCD, Finance Committee, and City Council on a community referendum. Decisions to proceed with Phase Two, requiring a community referendum, will be made in the future.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities

combined with other departments to a single centralized location to provide City services on or near the Peninsula where a majority of demand for City governmental services are needed. See Attachment C from Sebago Technics for an overview of the proposed redevelopment of the Canco/Quarry Road properties for City use.

250 Canco Road

An overview of 250 Canco Road transaction with comments includes:

Property Location: The property is located in a “central service delivery location” in an industrially zoned property with adjacent industrial users.

Property Size: 5.0966 acres

Building Square Footage/Acres: 63,780 sq. ft. building, on 5.1 acres

Municipal Assessed Value: \$3,009,990

Purchase Price: \$2,700,000

Market Appraisal: \$2,870,000

J.B. Brown Quarry Road Property Land Swap

An overview of Quarry Road transaction with comments includes:

Property to Acquire

Property Location: The property is located in a “central service delivery location” in an industrially zoned property with adjacent industrial users. See Attachment B - map highlighting two J.B. Brown properties to be acquired by the City.

Property Size: 4 +/- Acres

Purchase Price: Under negotiation. Expected City and JB Brown property trade with collaborating on providing JB Brown property truck access through 250 Canco Road property with the goal of no funds changing hands.

City Property to Swap

Property Location: 0 Cornell Street, 151A-A-13 (City Tax-Acquired)

Property Size: 3.1 Acres

It is noted that the City Council approved a lease/purchase option for 212 Canco Road (Nelson Small building), which can be exercised as of March 1, 2017. City operations located at 65 Hanover/52 Alder Street are planned to be relocated to 212 Canco Road. The Fire Department is an existing tenant at 212 Canco Road.

VII. RECOMMENDATION

Staff presented this to both the HCDC and FC for their recommendations to the City Council. The following represents the Committee recommendations:

Housing and Community Development

At its meeting on June 10, the HCDC voted unanimously (4-0) to recommend to the City Council that it authorize staff to execute the Purchase and Sale Agreement for the City's purchase of 250 Canco Road, as substantially in the form as attached.

Finance Committee

At its meeting on June 11, 2015, the Finance Committee voted unanimously (4-0) to recommend to the City Council that it authorize the financial appropriation of existing real estate sale proceeds at \$930,000 and new debt authorization in the amount \$3.4 Million for a total of \$4.33 Million for the purchase and development of 250 Canco Road.

VIII. LIST ATTACHMENTS

- A.** Map of DPS Bayside Property
- B.** Map of Canco/Quarry Road Property
- C.** Canco/Quarry Road Phased Development Plan
- D.** Purchase and Sale Agreement for 250 Canco Road



July 1, 2015
15056

Michael J. Bobinsky, Director
Department of Public Services
City of Portland
55 Portland Street
Portland, ME 04101

**Memorandum of Master Planning – Relocation of Public Services to Canco Road,
Portland, Maine**

Dear Michael:

Sebago Technics, Inc. has been retained by the City of Portland to assist in the master planning for the potential relocation of various Public Services operations to Canco and Quarry Road properties. The purpose of this memorandum is to provide a general summary of the space planning completed to date, together with findings for consideration.

Introduction:

Over the past several years, the City of Portland has continued to actively evaluate alternatives for the phased relocation of Public Services from the Hanover Street in the Bayside area of Portland. The relocation effort is part of an overall vision to vacate several city properties in the Bayside area for redevelopment. In addition to relocating public services, other essential city services would also be relocated to Canco Road as outlined this report. Locating the majority of city Public Services into one combined campus provides a unique and important opportunity for consolidation of an operation that has space limitations and is somewhat fragmented by having various operations in multiple locations through-out the City.

The selection of a new site is a difficult task in itself since a Public Services operation is industrial in nature and therefore must be located in a compatible area where zoning and neighboring uses are consistent with the proposed use (generally industrial or commercial in nature). In addition, the selected location must provide sufficient land area to accommodate a large fleet of vehicles, equipment, and sand/salt distribution, refueling, materials and laydown storage. The location must also provide for adequate circulation areas to move large equipment including temporary parking/storage of large equipment.

The City has been presented with a suitable relocation site that meets the programming requirements and is centrally located and easily accessible. The proposed location off Canco Road is located in the IM Zone and partially a contract zone (C50). The identified parcels are

commonly known as the Nelson & Small property (212 Canco Road), Seltzer and Rydholm property (250 Canco Road) and open land owned by J.B. Brown are the focus of this master planning effort.

Operations to be relocated to Canco Road: The following provides an overview of immediate and long-term City Public Service operations that may be relocated to the Canco Road property over a period of time in a phased approach.

1. Seltzer & Rydholm & JB Brown Parcels.

- Fleet Maintenance
- Construction Company
- Dispatch
- Districting
- Forestry & Horticulture
- Sand/Salt Storage
- Fuel Dispensing
- Vehicle and Equipment Wash Facility
- Parking for employees
- Outside storage for equipment and materials storage

2. Nelson & Small Parcel

- Facilities/Recreation Administration
- Building & Trades Personnel
- Fire Department Electrical & Communications
- Traffic
- Parks Operations

Location & Space Requirements:

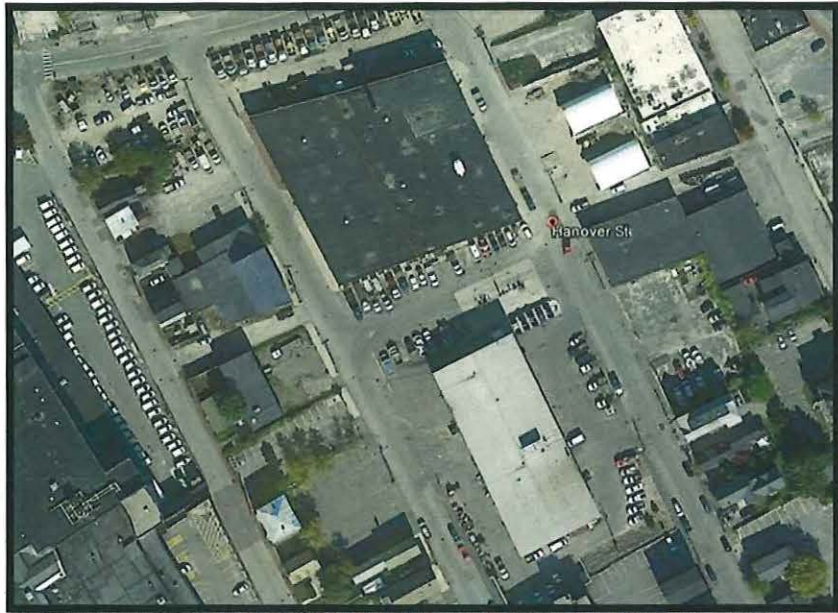
The Portland DPS is essentially a large industrial operation that operates on a 24/7 basis providing city wide services. As a result, the selection of a location for DPS requires careful consideration of many factors including appropriateness of the general area (industrial zoning), access to major streets, available property and building space. The location must also provide easy and convenient access to the downtown and outlying areas. When considering these attributes both individually and collectively, the options within the City of Portland are limited for locating a large DPS facility.

The following provides a general overview of the existing space currently utilized by the DPS and the proposed location located off Canco Road.

Existing Bayside Public Services Site: Presently, the City of Portland Department of Public Services (DPS) generally operates within a 4 acre area located between Hanover Street and Parris Street as shown on the adjacent photo.

The location is an inner City Urban area that has numerous logistical challenges. The site is constrained with limited out of door parking areas for equipment and staging.

During winter operations, the DPS utilizes both Hanover and Parris street for vehicular cueing and as an operational area. It is not uncommon for both streets to have large vehicles maneuvering around parked cars on these narrow urban streets. The site has become further constrained due to the elimination of the sand and salt storage areas to accommodate recent commercial development. Due to the limited space, the City requires some activities to be remotely located such as storage of equipment and vehicles at the Portland Ocean Terminal and at the City-owned Outer Congress Street property.



Existing Public Services - Hanover Street

Canco Road Properties:

The Canco Road properties provides the City of Portland with an opportunity to acquire existing property and buildings to relocate its Department of Public Services operations. In the future, the relocation will require the construction of a new fleet maintenance building due to special operational characteristics of a fleet maintenance building.

This area of Portland is one of the few locations that is compatible and well suited to DPS operations. The Canco Road properties are within an



Canco Road Properties

industrial setting and location well suited to a DPS operations. Both the Nelson and Small and Pepsi properties are located in the I-M Industrial Zone with the abutting JB Brown property located a Contract Zone (designated at C50). The general area has served as an industrial and commercial area of Portland for many decades and includes land area that is suitable for a DPS operation. Accommodating the full DPS operation must include the acquisition of all three land and building areas to combine into an overall tract of land suitable for the proposed operations. A concept master development plan is appended to this letter.

Comparative Area Summary:

The following chart provides a general comparative summary of the land and building holding that the City currently utilizes for DPS at the Hanover Street Facility, Portland Ocean Terminal and Outer Congress Street Site.

<i>Summary of Existing Public Services Space Utilization</i>			
<i>Location</i>	<i>Area of Property Acres</i>	<i>Existing Bldg. S.F.</i>	<i>Open Lot Area S.f.</i>
<i>65 Hanover Street</i>	<i>0.465</i>	<i>7,217</i>	<i>13,600</i>
<i>52 Alder Street</i>	<i>0.218</i>	<i>5,792</i>	<i>3,700</i>
<i>44 Hanover Street Fleet Maintenance Engineering & Administration</i>	<i>1.928</i>	<i>18,000 18,447</i>	<i>46,656</i>
<i>71 Hanover Street (Recently Sold)</i>	<i>0.347</i>		<i>15,102</i>
<i>82 Hanover Street 36,227 (garage) & 4,541 (storage)</i>	<i>0.843</i>	<i>40,768</i>	<i>0</i>
<i>Portland Ocean Terminal (Maine State Pier)</i>	<i>0.106</i>	<i>4,600</i>	<i>0</i>
<i>56 Parris Street - bought 2010</i>	<i>0.234</i>		<i>10,213</i>
<i>Totals</i>	<i>4.141</i>	<i>94,824</i>	<i>89,271</i>

Summary of Canco Road Property			
Location	Area of Property Acres	Existing Bldg. S.F.	Open Lot Area S.f.
Seltzer & Rydholm Building Future Fleet Maintenance	5.100	63,780 13,000	158,376
Nelson & Small Building	4.170	76,500	105,145
JB Brown	3.980		41,360
Totals	13.250	153,280	304,881

The Portland Department of Public Services currently operates predominately out of the Hanover Street facilities. The available land area in the Hanover Street area is approximately 4 acres and has presented numerous operational challenges due to the space restraints. Equipment and parking is limited as well as operational areas needed for fueling, staging, loading/unloading and general circulation. Both Hanover Street and Parris Street are frequently utilized for operations to include employee parking, vehicle stacking, loading of sand and salt and queuing for fueling and moving large vehicles. It should be noted the sand and salt storage lot was recently sold and is no longer available for use.

By nature, a Public Services Department requires significant land area for buildings, circulation, parking equipment & vehicles, storing seasonal equipment, stockpiling materials and for winter operations. For reference purposes Sebago Technics, Inc. is currently working with the cities of Westbrook and South Portland for new Public Services facilities. These communities, which are smaller than Portland have gone through a facility programming process that has identified land areas in excess of 15 acres that are required for facility operations. The total cost of Westbrook and South Portland new Public Works facilities are \$9 Million and \$15.2 Million dollars respectively, not including real estate costs.

When considering the combined land area of the various parcels, the City of Portland's current operations occur on approximately 10 to 12 acres of land area including the snow dump at Outer Congress Street. We would note that outer Congress Street Parcel is approximately 53 acres of which a large portion is not practical for development due to natural resources and potential air navigation considerations since it is in the approach and departure path of the Jetport. This 53-acre City owned property currently houses: sand/salt operation; sanitation; snow dump.

It is noted that not all of the Departments operations can be accommodated at the Canco Road Property. Through the land planning and facility programing process, we determined that the

Water Resource Division of the Department currently located at 55 Portland Street and 82 Hanover Street would be best suited at the outer Congress Street site. To that end, plans are for the Water Resources operations and asset management staffing to be housed at remodeled storage space at outer Congress Street and is funded in the FY16 CIP Sewer Budget.

Canco/Quarry Road Property Master Plan

Accompanying this report is a conceptual level Masterplan layout accommodating DPS needs utilizing the previously discussed Canco and Quarry Road properties. The masterplan demonstrates the need for combining parcels to form a tract of land suitable for DPS.

The relocation process as with any project of substantive size will require development planning and permitting.

Summary:

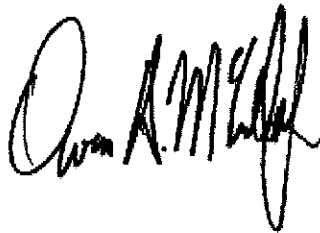
This report has been prepared for the City of Portland to better understand the adaptive space re-use of the three parcels located off Canco Road. The combination of three tracks of land together with buildings is expected to meet the current and foreseeable needs for Portland Public Services.

Should the City decide to move forward with the land and building acquisition, improvements for each of the properties will be needed for adapting the existing sites to the specific needs of a public service operation. This adaptation is expected to occur in a phased manner with the eventual construction of a new building for fleet services and associated site improvements.

Upon review of this report, please feel free to contract us if there are any questions or if we can be of further assistance. Best wishes as you consider this important project.

Sincerely,

SEBAGO TECHNICS, INC.



Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development
OAM: oam

Cc: Greg Mitchell
Kathy Alves

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St





Public Administration Software Attachments

Tyler Technologies Proposal-Public Administration Software

ANNUAL COSTS	Year One*	Year Two	Year Three	Year Four	Year Five
Subscription Fees-Applications hosted by Tyler					
Tyler Notify Annual Subscription		24,200	24,200	24,200	24,200
Maintenance Fees					
Munis Application Maintenance (pre-discount)	250,160	262,668	275,801	289,591	304,071
Maintenance 20% Discount	(250,160)	(52,534)	(55,160)	(57,918)	(60,814)
Tyler Systems Management Services	30,000	30,000	30,000	30,000	30,000
Tyler Disaster Recovery Services	-	30,000	30,000	30,000	30,000
Total Maintenance Costs	30,000	270,134	280,641	291,673	303,257
Total Annual Costs **	30,000	294,334	304,841	315,873	327,457

* Maintenance charges waived for Year 1

** The FY17 IT budget contains \$263,000 for public administration software

Updated 10/21/16

Tyler Technologies Proposal-Public Administration Software

	Total Costs	Year One	Year Two	Year Three
ONE TIME COSTS				
Tyler Software	1,219,715			
Tyler 60% Discount	(731,829)			
Total Software	487,886			
Services and other one time costs	1,526,375			
3rd Party Hardware, Software and Services	24,200			
Total	2,038,461	1,258,462	390,000	390,000
Funding Sources				
Sale of Land Proceeds	1,000,000	1,000,000	-	-
Operating Budget	46,462	46,462	-	-
Enterprise Funds	300,000	212,000	44,000	44,000
CIP	692,000	-	346,000	346,000
Total	2,038,462	1,258,462	390,000	390,000

Updated 10/21/16

Appendix A – List of Tyler Technologies **/ Munis ERP Clients in Maine**

- Aroostook County Commissioners
- City of Auburn
- City of Augusta
- City of Biddeford
- City of Brewer
- City of Ellsworth
- City of Lewiston
- City of Lewiston
- City of Portland
(currently the Assessors Department only)
- City of Rockland
- City of Saco
- City of South Portland
- City of Waterville
- City of Westbrook
- County of Oxford
- Cumberland County
- Efficiency Maine Trust
- Greater Augusta Utility District
- K K W W D
- Kennebec Water District
- Knox County Commission
- Penobscot Indian Nation
- Sanford Sewerage District
- Sanford Water District
- Somerset County Commissioners
- Town of Bar Harbor
- Town of Brunswick
- Town of Cumberland
- Town of East Millinocket
- Town of Falmouth
- Town of Freeport
- Town of Kennebunk
- Town of Kittery
- Town of Lisbon
- Town of Mount Desert
- Town of Ogunquit
- Town of Old Orchard
- Town of Sanford
- Town of Scarborough
- Town of Standish
- Town of Wells
- Town of Winslow
- Town of Yarmouth and Yarmouth School Department
- York County
- York Water District