City of Portland, Maine
Finance Committee Meeting
Thursday, October 27, 2016
5:00 p.m., Room 209

1. Finance Committee Meeting Agenda For October 27, 2016

   Documents:

   FC AGENDA 10-27-16.PDF

2. Item 2 - Memo - Appropriation Of Midtown Sales Proceeds

   Documents:

   ITEM 2 - MEMO - APPROPRIATION OF MIDTOWN SALES PROCEEDS.PDF

3. Item 2 - Draft Contract - Tyler Technologies FC

   Documents:

   ITEM 2 - DRAFT CONTRACT - TYLER TECHNOLOGIES FC.PDF

4. Item 3 - Finance Committee Auditors Memo

   Documents:

   ITEM 3 - FINANCE COMMITTEE AUDITORS MEMO.PDF

City of Portland, Maine
Finance Committee Meeting
Thursday, October 27, 2016
5:00 p.m., Room 209

AGENDA

1. **Introductions**

2. **Appropriation of Bayside Property Sale Proceeds (Action / Recommendation to City Council)**

3. **External Audit Firm Contract Status**

4. **Other Business**

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. <u>IT Department "home grown" software solutions</u> - 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. <u>Piecemeal software purchases</u> – 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, streaming 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.

CITY OF PORTLAND

IN THE CITY COUNCIL

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, note 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.

Portland, Maine — Yes. Life's good here.

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 HCDC, 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

SEBAGO TECHNICS

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.

Existing Public Services - Hanover Street

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.

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.


Canco Road Properties

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

75 John Roberts Road - Suite 1A, South Portland, ME 04106-6963 • 207-200-2100 • Fax: 207-

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.

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

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.

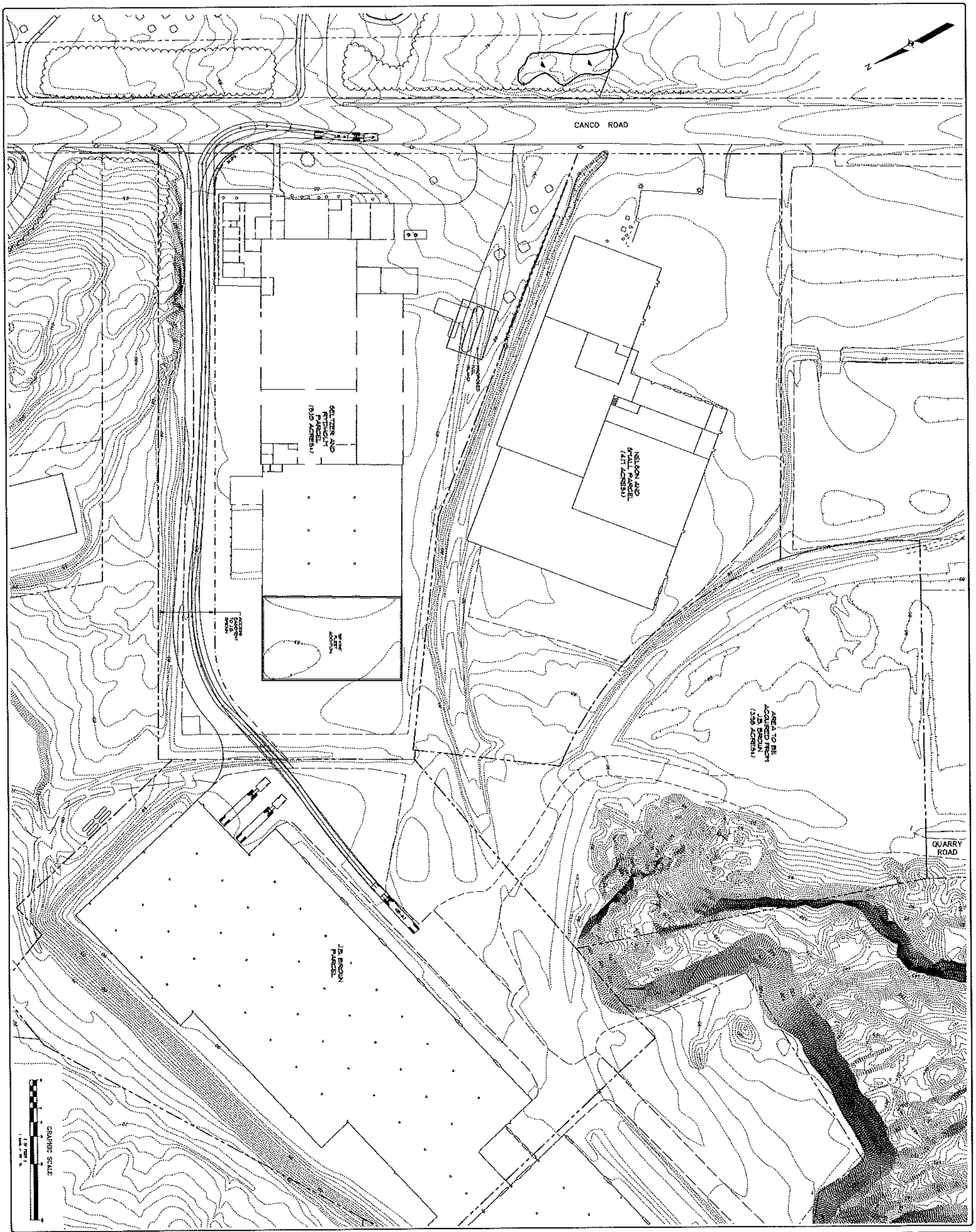
Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development
OAM: oam

Cc: Greg Mitchell
Kathy Alves

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St

ATTACHMENT B



SHEET 1 OF 1

PROJECT NO. 15056 | SCALE 1"=30'

CONCEPTUAL SPACE PLAN (SELTZER AND RYDHOLM)
OF:
PORTLAND PUBLIC SERVICE
CANCO ROAD
PORTLAND, MAINE
FOR:
CITY OF PORTLAND
389 CONGRESS STREET
PORTLAND, ME 04101

SEBAGO TECHNICS
www.SEBAGOTECHNICS.COM
75 John Roberts Rd, Suite 1A, South Portland, ME 04106, Tel. 207-200-2100
250 Goddard Rd, Suite B, Lewiston, ME 04243, Tel. 207-783-5656

REV.	BY	DATE	STATUS
A	DAM	05-19-15	ISSUED FOR CONCEPT PLAN REVIEW

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC.

DESIGNED DAM | CHECKED DAM

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

LICENSE AND SERVICES AGREEMENT

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

WHEREAS, Client is 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.

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.

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.

2.1 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.

2.2 Notwithstanding anything to the contrary in the Proposal, you have no obligation to indemnify us for any claims, losses, liabilities, damages, costs, or expenses of any kind or nature.

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.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 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. We will provide you a certificate of insurance evidencing such 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 furnish you upon our execution of this Agreement, and thereafter maintain, certificates evidencing all such coverages. 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 - H attached hereto. Exhibits A - H 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; (b) the Proposal; (c) the RFP, and provided that this Agreement and its Exhibits A-H shall be construed to be supplemental to one another to the extent possible:

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

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.

TO BE INSERTED

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.

   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 to the following caps on service fees, where a year begins on the Effective Date and each anniversary thereof: Year 1 = $183,143; Year 2 = $671,029; Year 3 = $671,029. 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 professionals 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.

   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.

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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DocOrigin

SOFTWARE LICENSE

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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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In certain jurisdictions some or all of the provisions in this Section may not be effective or the applicable law may mandate a more extensive warranty in which case the applicable law will prevail over this Agreement.

6. **LIMITATIONS OF LIABILITY.**

6.1 TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OF SOFTWARE LTD. BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, LEGAL EXPENSES, LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF REVENUE, LOST OR DAMAGED DATA, LOSS OF COMPUTER TIME, COST OF SUBSTITUTE GOODS OR SERVICES, OR FAILURE TO REALIZE EXPECTED SAVINGS OR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF OF SOFTWARE LTD. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES, OR SUCH LOSSES OR DAMAGES ARE FORESEEABLE.

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6.3 THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT. YOU ACKNOWLEDGE THAT BUT FOR THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY, NEITHER OF SOFTWARE LTD. NOR ANY OF ITS LICENSORS OR SUPPLIERS WOULD GRANT THE RIGHTS GRANTED IN THIS AGREEMENT.

7. TERM AND TERMINATION

7.1 The term of this Agreement will begin on download of the Software and, in respect of an Evaluation License, shall continue for the Evaluation Period, and in respect of all other license types defined in Section 1, shall continue for as long as You use the Software, unless earlier terminated sooner under this section 7.

7.2 OF Software Ltd. may terminate this Agreement in the event of any breach by You if such breach has not been cured within five (5) days of notice to You. No termination of this Agreement will entitle You to a refund of any amounts paid by You to OF Software Ltd. or its applicable distributor or reseller or affect any obligations You may have to pay any outstanding amounts owing to OF Software Ltd. or its distributor.

7.3 Your rights to use the Software will immediately terminate upon termination or expiration of this Agreement. Within five (5) days of termination or expiration of this Agreement, You shall purge all Software and all copies thereof from all computer systems and storage devices on which it was stored, and certify such to OF Software Ltd.

8. GENERAL PROVISIONS

8.1 **No Waiver.** No delay or failure in exercising any right under this Agreement, or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach, whether of the same or any other provision.

8.2 **Severability**. If any provision of this Agreement is, or becomes, unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.

8.3 **Assignment**. You may not transfer or assign this Agreement (whether voluntarily, by operation of law, or otherwise) without OF Software Ltd.'s prior written consent. OF Software Ltd. may assign this Agreement at any time without notice. This Agreement is binding upon and will inure to the benefit of both parties, and their respective successors and permitted assigns.

8.4 **Governing Law and Venue**. This Agreement shall be governed by the laws of the Province of Ontario. No choice of laws rules of any jurisdiction shall apply to this Agreement. You consent and agree that the courts of the Province of Ontario shall have jurisdiction over any legal action or proceeding brought by You arising out of or relating to this Agreement, and You consent to the jurisdiction of such courts for any such action or proceeding.

8.5 **Entire Agreement**. This Agreement is the entire understanding and agreement between You and OF Software Ltd. with respect to the subject matter hereof, and it supersedes all prior negotiations, commitments and understandings, verbal or written, and purchase order issued by You. This Agreement may be amended or otherwise modified by OF Software Ltd. from time to time and the most recent version of the Agreement will be available on the OF Software website www.docorigin.com.

Last Updated: [July 18 2013]

Exhibit D
Schedule 2
BMI End User Documentation

TO BE INSERTED

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. <u>Term</u>. 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. <u>Scope</u>. 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. <u>DR Services During A Disaster</u>.

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. <u>Data Transfer</u>. 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. <u>City Responsibilities</u>

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. <u>Tyler Responsibilities</u>

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:

Targeted Attainment	Actual Attainment	Client Relief
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.

To: Councilor Mavodones and Members of the Finance Committee
From: Brendan T O'Connell – Finance Director
Re: External Auditors – 1 Year Extension of Contract
Date: 10/27/16

This memo outlines the City staff request to retain Runyon Kersteen Ouellette (RKO) as the external auditors for one additional year. Their current contract expires in 2016 after their performance of the FY16 audit has been completed. We are requesting permission to begin negotiating a contract extension due to turnover of key staff within the Finance Department and also due to the fact that RKO has traditionally been the only bidder on our RFP's for audit services.

Turnover of Key Staff

2016 has been a difficult year for turnover of staff within the Finance Department. Our Controller left the City unexpectedly in June 2016 and the position has proved very difficult to fill. Despite being upgraded from a non-union 10 to a non-union 11, three separate four week job postings with no success, and the hiring of an external search firm to assist, it remains vacant as we approach November. The Controller position is responsible for coordination of the annual audit process and preparation of the City comprehensive annual financial report (CAFR). In addition to the Controller vacancy, our Deputy Finance Director left the City in September 2016 to pursue an opportunity as Finance Director in Westbrook. The volume of institutional knowledge which was lost as a result of these key departures is significant. Training new auditors and bringing them up to speed is a significant and time consuming exercise, and at current staffing levels would be a difficult task for both the City and the School Department. The institutional knowledge held by RKO is as important as it has ever been due to recent staff turnover.

History of City Audit RFP's

The City Charter states "All the accounts of the city and the school department shall be audited annually by a qualified certified public accountant to be chosen by the city council." This duty has been assigned to the Finance Committee. The Charter does not speak to mandatory rotation of the audit firms. The Government Finance Officers Association (GFOA), a municipal industry association promoting excellence in state and local government financial management, has noted that "the frequent lack of competition among audit firms fully qualified to perform public-sector audits could make a policy of mandatory auditor rotation counterproductive." Such has been the case in Portland, where RKO has won each of the last three RFP's (2001, 2006, 2011) with no competition from other bidders. To ensure continued independence they have rotated the lead engagement partners regularly. Hank Farrah is the current lead partner on the City audit and has served for 2 years, Greg Chabot, Kathy Tyson, and Roger Lebreux have all previously served as lead partners. Only one member of the current RKO engagement team has served for longer than 5 years. City staff believes that even if we were to release an RFP for audit services in 2016, RKO would potentially be the only bidder again.

Based on the above Staff is requesting a recommendation from the Finance Committee to begin negotiations on a one year extension of the audit services contract with RKO, with a full audit services RFP rescheduled for summer / fall 2017.

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