

Order 205-14/15

Public Hearing on 4/27/2015

Passage: 7-1 (Hinck opposed, Donoghue absent) on 4/27/2015

MICHAEL F. BRENNAN (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

EDWARD J. SUSLOVIC (3)

JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

Effective 5/7/2015

DAVID H. BRENERMAN (5)

JILL C. DUSON (A/L)

JON HINCK (A/L)

NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS  
TO FINANCE A PORTION OF THE CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM  
IN AN AMOUNT NOT TO EXCEED \$18,731,000**

**WHEREAS**, Section 16(a) of the Portland City Charter requires that orders authorizing the issuance of general obligation securities of the City in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the City for a single capital improvement or item of capital equipment be submitted to a voter referendum; and

**WHEREAS**, Section 16(b) of the Portland City Charter states that the foregoing referendum requirement is not applicable to any construction or financing of improvements or equipment needed as a result of a declared emergency; and

**WHEREAS**, for purposes of Section 16(b) of the Portland City Charter, the City Council may by vote of at least seven (7) of its members adopt an emergency order authorizing construction or financing of improvements or equipment needed as a result of such declared emergency and such order shall contain a section in which the emergency is set forth and defined; and

**WHEREAS**, Section 16(b) of the Portland City Charter, further provides that the declaration of such emergency by the City Council shall be conclusive;

**WHEREAS**, the City has determined that it must finance and install a replacement public safety radio communication system as part of the City's 2016 Capital Improvement Program (the "Communication System Replacement" project listed on Exhibit A hereto) as soon as practicable and will finance such project by issuing its general obligation bonds in the amount not to exceed \$7,000,000 for such purpose;

**NOW THEREFORE, 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 Eighteen Million Seven Hundred Thirty-one Thousand Dollars (\$18,731,000) to finance the items identified in the City's 2016 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").**

**BE IT FURTHER ORDERED**

1. That the City Council finds, determines and declares, with respect to the Communication System Replacement project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

**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 \$18,731,000 (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 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;

4. That each bond or note 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;

5. 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;

6. 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;

7. 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;

8. 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;

9. 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;

10. 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;

11. 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;

12. 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;

13. 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;

14. 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;

15. 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;

16. 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;

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, the Director of Finance is authorized, in his discretion to reallocate proceeds of the Bonds to any other listed Project.

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.

**Exhibit A**

**Transportation Projects**

*PACTS/Match*

PACTS Regional Transportation Management Systems (RTMS) -  
Traffic Signals

\$100,000

*Streets/Sidewalks*

Paving Preservation and Rehabilitation  
Sidewalk Rehabilitation/Accessibility

1,000,000

500,000

Transportation Projects Total

\$1,600,000

**Facilities Projects**

*Buildings/Garages*

Fire Alarm & Sprinkler Systems at all Fire Stations  
Waterproof Decking Recoat at Temple Street Parking Garage  
Ultra Violet Water Treatment System at Riverton Pool  
Passenger Elevator at City Hall  
Seating at Hadlock Field  
Bleachers at Ice Arena  
Roof Deck at Spring Street Parking Garage  
Library Roof Section

\$75,000

305,000

50,000

100,000

190,000

100,000

500,000

25,000

*Marine*

Compass Park Pier Stabilization  
Piles at Portland Ocean Terminal  
Steel Piles at Ocean Gateway Pier (engineering)

30,000

280,000

100,000

*Schools*

PATHS Paving  
Fire Alarm System at Portland High School  
Windows at Deering High School  
Oil Tanks Removal at Various School Buildings

450,000

150,000

250,000

100,000

Facilities Projects Total

\$2,705,000

**Parks, Fields and Trails Projects**

*Parks, Fields, Trails*

Payson Park Softball Field "A" - Amenity and Field Upgrades  
Lyman Moore Sports Complex  
Capisic Pond Improvements  
Golf Course Rehabilitation

\$200,000

275,000

565,000

100,000

Parks, Fields and Trails Projects Total

\$1,140,000

**Equipment and Vehicles Projects**

*Equipment*

Communication System Replacement

\$7,000,000

*Vehicles*

30 Passenger Bus - School  
Full Size Bus - School

50,000

90,000

7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000
Equipment and Vehicles Projects Total	<u>\$9,135,000</u>

**Sewer / Stormwater Projects**

*Buildings/Garages*

Water Resource Relocation	\$250,000
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*Parks, Fields, Trails*

Capisic Pond Improvements	560,000
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*Sewer*

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000

*Stormwater*

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000

*Vehicles*

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000

Sewer / Stormwater Projects Total	<u>\$4,005,000</u>
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Public Art Projects	\$73,000
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Land Bank Projects	\$73,000
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<b>TOTAL CIP FINANCED</b>	<b><u><u>\$18,731,000</u></u></b>
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