

**SUPPLEMENTAL SERVICES AGREEMENT BETWEEN**  
**DOWNTOWN IMPROVEMENT DISTRICT d/b/a**  
**PORTLAND'S DOWNTOWN DISTRICT CORPORATION**

**AND**

**CITY OF PORTLAND**

**AGREEMENT** made this 30<sup>th</sup> day of June, 2015, by and between the City of Portland, a municipal corporation duly organized under the laws of the State of Maine, Cumberland County (hereinafter the "**City**") and the Downtown Improvement District Corporation, d/b/a Portland's Downtown District, a Maine non-profit corporation, having its office and place of business at 549 Congress Street, Portland, Maine (hereinafter the "**PDD**").

**W.I.T.N.E.S.S.E.T.H.**

**WHEREAS**, the **City** and **PDD** entered into a Master Agreement of even date establishing mutual rights and responsibilities for the provision of services in the Downtown Improvement District (hereinafter the "**District**"); and

**WHEREAS**, said Master Agreement established the Baseline Services to be provided by **City** in the District; and

**WHEREAS**, **PDD** wishes to contract with the **City** to have the **City** provide, on a flexible basis depending upon funds available, Supplemental Maintenance Services in addition to those in the Master Agreement;

**NOW THEREFORE**, the parties do hereby agree as follows:

1. Supplemental Services: The **City** shall provide the following Personnel and Services (hereinafter the "Supplemental Services") in the District in addition to the Baseline Services provided in the Master Agreement:

1.1. Personnel:

One PDD Steward		
One Public Services Supervisor	Days	52 Weeks
Three Maintenance Worker III	Days	52 Weeks
Two Laborers	Days	Seasonal

1.2. Persons providing Supplemental Services hereunder shall be assigned by the **City** after providing reasonable opportunity to **PDD** for requests for service. Such persons are not required to be employees of the **City**. Such persons shall not, however, be considered to be employees of **PDD** and **PDD** is not intended, nor shall it be deemed to be, a joint employer with **City**. As between the **City** and **PDD**, **City** shall be responsible for all aspects of employment for all persons supplied by **City** pursuant to this Agreement, including compensation, liability and workers compensation coverage, employment taxes and any applicable fees.

1.3 Services to be provided are:

- \*Transportation and set-up of materials and equipment for planned special events activities of **PDD** (with proper notification to coordinator)
- \*Litter patrol, collection and disposal on streets, sidewalks, and public areas within the District.
- \*Graffiti removal from City property
- \*Removal of posters
- \*Cleaning and painting of all furniture and fixtures
- \*Sidewalk sweeping
- \*Cleaning of tree wells
- \*Weed control in support of other city departments performing 'basic services'
- \*Snow clearance at crosswalks and from sidewalks during curb to curb snow removal

- \*Installation of Holiday decoration in the District as agreed with PDD, in addition to those described in the Baseline Services provided in the Master Agreement, including electrical energy costs
- \*Maintenance and cleaning of Visitor's Booth and Tommy's Park.
- \*Clean and maintain the bathrooms, located in the Fore Street Garage and Spring Street Garage buildings, when the bathrooms are open to the public

1.3.1. PDD Sidewalk Snow Plowing Program. All property owners in the District assessment area are responsible for maintaining their sidewalks in the winter pursuant to Portland City Code §§25-173(C) and 25-174(C), including snow removal from their property line to the street gutter and ice control.

1.3.2. Following a snow storm, the **City** will provide a clear walkway no less than the width of a Holder's capability. To the extent reasonable, the **City** will clear the sidewalk area but it is not the intent of the parties that the **City** will clear the snow from the full width of the sidewalk area. The City will provide ice control to the extent possible. If weather conditions are so severe that the area cannot be plowed due to equipment capability, the **City**, in its discretion, may choose not to provide sidewalk snow plowing without penalty.

1.3.3. Management of Supplemental Services. The City's Public Services Director and/or Designee and PDD's Executive Director and/or Designee agree to meet and communicate on a monthly basis with meeting agendas to ensure quality control in service delivery is meeting expectations; providing updated information on service activities, programs and projects. The Public Services Department will provide a staff contact to PDD for direct communications, which is identified as the Districting Supervisor and

PDD Supervisor. A point of contact for PDD officials is the PDD Supervisor and District Coordinator. Conversely, the City of Portland Department of Public Services looks to the PDD Executive Director or designee as the City's point of contact on all issues involving PDD matters. A complete work plan and list of Services provided under this FY2016 agreement is provided in Exhibit A hereto.

2. Term: The term of this Agreement is from July 1, 2015 through June 30, 2016.
  
3. Budget and Payment: In consideration for these Supplemental Services, **PDD** agrees to pay the **City**, in equal quarterly installments, for all Supplemental Services provided hereunder the total sum of \$335,329 for FY2016. The **City** shall bill and **PDD** shall pay the **City** beginning July 1, 2015, a quarterly payment of \$83,832.
  - 3.1. In the event **PDD** requests services from **City** in addition to those included herein, **City** shall have the option, in its sole discretion to provide such services, with payment to be made by **PDD** for any such services on a Time and Materials basis, or such other basis as the parties may agree in writing. "Time" as used herein shall mean all of the **City's** employee costs, i.e. hourly wages or salary. "Materials" as used herein shall mean the actual cost to the **City** of equipment, materials and/or supplies provided or used, with no additional markup.
  
4. Modifications: It is understood and agreed by the parties that **City** has adopted an expenditure budget which includes the cost of these Supplemental Services and has adopted a revenue budget which provides for the reimbursement of such costs by **PDD** as provided hereunder. In the event that either **PDD** or the **City** anticipates that there will be insufficient revenues to pay for such Supplemental Services, said party will notify the other party of the anticipated shortfall, and the parties agree to meet promptly and confer to modify the level of Supplemental Services which the **City** is able to provide. It shall be the

responsibility of **PDD** to notify **City** as soon as reasonably possible if such Supplemental Services need to be modified or adjusted for anticipated revenue shortfalls or modifications. In the event of a revenue shortfall, the **City** will have no obligation to provide Services in excess of **PDD** funds available to reimburse **City**; however, **City** will have the right, but not the obligation, to continue to provide Supplemental Services to the extent provided in the **City** budget even in the event of a revenue shortfall. The parties agree to memorialize in writing any changes in the monthly payments due under Section 3 above.

- 4.1. Either party may terminate or modify this Agreement in the event of a budget shortfall upon no less than Sixty (60) days prior written notice to the other party.
  - 4.2. In the event Supplemental Services are terminated for any reason by either party, it shall be in **City's** discretion as to whether it will continue or resume providing such Supplemental Services.
  - 4.3. **PDD** agrees to give the City Manager or the Manager's designee advance written notice of any formal meeting of its Directors or Officers at which modification of the current year Supplemental Services budget is to be discussed or considered, and to permit the attendance of **City** representative at such meeting. **City** and **PDD** agree to provide copies of draft budgets for the upcoming fiscal year reasonably in advance of any final decision by **PDD** or the **City** as to said budget, and the parties agree to meet and confer in regard to such budgets.
5. **City's** representative in regard to provision of Supplemental Services hereunder is the City Manager or the Manager's designee.

(Rest of page left intentionally blank.)

IN WITNESS WHEREOF, the City and PDD have signed this Agreement through their authorized representatives as of the day and date above written.

Witness:

City of Portland

Sonia Bean

By:

J.P. Jennings

Jon P. Jennings  
Its City Manager

Witness:

Downtown Improvement District  
d/b/a Portland's Downtown  
District

Elizabeth Epton

By:

Michael Mastronardi  
Michael Mastronardi  
Its Board Chair

Approved as to Form:

[Signature]  
(Corporation Counsel)

Approved as to Funds:

[Signature]  
(Finance Department)

EXHIBIT A  
to Supplemental Services Agreement  
(Supplemental Services Work Plan and Event  
Support for FY2016)

MEMORANDUM RELATED TO THE  
SUPPLEMENTAL SERVICES AGREEMENT (SSA) BETWEEN  
THE DOWNTOWN IMPROVEMENT DISTRICT dba  
PORTLAND'S DOWNTOWN DISTRICT (PDD)  
AND  
THE CITY OF PORTLAND (City)

(July 1, 2015 - June 30, 2016)

This memorandum is a good faith attempt to define certain services, programs and events, and to achieve an improved level of satisfaction for both the **City** and **PDD**. It is generally understood that the city's Baseline Services, as articulated in Exhibit B of the Master Agreement, do not overlap or replace the services and programs incorporated in the SSA.

Also, listed are the specific special events produced by **PDD** for the benefit of the **City** and its property owners, residents, businesses and visitors, during the contract period.

The ongoing relationship between **PDD** and the **City** has evolved, along with the needs and expectations of both parties. The goal of this document is to improve coordination, establish priorities, clarify services and responsibilities, and list events covered under the terms and conditions of the SSA. The result will be to produce a more proactive, performance-based approach to the maintenance, cleanliness and overall attractiveness of downtown Portland.

1. FY 2016 City Personnel Work Plan

The City personnel assigned to perform services under the Supplemental Services Agreement are expressed in the FY2016 Portland Public Services Budget detail. For the current period of July 1, 2015 through June 30 2016 these personnel are:

1. (1) Public Services Supervisor
2. (1) PDD Steward
3. (3) Maintenance Worker III
4. (2) Seasonal Part-Time Maintenance Worker

Staffing levels may change on an occasion to account for employee leave coverage, emergencies or other unforeseen circumstances. However the City of Portland, Department of Public Services commits to continue to provide the general list of services provided by these personnel under the SSA.

- 1.1 The general list of services provided by these personnel is identified within the SSA under item 1.3. These shall not overlap services provided within Baseline Services (Exhibit B to Master Agreement).
- 1.2 The Public Services Supervisor shall inspect the entirety of **PDD at least once** every two weeks. During this inspection particular attention shall be focused on, but not limited to, the overall cleanliness and maintenance of the sidewalks, streets, trash containers, graffiti removal, open spaces, furniture and fixtures, lights, signage, the visitor kiosk and public restrooms. The status of projects or work orders in process should be continually updated. The results of each inspection shall be logged and documented; a monthly report will be presented every month.



- 1.3 The Public Services Supervisor shall direct the maintenance personnel on their daily responsibilities by producing a weekly schedule highlighting project activities and goals. The Supervisor will participate and assist the team in achieving project activities, as needed.
- 1.4 Horticultural and landscaping duties shall be in support of city personnel and departments assigned to these tasks. PDD dedicated personnel should assist (for instance with weed control and seeding) on an as needed basis, as time and normally assigned duties allow.
- 1.5 Sidewalk plowing and snow removal at intersections should be accomplished as soon as is reasonably possible during and following a snow event. If a yellow ban is called, sidewalk snow removal, as indicated in sections 1.3.1 and 1.3.2 of the SSA, should be completed within the same timeframe as city personnel and contracted partners remove snow from the District's streets and parking areas. The Department of Public Services will organize an annual winter briefing with downtown contract partners that remove snow on sidewalks and plazas to review best practices regarding coordinating work activity. This meeting will typically occur in late fall/early winter.
- 1.6 "Quick response" repairs, such as missing bricks, landscaping damage or graffiti removal shall be performed by **PDD** personnel, as soon as possible. **PDD** and **City** will jointly approve each quick response, as needed.
- 1.7 **PDD** and **City** will prioritize larger projects within the District generally

included in baseline services or CIP, and managed by other **City** teams or departments. These include, but are not limited to, major sidewalk repairs, tree well rehabilitation, landscape installations and other reconstruction projects. These District projects will be prioritized with input from **PDD**, and may include **PDD** personnel in their execution. Progress and status shall be monitored by the **PDD** supervisor, and updated as part of the monthly reporting.

- 1.8 **PDD** will monitor performance of City teams through specific PDD access to "See, Click and Fix" software.
- 1.9 **PDD** dedicated personnel will wear approved uniforms and work clothes at all times when on duty. **City** and **PDD** agree to work jointly on uniform decisions, including recommendations on an alternative uniform for PDD personnel.

## 2. FY2016 PDD Event Support Plan

**PDD** and the **City** recognize the value that well executed events bring to the vitality and economic development of the downtown. To that end, **PDD** agrees to follow the **City's** established permitting process and with the exception of the events as outlined in Exhibit B, Baseline Services, agrees to reimburse the City for actual expenses, as agreed to by both parties, required to support these events.

In FY2016, **PDD** is planning major events that require a level of support by **City** personnel.

**PDD** plans to incorporate recycling at all produced events, with support of the **City** staff, volunteers and supplied receptacles.

- 2.1 The Old Port Festival (OPF) - The OPF will operate from June 11-14, 2015. Sunday,

June 14, events will require closure of streets generally in the Old Port area.

- 2.2 Light Up Your Holiday Celebration (LUYH) - This annual roster of events around the Christmas holidays include a LUYH First Friday Artwalk with Congress Street closure from approximately 6-8pm. The Christmas tree lighting ceremony on the Friday after Thanksgiving, which requires set up and some street closures, along with minor transit re-routing around Monument Square. Horse-drawn carriage rides in the downtown and the merchant event called Merry Madness generally requires no specific city personnel support.
- 2.3 Portland Winterfest - This event will be held in January or February 2016, with a date to be confirmed.
- 2.4 Downtown Workers Appreciation Days - Generally held twice a year in early May and mid-October to recognize the employees of businesses and government offices located within the downtown. **City** and **PDD** provide set up and management of 3 stations located at the Portland Museum of Art, Monument Square and Tommy's Park.
- 2.5 Seasonal lights by Pandora - Lights are installed around the time that Day Light Savings Time ends in the late fall, and de-installed around the time that Day Light Savings Time begins again in the early spring. **PDD** personnel provide some installation support.