

Order 176-20/21

Motion to amend to insert "Seventeen Million Seven Hundred Seventy-Five Thousand Eight Hundred Two Dollars" in place of the written number before the numeric total: 9-0 on 3/15/2021

Passage as amended: 9-0 on 3/15/2021

Effective 3/25/2021

KATE SNYDER (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
TAE Y. CHONG (3)  
ANDREW ZORROW (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

MARK DION (5)  
APRIL FOURNIER (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS  
TO FINANCE A PORTION OF THE CITY'S FISCAL YEAR 2022 Capital IMPROVEMENT  
PROGRAM IN AN AMOUNT NOT TO EXCEED \$17,775,802**

**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 Seventeen Million Seven Hundred Seventy-Five Thousand Eight Hundred Two Dollars (\$17,775,802) to finance the items identified in the City's 2022 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 Finance Director 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 **\$17,775,802** (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Finance Director 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 Finance Director 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 the Bonds and BANs issued hereunder shall be signed by the Finance Director 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 Finance Director is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, instruments and other documents and certificates as may be necessary or appropriate, as determined and approved by the Finance Director, in connection with the financing of the Projects, including a loan agreement in usual and customary form with the Maine Municipal Bond Bank (the "Bond Bank"), to the extent any of the Bonds or BANs authorized herein are issued pursuant to the State of Maine Clean Water Revolving Loan Fund program or the State School Revolving Renovation Fund, which contracts, agreements, loan agreements, instruments and other documents and certificates shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Finance Director, such approval to be conclusively evidenced by his execution thereof;

6. That the Finance Director be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Finance Director 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 Finance Director 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 Finance Director, 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 Finance Director 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 Finance Director 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 Finance Director 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 Finance Director 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 Finance Director 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 Finance Director 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 “private activity bonds” or “arbitrage bonds” within the meaning of Sections 141 and 148 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 cost to design, acquire, construct, renovate, improve, furnish and equip the Project, or any portion thereof; (2) the cost of land, easements and other real property interests, landscaping and site preparation, including demolition and environmental remediation work on any existing building or structure and on the property where the Project is located, utility extensions and site improvements, and all appurtenances and other fixtures, facilities, buildings and structures either on, above, or under the ground which are used or usable in connection with the Project; (3) the cost of feasibility studies, surveys, environmental studies and assessments, engineering, plans and specifications, legal and other professional services associated with the Project; (4) issuance costs, including premiums for insurance, capitalized interest and other fees and expenses relating to the financing transaction.

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, whether due to completion, delay or abandonment of the Project or for any other reason, the Finance Director is authorized, in his discretion, to reallocate proceeds of the Bonds to any other listed Project on the attached Exhibit A, or to any other project or improvement that the City Council has approved or may in the future approve as part of the City’s annual capital improvement plan;

18. That the Finance Director, 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 Finance Director, 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 the following resolutions required by Section C(4)(e) of the State of Maine Clean Water Revolving Loan Fund Rules, Chapter 595, Department of Environmental Protection and Maine Municipal Bond Bank (the "SRF Regulations"), and governing the loan to be made to the City under the State Revolving Loan Fund Program be and hereby are adopted:

- a. That a Project Account shall be created for the Projects which shall be separate from all other accounts of the City. If operating revenues are to be used to retire the debt, a sub-account will be established;
- b. That the Project Account shall be maintained in accordance with standards set forth by the Bond Bank and in accordance with generally accepted government account standards;
- c. That a final accounting shall be made to the Bond Bank of the total cost of each Project upon completion of the Project performance certification as set out in Section G(3) of the SRF Regulations and the City acknowledges that the Bond Bank reserves the right at its sole discretion to be provided with a cost certification of the Project as built;
- d. That an annual audit of the City, prepared by a certified public accountant or licensed public accountant be provided to the Bond Bank for the term of the loan;

- e. That the City shall maintain insurance coverage on the Projects in an amount adequate to protect the Bond Bank's interest for the term of the loan with the Bond Bank named as loss payee;
- f. That the City will comply with any special conditions specified by the Department of Environmental Protection's environmental determination until all financial obligations to the State have been discharged;
- g. That the City certify to the Bond Bank that it has secured all permits, licenses and approvals necessary and that it has a dedicated source of revenue for repayment;
- h. That the City establish a rate, charge or assessment schedule in order to pay principal and interest. Such rate change or schedule shall provide total operations and debt service coverage at a level at which the coverage for the Bond Bank is sufficient;
- i. That the City must demonstrate the ability to pay reasonably anticipated costs of operating and maintaining the financed Project;
- j. That the City abide by the SRF Regulations, as revised and amended and relevant State statutes of the State of Maine; and

24. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Finance Director 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 Finance Director 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 Finance Director 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.

**2021 CIP - General Fund**

<b>Department</b>	<b>Project Title</b>	<b>CIP Amount</b>	<b>Other Funding</b>	<b>Bond Amount</b>
<b><u>Equipment</u></b>				
Communications	Portable Radios Upgrade	300,000		300,000
Information Technology	Barron Center Phones Upgrade	48,000		48,000
Information Technology	Improvements to Information Security Program	31,000		31,000
Information Technology	Replace Network Switches	250,000		250,000
Information Technology	DPW Traffic Managed Network	20,000		20,000
Information Technology	Consolidate city camera systems (except jetport)	72,000		72,000
Parking / Garages	Parking Meter Replacement Phase 2	115,000		115,000
Parking / Garages	Multi Space Parking Meters Shipyard & Cross Arena	22,000		22,000
Parks & Rec	Payson Park Playground	350,000		350,000
Parks & Rec	Deering Oaks Playground Accident Replacements	45,000		45,000
<b><u>Facilities</u></b>				
Facilities & Waterfront	212 Canco Roof Replacement	325,000		325,000
Facilities & Waterfront	Offices & Customer Service Areas A/C Installation	150,000		150,000
Fire Department	Riverton Station - Boiler Room Upgrades	150,000		150,000
Parks & Rec	Golf Course Upgrades - HVAC and Drainage	115,000		115,000
Parks & Rec	Evergreen Cemetery Columbaria Phase II	108,000		108,000
Public Schools	Masonry Repair at Deering High School	150,000		150,000
Public Schools	Technology & Fire Alarm System Upgrades - PIES	100,000		100,000
Public Schools	Install fire sprinkler system - PIES	130,000		130,000
Public Schools	Door Access Controls - King and Lincoln	115,000		115,000
Public Works	Federal Street Cemetery Wall Repair	35,000		35,000
<b><u>Marine</u></b>				
Facilities & Waterfront	Compass Park Ongoing pile/pier work	200,000		200,000
Facilities & Waterfront	POT - Pile Survey	140,000		140,000
Facilities & Waterfront	On going pile/pier work at OG and P.O.T	100,000		100,000
Facilities & Waterfront	Bollard/ Bit Replacement	100,000		100,000
<b><u>Parks, Fields, Trails</u></b>				
Parks & Rec	Skatepark Expansion	50,000		50,000
Parks & Rec	ADA Walkway Paving--Deering Oaks	118,000		118,000
	Court Resurfacing - Reiche and West End (Various), Lyman			
Parks & Rec	Moore, Fox St, Talbot School	97,000		97,000
Planning & Urban Development	Congress Square Redesign - Construction Drawing Completion	50,000		50,000
<b><u>Streets/Sidewalks</u></b>				
Facilities & Waterfront	Sidewalks at Exposition Building Entrance	160,000		160,000
Barron Center	Resurfacing of Roadways & Parking Lots	137,841		137,841
Public Works	DOT Bridge Report	25,000		25,000
<b><u>Transportation</u></b>				
Public Works	DOT - MPI - Paving Stevens Avenue	640,000		640,000
Public Works	FACTS MPI - Elm Street Paving - Congress to Marginal	315,000		315,000
Public Works	Pavement Preservation Program	1,500,000	1,500,000	0
Public Works	Sidewalk & ADA Rehabilitation Program	600,000		600,000
Public Works	Congress Square Intersection Construction - DOT Eligible	1,200,000	1,200,000	0
Public Works	FACTS TIP - Brighton Avenue Multi-Modal Project	124,000		124,000
Public Works	Traffic Signals Upgrade Program	500,000	500,000	0
Public Works	Ineligibles)	300,000	300,000	0
Public Works	Improved Coordination	100,000		100,000
Public Works	Separated Bike Lanes - Additional Funding	100,000		100,000
Public Works	Andrews Square Supplemental Funding	100,000		100,000
<b><u>Vehicles</u></b>				
Fire	3 Fire Trucks (1 Quint Ladder, 2 Pumper Engines)	2,700,000		2,700,000
Fire	MEDCU Ambulance Grant Match	63,000		63,000
Fleet	2-way radio replacement	30,000		30,000
HHS	Used HHS 10 passenger van	30,000		30,000
HHS	Used large SUV or Minivan	25,000		25,000
Islands	1.25 ton truck w/plow GDI	75,000		75,000
Islands	2 - 42 CY Dumpsters @ 9,000 ea.	19,000		19,000
Parking	Used Compact Pickup	26,000		26,000
Parks & Rec	0.75 ton PU w/plow & dump	45,000		45,000
Parks & Rec	Toolcat	65,000		65,000
Parks & Rec	0.75 tn PU w/plow golf course	40,000		40,000
Parks & Rec	New Ventrac 4500K	75,000		75,000

Parks & Rec	52 PTO HP Tractor	55,000		55,000
Parks & Rec	JD 2025D Style Tractor	35,000		35,000
Parks & Rec	Fairway Mower Golf Course	55,000		55,000
Parks & Rec	3/4 ton PU w/plow	45,000		45,000
PDD	0.75 ton PU w/plow	40,000		40,000
Police	7 Hybrid Police Cruisers	413,000		413,000
Public Schools	3 Buses and 1 Van	325,000		325,000
PW Safety	Used SUV	23,000		23,000
Solid Waste	Packer (rental or lease)	65,000		65,000
Streets	Backhoe/Loader	105,000		105,000
SW	Used 1/2 ton PU w/liftgate	25,000		25,000
Traffic	VMB (variable message board)	20,000		20,000
Traffic	Used 1/2 ton PU	25,000		25,000
Various	and Efficiency Maine rebates)	0		0
Waterfront & Public Buildings	2 ton plow truck w/wing 4WD	130,000		130,000
Waterfront & Public Buildings	Van	35,000		35,000
Winter	SA Plow truck	185,000		185,000
Winter	Loader w/wing & plow	220,000		220,000
	<b>Sub-Total (General Fund)</b>	<b>14,281,841</b>	<b>3,500,000</b>	<b>10,781,841</b>
	Prior CIP Reallocations			(389,039)
	<b>Total (General Fund)</b>			<b>10,392,802</b>
<b>2021 CIP - Sewer Fund</b>				
Sewer	CSO-Non SRF Sewer / Storm Consulting and Inspection Services	1,500,000		1,500,000
Sewer	Inflow and Infiltration Phase 3 Mitigation	1,100,000		1,100,000
Sewer	CSO - Close CSO #39	700,000		700,000
Sewer	CMOM - Pump Station Rehabilitation	670,000		670,000
Sewer	CSO - Close CSO #42	500,000		500,000
Sewer	Concord Street and Mayer Road Sewer Repair/Replacement	500,000		500,000
Sewer	CMOM - Sewer System Renewal	500,000		500,000
Sewer	District Road Fueling Island	313,000		313,000
Sewer	ESRI Conversion to Utility Network	225,000		225,000
Sewer	Sweeper (#3143) Replacement	200,000		200,000
Sewer	CSO - #26 Sewershed	200,000		200,000
Sewer	Truck Replacement (#2511)	50,000		50,000
Sewer	Supervisor Truck (#2112) Replacement	50,000		50,000
Stormwater	Fore Street Sewer Separation	2,300,000		2,300,000
Stormwater	Presumpscot Culvert	475,000		475,000
Stormwater	Stormwater Neighborhood Infrastructure Improvements	200,000		200,000
Stormwater	Green Infrastructure	200,000		200,000
	<b>Sub-Total (Sewer Fund)</b>			<b>9,683,000</b>
	Prior Sewer Fund Reallocations			(2,300,000)
	<b>Total (Sewer Fund)</b>			<b>7,383,000</b>
<b>TOTAL (General Fund &amp; Sewer Fund)</b>				<b>17,775,802</b>