

**MEMORANDUM**

TO: Members of the Finance Committee

FROM: Brendan T. O'Connell - Finance Director

CC: Mandy Levine - Workforce Diversity and Inclusion Specialist

DATE: September 28, 2018

SUBJECT: **Non-Discrimination Language within City Contracts and City Purchasing Policy**

Background

Over the past several years, the City of Portland ("City") has continued to be a leader in workplace inclusion and non-discrimination. The City is incredibly proud of our workplace which includes many policies, procedures, and initiatives we are undertaking to be increasingly inclusive, respectful, and legally compliant. These policies extend far beyond the fantastic work taking place in our Human Resources Department by our Workplace Diversity and Inclusion Specialist Mandy Levine. Our policies and procedures also extend externally to others outside the organization via policies in place within the Finance and Legal Departments. We require any contractor to sign off on a policy of non-discrimination in their agreements with the City. As detailed below these policies for our vendors doing business with the City were recently strengthened even further.

In addition to having strong non-discrimination language in our City policies, the City has been rated very highly by a leading national organization specializing in equality. In 2017 the Municipal Equality Index gave Portland a very high overall score and the figure is expected to rise again when the 2018 report is released later this year. The City score is significantly higher

than any other municipality in the region and represents our commitment to being a leader in non-discrimination, equality and diversity.

Non-Discrimination within the City Procurement Policy

Anti-discrimination has always been a part of City contracting. However, the City is constantly working to improve our non-discrimination policies and procedures to ensure an inclusive workplace. In regards to procurement, the City Manager Jon P. Jennings recently approved an enhancement to the City's Purchasing Policy, requiring that additional non-discrimination language, including additional protected classes, be incorporated into all City contracts moving forward¹:

G. Non-Discrimination Policy and Required Contract Language

The City of Portland requires the following language included in all contracts:

Contractor agrees to adhere to a policy of non-discrimination in all employment actions, practices, policies, procedures, phases, and conditions of employment. This shall include compliance with the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the 9 Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37 and all other applicable laws, including the Maine Human Rights Act, ordinances and regulations regarding equal opportunity and equal treatment. Contractor specifically agrees that all employment-related decisions (including but not limited to hiring, discharge, transfers, promotions, discipline, training, job opportunities, and wage and salary levels) will be made without discrimination based on an individual's race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by the Contractor and its subcontractors where appropriate.

¹Prior to July 19, 2018, the City's contracts already included non-discrimination language but gender identity was not previously mentioned explicitly in the City's Purchasing Policy.

The Human Rights Campaign Municipal Equality Index

The City is constantly working to ensure we have an inclusive, respectful and legally compliant workplace. One recent independent organization, the Human Rights Campaign (“HRC”), the largest civil rights organization working to achieve equality for lesbian, gay, bisexual, transgender and queer Americans, gave us very high marks on our workplace in their Municipal Equality Index (the “MEI”). The MEI is an annual nationwide evaluation of municipal laws, policies, and services affecting the LGBTQ community. Annually, the HRC conducts preliminary research based on publicly available resources on the cities selected for rating (506 cities in 2018) and then notifies the cities of its draft score via a draft scorecard. The HRC then provides cities a limited window of time in which to submit to the HRC supplemental and/or clarifying information that might ultimately result in the city obtaining a higher score.

In 2017, the City received a MEI Score of 80, which was significantly higher than other Maine municipalities that were rated (Auburn 55; Augusta 57; Bangor 59; Brunswick 42; Lewiston 54; Orono 36; Scarborough 66; South Portland 60). During the most recent three year period the City’s MEI Score has improved from 75 to 80 and this score is likely to increase again in 2018 as a result of many additional positive changes the City continues to make.