

**AGREEMENT BETWEEN  
THE CITY OF ROCKLAND  
AND  
The Musson Group**

THIS AGREEMENT is entered into this 3 day of August 2018, by and between the CITY OF ROCKLAND, a body politic and corporate (hereinafter the "CITY"), and The Musson Group, with a mailing address of PO Box 286, Southwest Harbor Maine 04679 (hereinafter the "CONTRACTOR").

WITNESSETH:

**WHEREAS**, the CITY is in need of a Harbor Plan Update, to be drafted as an appendix to the Comprehensive Plan Update; and

**WHEREAS**, the CITY did hold a competitive process which interviewed 4 potential consultants for the Comprehensive Plan Update, and after due consideration the CITY did award the contract to the CONTRACTOR; and

**WHEREAS**, the CONTRACTOR has the requisite knowledge and technical ability to perform the required services outlined in the Harbor Plan Scope of Work included as Exhibit A and made a part hereof; and

**WHEREAS**, there are efficiencies in using the same CONTRACTOR for the Comprehensive Plan Update and the related Harbor Plan Update to facilitate coordination and prevent duplication of effort;

**NOW, THEREFORE**, the parties covenant and agree as follows:

1. The CONTRACTOR will furnish the materials, supplies, equipment and labor (hereinafter the "Work") in accordance with Exhibit A.
2. Prior to the execution of this Agreement, the CONTRACTOR will procure and maintain Automobile Insurance and General Public Liability Insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage, naming the CITY as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the CITY, its officers and employees. The CONTRACTOR shall furnish the CITY and thereafter maintain certificates evidencing all such coverages, which certificates shall guarantee thirty (30) days' notice to the CITY of termination of insurance from insurance provider or agent.
3. To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify and hold harmless the CITY, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of or resulting from the performance of this Agreement, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use therefrom, and (2) is caused in whole or in part by any negligent act or omission of the CONTRACTOR, anyone directly or indirectly employed by it, or anyone for whose act it may be liable. CONTRACTOR's obligations under this paragraph shall survive termination of this Agreement.
4. The CONTRACTOR shall perform the work to the satisfaction of the responsible CITY official, whose approval and acceptance of the work will be a condition precedent to

- payments by the CITY under this Contract. Noel Musson will be the contract leader, will provide the primary labor on this project and will be responsible to the City Official.
5. Upon receipt of executed contracts and insurance as required, the CITY will promptly send an executed CITY contract to the CONTRACTOR, which will commence work starting August 2018 and shall complete work no later than December 2019 – with a final draft ready for Council review no later than August 2019. The time set for such completion may be extended only by written consent of the CITY.
  6. In the event of any dispute as to the amount, nature or scope of the work required under this Contract, the judgment of the CITY will be final and binding.
  7. For performance of all the terms and conditions of this Agreement, the CITY will pay The Musson Group for actual time and expenses not to exceed the amounts laid out in the scope of work. Contractor may not exceed budget for task or subtask without prior approval.
  8. The CONTRACTOR shall keep accurate records of all services performed under this Agreement and shall submit such information to the CITY on a monthly basis. All records/ work papers shall be kept till acceptance of plan by City. Payment for shall be made to the CONTRACTOR not more than thirty (30) days after receipt of an invoice and acceptance of the work by the CITY.
  - 8a. The City shall own all work products produced included all associated spreadsheets, renderings, and electronic documents.
  9. The CITY may terminate this Agreement for cause by written Notice to the CONTRACTOR. In the event of such termination, the CONTRACTOR shall not be entitled to any further payment under this Agreement from the date of receipt of said Notice.
  10. The CITY shall have the right to terminate this Agreement at any time for its convenience on thirty (30) days' prior written Notice to the CONTRACTOR. If the Agreement is terminated by the CITY for convenience, the CITY shall pay the CONTRACTOR for all Work performed and all materials purchased pursuant to this Agreement prior to receipt of such Notice.
  11. Out of concern for the public, city employees and the contractor's employees, all work performed by the CONTRACTOR shall be in conformance with pertinent OSHA, local, state and federal government regulations.
  12. CONTRACTOR shall be solely responsible for the hiring, supervision, discipline, management or termination of any employees or agents hired or retained for the purposes of providing the services contemplated under this Agreement. CONTRACTOR, its agents, contractors, or employees are independent contractors and shall not be deemed to be employees of the CITY.
  13. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforceability of the remaining provisions hereof.
  14. This Agreement shall be construed in all respects in accordance with, and governed by, the laws of the State of Maine. All parties hereto hereby consent to the exclusive jurisdiction of the Superior Court for the County of Knox in the State of 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 Court.

15. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement. A signature in a pdf or electronic document shall be considered the equivalent of an original signature.

16. CITY and CONTRACTOR each warrant and represent to the other that they have the full right and authority to enter into this Agreement, that there is no impediment that would inhibit their ability to perform their respective obligations under this Agreement, and that the person signing this Agreement on behalf of each party has the authority to do so.

IN WITNESS WHEREOF, the said CITY OF ROCKLAND has caused this Agreement to be signed and sealed by Thomas Luttrell, its City Manager, thereunto duly authorized, and CONTRACTOR has caused this Agreement to be signed and sealed, the day and date first above written.

WITNESS:

  
\_\_\_\_\_


CITY OF ROCKLAND

  
\_\_\_\_\_  
Thomas Luttrell, City Manager

WITNESS:

  
\_\_\_\_\_

CONTRACTOR

The Musson Group  
By:   
Its: owner

## Exhibit A

### Harbor Plan Scope of Work

This project will develop a Harbor Management Plan to replace an outdated plan developed in 1995. The Harbor Management plan will address harbor use, needed improvements to harbor infrastructure, enhancement of public access, resource protection, and the implications of sea level rise. Once complete, the plan will include a compelling vision for the City's harbor and publicly-owned waterfront and concrete actions for achieving it.

#### Executive Summary

It has been over 20 years since the City updated its Harbor Management Plan. While Rockland harbor remains known for its balance of diverse uses that are characteristic of the City, new and competing demands have created challenges that are not addressed in the Harbor Use Plan developed in 1995. The City recognizes the need for an updated plan that considers the needs and perspectives of current stakeholders, and on March 12, 2018 passed a resolve to develop such a plan.

The Resolve sets up a steering committee that will include members of Rockland's Harbor Management Commission, Comprehensive Planning Commission, and Economic Development Advisory Committee, as well as other members of the interested public. It also notes pressures from increased use of the harbor, including cruise ships and proposed marina expansions, as well as expected challenges from sea level rise. We expect that the new Harbor Management Plan will address these issues and more.

Funding from the Shore and Harbor Management Grant Program will be used to hire the Consultant to help to develop a common understanding of facts, facilitate a stakeholder process, and develop a modern Harbor Management Plan for City Council approval.

The project also involves:

- *A third-party survey* to gather facts related to the economic impacts of cruise ship visits as well as how those visits impact the experience of other downtown visitors.
- *Conceptual designs* for potential improvements to City-owned infrastructure on the harbor.
- *Coordination with the Comprehensive Plan update* currently underway to ensure consistency with its high-level goals and strategies related to the waterfront.

When the project is complete, the City will have established a vision for its harbor with concrete action items to help guide future decision making related to harbor use, infrastructure, and access.

## Project Description

Despite the importance of Rockland Harbor to the local, regional and state economies, it has been well over 20 years since the last time the City went through a comprehensive harbor planning process. Since that time the face of the harbor has changed. Marine related industries have shifted, fish processing has faded, recreational boating has increased, annual festivals on the waterfront have expanded, foot traffic along the waterfront has increased, and cruise ships and large yachts have been introduced. Projects consistent with the goals of the old Harbor Use Plan face community opposition, with the goals themselves forgotten.

The various changes in the harbor and along the waterfront have created new challenges for the City to address. On the water side there are development opportunities that would impact traditional uses, new competition for limited space within the harbor, and opportunity to improve the efficiency of harbor use. On the land side are desires for improved public access for residents and visitors, maintenance of the working waterfront and marine industrial heritage, preservation of view corridors, redevelopment of aging infrastructure, understanding the implications of sea level rise and related funding – and allocation of limited resources to invest in the future. One thing that hasn't changed, however, is that the harbor remains at the heart of the City of Rockland.

Recent controversies related to the harbor have included cruise ships, marina expansion to accommodate larger yachts, the possibility of public/private partnerships for harbor improvements and wave attenuation – all things that were identified as desirable in the last harbor plan. The Rockland City Council recognized the need for a new plan that addresses the issues being faced by the harbor and its uses today. A coordinated approach is needed to balance diverse harbor interests, consider current conditions and trends, and develop a compelling vision for the harbor as a whole, rather than addressing individual issues in isolation.

With that in mind, the City Council passed a resolution this spring to develop a new Harbor Management Plan. It has established a Steering Committee that will include representatives from key Commissions and Committees with interests in harbor issues, as well as interested members of the public. The Consultant will provide technical support for the Committee's work, facilitate a larger stakeholder process, and draft the Plan on behalf of the Committee.

The project will:

- Identify harbor stakeholders and establish a process for stakeholder input.
- Develop a common understanding of harbor uses, infrastructure, and data, including the implications of sea level rise and flooding.
- Develop visual aids for facilitating public input of potential improvements to certain City-owned properties and infrastructure.

- Work collaboratively with stakeholders to identify goals and objectives for harbor use and management, including both the harbor itself and publicly-owned infrastructure and property on the waterfront.
- Coordinate with the Comprehensive Plan update currently underway.
- Identify concrete actions to move goals and objectives forward.
- Present a Harbor Management Plan for Council approval.

Overall, the Harbor Management Plan should provide a roadmap for the harbor and the publicly-owned waterfront that will help the City Council, appointed commissions and committees, and others make coordinated decisions. It will help the City manage increase user pressures, guide policy actions, and help to maintain the unique balance of users that characterize Rockland. We expect that the Harbor Management Plan will be added as an appendix to the Comprehensive Plan.

### *Project Tasks and Deliverables*

The Consultant will follow a consensus building process and facilitate discussions with Steering Committee members and stakeholders that will help participants identify areas of agreement and move forward.

Initial focus will include developing a common understanding of the process to be followed, including: project goal (a Harbor Plan that has community support and is approved by City Council by December 2019); committee process; and general scope of work and schedule.

The analysis phase of the project will focus first on assembling and objectively presenting readily available information and identifying where additional information is needed. For situations where there is not yet agreement on facts, Consultant will facilitate agreement on objective articulation of the differences in perspective.

Emphasis will be on identifying areas of agreement and systematically building from those. The process will facilitate agreement on facts and issues *before* entertaining discussion of issue specific goals and strategies.

Consultant will use flip charts and other means to record and validate input received from Steering Committee members and stakeholders and work with the Steering Committee to make project information available to interested parties.

**Task 1 - Analysis of the harbor and related City infrastructure.** The primary goal for the first stage of the planning process is to establish a common baseline of understanding that can be used as a foundation for discussion of goals, strategies and actions.

Data collection and analysis will include:

- An inventory of *existing harbor uses and needs*.

- Available *data on harbor usage* by type and associated economic impacts.
- An inventory of publicly-owned *harbor infrastructure and condition*.
- A summary and status of *existing plans and Master Plans* related to the harbor and publicly-owned facilities, including facilities owned by the City, State Department of Transportation, and Coast Guard.
- A third-party survey to understand the *impacts of cruise ships* on the local economy and downtown experience.
- A summary of existing local, state, and federal *regulatory issues and constraints*.
- An overview of the *natural resource* and any critical habitat.
- *Sea level rise scenarios*, including current flood plain maps and projected sea level rise using, at a minimum, information from the Maine Geological Survey website, and consideration of NOAA COOPS.

Through the planning process the consultant to the City will develop base maps, using readily available existing data to show important features such as moorings, access points, roads, habitat, and implications of sea level rise, flooding, and more.

The majority of the work effort will be to evaluate and interpret relevant data and to develop clear infographics and summary text that effectively communicates harbor context and trends and assists with critical thinking (i.e., what does the data mean?).

Expected deliverables include:

- Infographics summarizing data and trends with bulleted summaries -- appropriate for use in various media.
- Maps showing harbor features, access points, uses, implications of sea level rise, and more.
- Overview of relevant studies and Master Plans.
- Raw data for City records/future use.

**Task 2 – Facilitation of the Harbor Planning Steering Committee Meetings.** The Harbor Planning process will include regular, focused meetings with the Steering Committee with summaries of accomplishments and action items that participants can use to brief the standing commissions and committees represented and solicit input.

Meetings will be used to:

- Develop a common understanding of facts.
- Plan for/consider input from a larger stakeholder engagement process.
- Discuss potential goals and strategies.
- Identify concrete actions for consideration.

Expected deliverables include:

- Meeting agendas.
- Presentation materials.

- Summaries of areas of agreement and action items.
- A working Summary Document summarizing the current state of the plan and associated data.

**Task 3 – Stakeholder outreach.** Soliciting input from the diverse stakeholders who have an interest in the harbor including both the general public and City Council is a critical aspect of the project. It is an important step in generating support and creating legitimacy for the plan itself.

Stakeholder outreach will include:

- *A communications plan* outlining goals, identifying stakeholders and the specific means of engaging with them, draft communications and event plans, as appropriate, and an action plan with responsible parties and schedule.
- *A series of public meetings* focusing on harbor issues. These public meetings will be organized to develop a shared understanding of facts, and facilitate discussion to identify issues, opportunities and solutions.
- *Consistent communication and collaboration between the Steering Committee and those they represent* – including the Harbor Management Commission, Comprehensive Planning Commission, and Economic Advisory Committee – and assistance from those groups where appropriate. Close coordination with the Comprehensive Planning Commission will be important to ensure that the Harbor Management Plan is consistent with and builds on the high-level goals and strategies in the Comprehensive Plan.
- *Consistent communication and collaboration with City Council.* Regular time with City Council will provide opportunity to develop a shared understanding of facts, solicit guidance and develop buy-in on critical elements of the plan.

Expected deliverables include:

- A detailed Communications Plan for stakeholder outreach and communication.
- Power Point presentation materials for use in outreach, and to provide website access to updates and information for those unable to attend meetings.
- Meeting reports including who participated, input received, areas of agreement and next steps.
- Consistent communications that publicize opportunities for input, explain project status and decisions made, and move the project forward.

**Task 4 – Initial concept for selected city assets.** The City of Rockland has the good fortune to own key properties on the waterfront, including Harbor Park, Buoy Park, Middle Pier, the Public Landing, Snow Marine Park and the Fish Pier. Looked at together, these properties offer opportunity for enhanced public access and use and improvements to the Harbor Trail. Past studies and plans have developed concepts for portions of these spaces. The City will, as part of the harbor planning process, facilitate discussion with stakeholders about these spaces and desired improvements.



Expected deliverables include:

- A high-level vision for these public spaces as a whole.
- Initial concept drawings for Middle Pier, the Public Landing, and adjoining areas for discussion purposes. (A future project would develop more detailed site plans.)

**Task 5 – Harbor Management Plan development.** Once there is a solid understanding of the facts and critical thinking about what the data is telling us, we can develop potential goals, policies and strategies that will be the central part of the Harbor Management Plan.

Questions to consider might include, but are not limited to the following:

- What is the role of the working waterfront in the economy and the community?
- What should the goals be related to cruise ships?
- Would changes to the mooring field design be beneficial?
- What is the role of the informal channel, and is it in the best location?
- How could City waterfront properties and infrastructure be improved and prioritized?
- Does the use of City properties and facilities provide sufficient revenue to maintain and recapitalize them? Should it?
- What are the best opportunities for public/private partnerships for development of harbor infrastructure or facilities?
- What should the City's goals be for the Harbor Trail, and should the boardwalk be extended?
- Is water calming/wave attenuation desirable, and if so, in what form?
- What is the role of concessions and where should they be allowed or encouraged?
- Should the City have a policy on houseboats? Houseboats as short-term rentals?
- What are the implications of sea level rise, flooding, and other environmental factors?

The Harbor Management Plan will include:

- A vision for the harbor and a related implementation plan with short, medium and long-term goals, actions, and implementation responsibilities.
- Initial concept plans for City infrastructure, such as the Public Landing and Middle Pier.
- An overview of the data, trends and stakeholder input that informed these goals, actions, and concepts.
- Necessary background information on harbor uses, access points, habitat, and conditions.
- A high-level summary of issues, needs and opportunities.
- Maps delineating key harbor features and uses, and implications of sea level rise.

Expected deliverables include:

- Draft Harbor Management Plan and associated maps and concept designs.
- A summary of input received, and how it was addressed.
- Final Harbor Management Plan.

(Detailed plans for mooring field redesign and or changes to the channel, if desirable, would be part of a future project.)

## Project Schedule

The Plan must be complete by December of 2019, with a draft plan no later than August 2019. Ideally, initial work with the Steering Committee and the first public meeting would be held in summer of 2018 to provide opportunity to capture input from seasonal users and residents. Because this plan will also help with budget and policy decisions related to the harbor and related City infrastructure, we hope to have some preliminary recommendations for consideration during the first quarter of 2019.

<b>Milestones</b>	<b>Projected Completion Date</b>
Grant Funding Awarded	July 2018
Engage Consultant	August 2018
Kick-off meetings	August 2018
Analysis of the Harbor	August 2018 – December 2018
3 <sup>rd</sup> Party Survey	September 2018- November 2018
Concept Designs	November 2018-February 2019
Stakeholder Process	August 2018 – July 2019
Goals, Strategies and Plan Development	January 2019 – August 2019
Draft Final Plan	August 2019
Approved Final Plan	No later than December 2019

## Project Budget

Consultant will complete the project for an amount not to exceed \$30,000 as shown below. Payment will be on a time and materials basis up to the amounts shown below, except that payment for task 5 will be held until a final draft of the plan acceptable to the City is provided.

Task 1 Inventory & Analysis	Up to \$8,000*
Task 2 Steering Committee Facilitation	Up to \$6,000
Task 3 Stakeholder Outreach	Up to \$6,000
Task 4 City Infrastructure Concept Development	Up to \$2,000**
Task 5 Plan Development	Up to \$8,000

*\*Does not include the cost of the 3<sup>rd</sup> party survey but does include the cost of managing the work.*

*\*\*Does not include the cost of the landscape architect but does include cost of managing the work.*

Amounts can be shifted from one task to another only with written permission by the City.

Billing rate for Noel Musson will be \$100 per hour, except that travel costs will be billed at no more than \$50 per hour.

The Musson Group may subcontract work with pre-approval by the City; any such work will be billed at cost.