



**THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

INTERNAL CONTROL AND ACCOUNTABILITY DIRECTIVES

**DIRECTIVE #10: CHARGES TO THE
CAPITAL PROJECTS FUND**

INTRODUCTION

Capital spending policy in The City of New York (City) is governed primarily by Chapter 9 of the [*New York City Charter*](#) and Section 10 and Section 11 of the New York State Local Finance Law (LFL). These laws require, among other things, that only assets that meet the definition of Capital Assets in accordance with generally accepted accounting principles (GAAP) may be charged to the Capital Projects Fund to be financed with long-term debt.

The purpose of this Directive is to set forth the accounting policies for determining when an agency may use Capital Funds financed by long-term debt for the acquisition, construction, reconstruction, or installation of a Capital Asset. It identifies the broad categories of projects or purposes appropriate for capital funding and provides interpretive guidance for the most commonly encountered situations. The City's Capital Assets are mainly financed by long-term borrowings but may also be funded by federal, state, and private grants or the General Fund. Capital Projects, which are predominately financed by long-term borrowings, must meet legal eligibility requirements pursuant to the LFL and the New York City Charter and must further conform to any other legal requirements not specifically set forth in this Directive. Final determination of capital eligibility can be made only upon the review of specific proposed projects by the appropriate City officials and, if necessary, the City's outside Bond Counsel. Therefore, this Directive, including the Frequently Asked Questions (FAQs) that accompany it, should not be viewed as an all-inclusive statement of the requirements necessary for establishing capital eligibility.

The City's capital spending policy and the procedures, and internal controls built into the capital budgeting, authorization, and payment request processes, have been developed to ensure compliance with the following underlying principles and objectives:

- Funds obtained through long-term borrowing must be used for long-lived assets rather than for current expenses or minor purchases;
- When borrowed funds are used to purchase assets, the useful life of the assets must match or exceed the length of the associated debt incurred;
- Capital Projects must be limited to the purposes set forth in the New York City Charter; and
- The projects or purposes for which debt is issued must conform to all applicable federal, state, and local laws.

In addition to this Directive, the Comptroller's Internal Control and Accountability [Directive #30 – Capital Assets](#), provides accounting standards for the reporting of Capital Assets in the City's financial statements. Directive #30 also gives direction for agency handling of Capital Asset dispositions, impairments, write-offs, and other related activities, including the need for sound asset control procedures.

As discussed previously, the FAQs are available for reference in order to provide further clarity by use of common examples for the application of policy addressed throughout this Directive.

Internal Control and Accountability Directives are issued pursuant to the authority of the Office of the Comptroller, as provided in Chapter 5, Section 93 of the [New York City Charter](#).

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PART I: DIRECTIVE OVERVIEW

1. GENERAL INFORMATION

1.1 *Effective Date*

This Directive is effective July 1, 2019 for all capital projects for which the original Certificate to Proceed (CP) has not been approved as of July 1, 2019. CPs approved prior to July 1, 2019 as well as any amendments to such CPs for previously approved capital projects will not be considered under the new guidelines in this Directive. This revision supersedes the previous version of the Directive, issued May 31, 2011.

Please Note: In addition, this Directive supersedes the following Comptroller’s Memoranda (CMs):

- CM #13-01, dated April 12, 2013, and #14-02, dated March 11, 2014, which implemented changes to Section 3.2.
- CM #14-06, dated September 11, 2014, which clarified the definition of ‘Training’ in Section 3.5.2.
- CM #16-02, dated December 16, 2016, which implemented changes to Section 8.2.
- CM #17-01, dated September 1, 2017, which implemented a new Subsection in the Directive, in the Section entitled *Computer Hardware, Software, Networks, and Systems*, is hereby rescinded.

Also Note:

- The minimum cost for a capital project under the Baseline Eligibility Criteria will be raised from \$35,000 to \$50,000, effective July 1, 2020.
- The minimum eligibility cost requirement for Initial Outfitting will be raised from \$110 to \$165, effective July 1, 2020.

1.2 *Assistance*

Questions or comments concerning this Directive should be addressed to: The Office of the Comptroller, Attention: Technical & Professional Standards Unit, Bureau of Accountancy, David N. Dinkins Municipal Building, One Centre Street, Room 200 South, New York, NY 10007, by telephone at (212) 669-3675, or via the [Technical and Professional Standards Unit Email](mailto:directives@comptroller.nyc.gov) (directives@comptroller.nyc.gov).

1.3 *Comptroller’s Internal Control and Accountability Directives*

An inventory of existing [Comptroller’s Internal Control and Accountability Directives](#) is available on the [Comptroller’s Website](#).

2. DEFINITIONS

Definitions of key terms used in this Directive are provided here:

- “Baseline Eligibility Criteria” are baseline standards of purpose, cost, useful life, and replacement that must be met in order for a project to be eligible for capital financing; as described in Section 3.
- “Betterment” is a capital expenditure that improve the quality or lengthens the life of an asset. This Directive uses the term Betterment when referring to buildings, facilities, or any element of infrastructure. (See also “Upgrade”.)
- “Capital Asset” major assets that benefit more than a single fiscal period that may be tangible or intangible and meet the minimum cost, minimum useful life, and other criteria for capital funding described in this Directive. When used in the text, references to Capital Assets may refer either to the object of a planned capital construction or purchase, or to an existing asset obtained or controlled as a result of past transactions, events or circumstances.
- “Capital Budget” the budget that is exclusively used to fund Capital Projects.
- “Capital Project” a project that meets the criteria of a Capital Asset and involves the construction, reconstruction, or acquisition of that asset. Examples include, but are not limited to: major construction or Betterment projects such as the construction or rehabilitation of a school; stand-alone purchases of major equipment such as a fire truck, mainframe computer, or major medical equipment; the purchase or Upgrade of equipment systems such as a neighborhood’s street lights or an agency computer system; the construction or rehabilitation of a residential building under a statutory housing loan or grant program.
- “Capital Projects Fund” is a set of accounts in the City’s Financial Management System (FMS Accounting) that is used to record all revenues, expenditures, assets, and liabilities associated with Capital Projects.
- “Certificate to Proceed (CP)” approval from the Office of Management and Budget that sets forth the terms and conditions under which the Capital Project shall proceed and informs the Comptroller of the amount of obligations to be used for financing the Capital Project.
- “Computer” is a programmable machine. Any device that accepts input from a user, performs calculations on that input, and provides output to the user. Computer does not refer to the monitor, keyboard or mouse.
- “Computer Hardware” refers to the physical parts of a computer and related devices. Internal Hardware includes motherboards, hard drives, RAM, etc.,. External hardware devices include monitors, keyboards, mice, printers, and scanners.

- “Computer Network” consists of multiple devices that communicate with one another. Many types of networks exist but they fall under two primary categories: Local Area Network (LAN) and Wide Area Network (WAN).
- “Computer Software” is a general term that describes computer programs and applications. Related terms such as software programs, applications, scripts and instruction sets all fall under the category of Computer Software.
- “Computer System” a system of interconnected computers that share a central storage system and various peripheral devices such as a printer, scanner, or routers. A group of computers that are connected and work together.
- “Corrective Work” additional work required to remediate defective work.
- “Equipment” a capital asset used to perform a specific task for business operations.
- “Equipment System” a system of interconnected equipment working together.
- “General Fund” is the main operating fund of the City, which is used to finance the City’s operations.
- “Infrastructure as a Service (IaaS)” allows a customer to remotely access its own network, server, and other fundamental computing tools (hardware) to process, store, and operate the customer’s data.
- "Initial Outfitting" is the outfitting of a defined area that (a) has been newly acquired, leased, or constructed; or (b) is the subject of a comprehensive Upgrade or Betterment.
- “Integrated” means that elements of a piece of equipment or system is designed to act or function as one unit.
- "Interfund Agreement" is an intracity contract that allows the Capital Fund to reimburse the General Fund (Expense Budget) for the cost of city employees who work on capital projects.
- “Local Area Network (LAN)” is limited to a specific area such as a home, office, or campus.
- “Machinery” a group of large machines or the parts of a machine that make it work.
- “Network” consists of multiple devices that communicate with one another.
- “Platform as a Service (PaaS)” allows a customer to use a Subscription-Based Information Technology Arrangement (SBITA) vendor’s tools or coding language (software) to create applications that will run on the SBITA vendor’s cloud infrastructure.
- “Software” is virtual, not physical. It consists of lines of code written by computer programmers that have been compiled into a computer program.

- “Software as a Service (SaaS)” provides a customer with the ability to use a SBITA vendor’s applications (software) through a cloud infrastructure.
- “Subscription” is a payment structure that allows a customer to purchase or subscribe to a vendor’s information technology services for a specific period of time for a set price.
- “Subscription-Based Information Technology Arrangement (SBITA)” is a contract that conveys the right to use another party’s hardware, software, or both, including information technology infrastructure, to a government end user, as specified in the contract for a period of time in an exchange or exchange-like transaction.
- “System” a set of things working together as parts of a mechanism or an interconnecting network.
- “Upgrade” is a capital expenditure that increases the quality or lengthens the life of an asset. This Directive uses the term Upgrade when referring to equipment, equipment systems, computer hardware, software, network and systems. (See also “Betterment”.)
- “Wide Area Network (WAN)” is not limited to a single area, but spans multiple locations. WANs are often comprised of multiple LANs that are connected over the internet.

3. BASELINE ELIGIBILITY CRITERIA

In accordance with relevant legal and accounting policies, the City has established baseline standards of purpose, cost, useful life, and replacement that must be met in order for an agency project to be eligible for capital financing. The Baseline Eligibility Criteria are presented below in this section. [Part II](#) of the Directive provides more specific guidelines, procedures, and examples to help agencies determine capital eligibility for individual projects. Expenditures that do not meet the Directive’s Baseline Eligibility Criteria may not be financed through the Capital Budget.

3.1 Purpose

City Charter, Chapter 9, Section 210, permits the use of bond proceeds for projects that provide for the “...construction, reconstruction, acquisition or installation of a physical public betterment or improvement, which would be classified as a Capital Asset under generally accepted accounting principles (GAAP) for municipalities or any preliminary studies and surveys relative thereto or any underwriting or other costs incurred in connection with the financing thereof.”

In general, Capital Projects must be capital assets with a multi-year life. Projects with the following purposes are typically considered capital eligible subject to the legal reviews described above:

- a) The purchase, construction, reconstruction and/or betterment of buildings, structures, facilities, or any element of infrastructure and, under certain circumstances, building

demolition costs (Section 4.5 of this Directive). Infrastructure refers to immovable assets in the public domain including: roads, bridges and tunnels; streets, curbs and sidewalks; parks and playgrounds; drainage and sewer systems; water distribution systems; and piers, docks and wharves.

- b) Pollution remediation that meets the provisions of Section 4.4.1 of this Directive.
- c) The purchase of furnishings, machinery, and equipment for the initial outfitting of a building, structure, facility, or element of infrastructure.
- d) The purchase of land and real property easements.
- e) The purchase, construction, or upgrade of items of major equipment such as elevators, construction equipment, and power generators.
- f) The purchase, upgrading, and installation of equipment systems such as: street lighting, telecommunications systems, emergency response systems, security systems, fire prevention systems, and traffic control systems.
- g) Information Technology that meets the provisions of Section 7 of this Directive.
- h) The purchase of motor vehicles (excluding passenger vehicles unless such vehicles have a capacity of at least ten occupants), rapid transit cars, aircraft, and watercraft.
- i) The reconstruction, upgrade, betterment or initial outfitting of real property, structures, facilities, equipment or other Capital Assets the City controls under long term lease.
- j) The payment of judgments and claims associated with Capital Projects.
- k) Funding certain statutorily authorized housing loan programs for work that otherwise meets the requirements of the Directive.

3.2 *Minimum Cost*

The cost of a Capital Project must be \$35,000 or more. The \$35,000 minimum refers to the total cost of the project, excluding the cost of Initial Outfitting and surface treatments (such as painting and carpeting), if any. If the Capital Project involves improvements to real property and the work within different areas of a building, facility or element of infrastructure is comprehensive, as defined in Section 5.1, the improvements combined must cost at least \$35,000. If the project is not comprehensive, the improvements to the different areas of the building, facility or element of infrastructure must each meet the \$35,000 minimum cost. If the Capital Project involves equipment, each unit of equipment must have a unit cost of \$35,000, unless the equipment is part of an Initial Outfitting, as detailed in Section 5.

Capital Projects often have construction costs for additional related work that extends beyond the time when the building, facility, structure or other Capital Asset is placed into service. For purposes of minimum cost eligibility, orders for the additional work must be within the scope of the original Capital Project and be made within six months of the date that the building, structure, facility or other Capital Asset is placed into service in order for the additional costs to be combined with the costs of the Capital Project. The cost of orders

for additional work made after six months from the date that the building, structure, facility, or other Capital Asset is placed into service must meet the minimum costs as a stand-alone capital improvement in order to be capital eligible. However, if such additional work constitutes corrective action to remediate defective work (“Corrective Work”), which Corrective Work, if performed, would resolve pending litigation, arbitration, or other ongoing disputes that delay the submission of orders for Corrective Work, such six-month period is tolled until such time as the dispute is resolved. Such resolution includes Corrective Work stipulated by settlement or required by court order, and the six-month period commences upon date such settlement is executed or such court order is entered.

When additional related work must be performed to remediate a decline in the service utility of a building, structure, facility or other Capital Asset, a determination must be made as to whether a write-down is appropriate. Agencies should consult [Directive #30 – Capital Assets](#) in making this determination.

3.3 Minimum Useful Life

A Capital Project’s expected useful life, for City purposes, from the date it is placed in service, must be at least:

- (i) Five years for projects other than those consisting of computer hardware, software, networks, and information technology systems; and
- (ii) Three years for projects consisting of computer hardware, software, networks, and information technology systems (See Section 7 for additional capital eligibility criteria).

Agencies must document expected useful life estimates for Capital Projects.

Agency estimates of useful life must be in writing and be provided by a qualified engineer or architect with specific knowledge of the project. In the case of computer hardware/software and other computer systems and equipment that are heavily dependent on newly emerging and evolving technologies, the estimate must be provided by the agency’s Chief Information Officer, Information Systems Director, or similar highly qualified official with specific knowledge of the project. Past usage patterns may be used as evidence of estimated future useful lives.

3.4 Capital Processing Procedures

Agency planning, authorization, vouchering, and recordkeeping for capital expenditures must be performed in accordance with the City’s accounting and budgeting procedures. This Directive describes the appropriate authorizations, and entry procedures that agencies must follow to ensure that transactions are properly accounted for in FMS Accounting.

Agency requests for capital funding must be reviewed and approved by the [Office of Management and Budget’s \(OMB\)](#) Task Force and Counsel’s Office and Bond Counsel of the City. The Office of the Comptroller reviews authorized Capital Projects for conformity

with applicable accounting standards and directives.

Charges to the Capital Budget must be encumbered by the agencies on capital agreement documents, such as contracts or purchase orders, prior to the issuance of any payments. The Comptroller will encumber Capital Funds only on the basis of an approved capital contract, open market purchase order, or Interfund Agreement (IFA).

Prior to the initiation of design or advancement of any Capital Project, an agency must request a Certificate to Proceed (CP) from OMB. The CP approves a cost limitation and scope of work for the Capital Project.

For detailed information about FMS Training and Reference Materials, please refer to the [*FISA Applications Portal*](#).

3.5 Capital Project Charges

Once a budget code is established for a Capital Project, in accordance with the requirements of this Directive, agencies must ensure that only capital eligible expenditures are charged to this budget code.

3.5.1 Eligible Expenditures

Whether paid to vendors or incurred by City employees, agencies may charge the following expenditures to the Capital Budget if they are identified with a specific Capital Project or are necessary and incidental thereto, provided that these costs are for Capital Projects that will be completed. If it is subsequently determined that a project will not proceed, the unfinanced preliminary and other soft costs incurred on the project must be transferred to the expense budget. Examples include, but not limited to:

- 1) Costs for preliminary surveys, maps, plans, and estimates.
- 2) Incidental costs, including legal fees, printing and engraving, and publication of notices.
- 3) Site selection costs.
- 4) The costs of conducting New York State Environmental Quality Review (SEQR) or other legally required reviews, once the related Capital Project has been approved by OMB.
- 5) Costs for planning, design, and architectural services.
- 6) The cost of supervising the work of outside vendors.
- 7) Direct costs paid to contractors, vendors, consultants, and others who provide materials, labor, and services.
- 8) Certain overhead expenses, including City employee salaries and Other Than Personal Service (OTPS) costs, incurred:

- By the office(s) or organizational unit(s) in the agency that contributes Direct employee salary costs (salaries that vary directly with changes to the Capital Project); and
 - By the agency's executive offices; and
 - IFA program overhead may be charged to Capital Projects using IFAs, in accordance with the guidelines set forth in Section 9 of this Directive. General and administrative costs and/or profit associated with recipients of City capital grants are never capital eligible.
- 9) Payment of judgments and claims associated with Capital Projects.
 - 10) Acquisition, construction, reconstruction, and installation of projects on privately-owned property is eligible if it meets the requirements of this Directive and additional legal requirements not described herein.
 - 11) Payment of costs of operating a construction site during the construction period including, but not limited to: site security; temporary power and heating; all costs of utilizing construction equipment, machinery and elevators; and other project elements necessary for construction. For this purpose, the construction period is deemed to end when the asset is substantially complete and ready for its intended use. If an asset is completed and placed into service in phases, only the incremental costs attributed solely to the on-going construction are eligible.

3.5.2 Ineligible Expenditures

Certain indirect and overhead expenditures, even though they may be related to eligible Capital Projects, must not be charged to the Capital Budget. These items include:

- 1) Agency general and administrative costs, including general planning, human resources voucher processing and auditing, budgeting, and accounting costs. (Under specific conditions certain general and administrative costs may be charged to Capital Projects using IFA. These are described in Section 9 of this Directive.)
- 2) General and administrative overhead related to the activities in #1 above;
- 3) Feasibility studies and other work undertaken to determine whether or not a project can or should take place;
- 4) Rental payments, except for payments for temporary space and, in such case, only to the extent necessitated by the Betterment of an existing space;
- 5) Reviews associated with determining whether or not a project will proceed;
- 6) Pre-SEQR (New York State Environmental Quality Review) costs where it is determined that the underlying project is not to proceed. The unfinanced

preliminary costs would have to be transferred to the expense budget;

- 7) Preventive maintenance costs;¹
- 8) Training costs, except for the development of training programs that independently meet the capital eligibility requirements outlined in this Directive, including a minimum cost of \$35,000 and a minimum useful life of five years. “Training” includes all instructional functions regarding an information technology system or piece of equipment or equipment system (most often falling into the category of “end-user-training” or “train the trainer”), whether it is off-the-shelf/standard production or customized. Training does not include a vendor/user final acceptance review/inspection for the sole purpose of the acceptance of a customized system or piece of equipment. Such review/inspection typically occurs as the last step of the Application Development Stage for internally generated computer software or during the commissioning process for a customized system or piece of equipment, solely for the purpose of final acceptance;
- 9) Warranties or maintenance agreements including software and application support service contracts;
- 10) Acquisition or improvement of an asset intended to be sold or otherwise disposed of by the City prior to meeting its initial service life capacity, except for certain housing and economic development programs and projects that would, after sale, meet the requirements for Capital Projects on privately-owned property;
- 11) Construction interest and the payment of various City taxes and other charges, including City real estate taxes, City mortgage recording taxes, water and sewer fees, etc.

3.5.3 Encumbering Capital Commitments

Agencies should encumber capital dollars using capital agreement documents when it is expected that the purchase will result in a Capital Asset. However, when an agency chooses a vendor whose bid results in the asset’s unit cost not meeting the minimum Baseline Eligibility Criteria discussed in this Directive for capital funding, the asset does not qualify as a Capital Project.

¹The term “preventive maintenance costs” excludes Betterments and Upgrades as defined in [Part I, Section 2](#) of this Directive.

PART II: ADDITIONAL PROCEDURES, CRITERIA AND GUIDANCE

Part II provides additional procedures, criteria, and more specific guidance to help evaluate capital eligibility for the broad classes of projects listed in Part I of this Directive. Unless otherwise specified, Baseline Eligibility Criteria described in Section 3 must be met for all Capital Projects.

4. BETTERMENTS AND UPGRADES TO CAPITAL ASSETS

Improvements to Capital Assets that meet the Baseline Eligibility Criteria outlined in Section 3 or 7 of this Directive are eligible Capital Projects if they qualify as a betterment or upgrade as described below. .

4.1 Eligibility Determination for Betterments and Upgrades

Eligibility determination applies to both Betterments and Upgrades. To be eligible for capital funding, a Betterment or Upgrade must accomplish at least one of the following for the Capital Asset as a whole or a component thereof:

- 1) Extends the useful life by a period of time equal to or greater than the applicable minimum useful life, as provided in Section 3;
- 2) Substantially expands the size or capacity;
- 3) Substantially increases the functionality (either by adding new major functions or improving its fitness for its existing uses);
- 4) Adapts it to a completely different use.

A comprehensive Betterment usually involves a complete renovation to different areas of a building, facility or element of infrastructure. The work must be extensive, connected and usually involves all four trades including:

- 1) Heating, ventilation, and air conditioning;
- 2) Electrical;
- 3) Plumbing; and
- 4) General construction.

Comprehensive Betterments usually involve complete redesigns of space including new floor plans. For comprehensive Betterments, for the purposes of meeting the \$35,000 minimum cost identified in Section 3 (subject to the limitations therein concerning Initial Outfitting and surface treatments)

- a) The cost of renovations to different areas of a building, facility, or element of infrastructure, may be combined if such areas are physically near and functionally related to each other. Functionally related areas are those that are dependent upon each other and necessary for the asset to function for its primary purpose.

- b) The cost of upgrades to different parts of equipment or elements of an equipment system may be combined if such parts or elements are physically near and functionally related to each other.

If the project does not meet the definition of a comprehensive Betterment, the cost of renovations to different areas of a building, facility or element of infrastructure must each meet the \$35,000 minimum cost identified in Section 3; for example, a \$15,000 roof replacement, a \$10,000 kitchen renovation, and a \$10,000 boiler replacement must each meet the \$35,000 minimum cost.

For statutory housing loan or grant programs, for all projects, the cost of any work in an individual building may be combined for purposes of meeting the \$35,000 minimum cost identified in Section 3 of this Directive.

4.2 Betterments and Upgrades – Eligible Costs

Eligible Betterments include, but are not limited to, the following, provided that they meet the requirements described in Section 4.1 of this Directive:

- 1) Expanding or adding to the size of a building, structure, or other Capital Asset.
- 2) Installing, reconstructing building systems, such as plumbing, heating, ventilation, and air-conditioning, and other systems.
- 3) Installing comprehensive streetscape improvements to contiguous streets in a defined geographic area, whether or not in conjunction with street reconstruction. Such improvements may include landscaping, the reconstruction of sidewalks and the installation of benches, sprinkler systems, immovable or fixed refuse receptacles, fountains, the construction of biking or jogging paths and street lighting. (The installation or reconstruction of any single element, however, does not itself constitute streetscape improvements).
- 4) Funding certain statutorily authorized housing loan programs for work that constitutes a betterment as described above.
- 5) Retrofitting a building, structure, facility or other Capital Asset or a component thereof for a wholly new or significantly changed use.

Eligible Upgrades include, but are not limited to, the following, provided that they meet the requirements described in Section 4.1 of this Directive:

- 1) Updating the essential equipment or technology at a facility.
- 2) Equipping a fleet, or portion thereof, of motor vehicles with communications or other technological equipment.
- 3) Major Information Technology enhancements, such as extending the coverage, reach, range, or power of computer hardware, software, network or system(s).

4.3 Betterments and Upgrades – Ineligible Costs

The following are not eligible Betterments and Upgrades:

- 1) Maintenance programs such as painting and carpet cleaning or replacement.
- 2) Consumable supplies and inventory (e.g., toner cartridges, utensils, or mouse pads).
- 3) Any item representing a replacement of an existing item that itself does not meet Baseline Eligibility Criteria, such as utensils, kitchen counters, other related kitchen items, chairs, desks and office equipment, such as time clocks, microwaves and refrigerators, that are not part of an Initial Outfitting.
- 4) Renovations of office space, facilities, or other Capital Assets involving only surface treatments, such as carpeting or painting, and/or minor carpentry.
- 5) Relatively small adjustments, minor enhancements or changes that do not constitute a Betterment or Upgrade, as defined in Section 4.1 of this Directive (e.g. change in font size, color, etc.,).

4.4 Recent Issues

Guidance for a number of specific instances that have arisen in recent years is provided as follows.

4.4.1 Pollution Remediation

Environmental remediation that is necessary for the completion of a Capital Project is capital eligible. However, capital funding for stand-alone environmental remediation (with the exception of lead paint and asbestos abatement programs) is not eligible. [Refer to [Directive #30 – Capital Assets](#) for information regarding when pollution remediation outlays result in Capital Assets.]

City agencies must reflect Pollution Remediation expenditures, by type (e.g. Land Acquisition and Construction Buildings) in FMS Accounting, in the Capital Projects Fund. Refer to [Directive #30 – Capital Assets](#), which lists the object codes that must be used to record Pollution Remediation expenditures.

4.4.2 Bridge Coating and Bridge Painting

The cost of bridge coating and painting is an eligible Capital Project when it involves a treatment process that incorporates extensive surface preparation and the application of a protective coating that has a life expectancy of at least ten years, and the coating is applied to a bridge that has a useful life of at least ten years and an original or replacement cost of at least \$10 million.

The cost of bridge painting that does not meet the requirements noted above, is an eligible Capital Project only when the painting is one aspect of a construction or rehabilitation project that increases the utility of the bridge as defined in Section 4.1 of this Directive.

4.4.3 Tree Pruning and Planting

The cost of pruning trees may be an eligible Capital Project when done in connection with a Capital Project that otherwise meets the baseline eligibility requirements outlined in Section 3 of this Directive; for example, when the pruning is done in connection with Betterment to an existing park or playground. In the absence of a Betterment, pruning alone is not eligible as a Capital Project. The cost of planting new and replacement trees is eligible only when part of a Capital Project that otherwise meets the requirements of this Directive; such as when the planting is done in connection with a Betterment to an existing park or playground, a comprehensive streetscape improvement program or if part of a comprehensive tree planting and replacement program.

4.4.4 Stand-Alone Air Conditioners

The cost of stand-alone air conditioners is not eligible as a Capital Project except as part of Initial Outfitting.

4.4.5 Charter Schools

Improvements to charter schools on privately-owned property, like improvements to any privately-owned property, must meet the criteria identified in Section 10 of this Directive.

4.4.6 Production or Purchase of Media Content

The cost of producing or purchasing media content such as electronic media, television programming, website development, or electronic exhibits or displays is an eligible Capital Project if it meets the capitalization criteria contained in [Directive #30 – Capital Assets](#) and the Baseline Eligibility Criteria defined in Section 3 of this Directive.

4.5 Demolitions

Demolishing an existing building or structure is an eligible Capital Project when:

- 1) The demolition and removal of the building or structure is necessitated by, or is in anticipation of, the preparation of the site for the construction of a new City-owned building, structure, facility or other element of infrastructure (or such elements owned by a City component unit as reported in the City's Comprehensive Annual Financial Report (CAFR)); or
- 2) The demolition is undertaken for the purpose of removing a hazardous or potentially hazardous condition, provided that the building or structure is City-owned or owned by a City component unit as reported in the CAFR.

4.6 Landfill Closure

Landfill remediation costs, including closure and post-closure costs, are not capital eligible

expenditures. However, the incremental costs of methane collection and similar systems with future revenue generating potential are eligible if the Baseline Eligibility Criteria is met.

5. INITIAL OUTFITTING

The Initial Outfitting of a building or other Capital Asset at the time of acquisition, lease, construction, reconstruction, Upgrade, or Betterment that meet the Baseline Eligibility Criteria described in Section 3 of this Directive, is an eligible Capital Project as described below.

5.1 Definition

As noted in the Definitions section, Initial Outfitting is the outfitting of a defined area that (a) has been newly acquired, leased or constructed, or (b) is the subject of a comprehensive Upgrade or Betterment.

5.2 Timing of Purchases

Orders for Initial Outfitting must be placed within six months of the date that the building, structure, facility or other Capital Asset is placed into service. If a facility is opened in stages, the Initial Outfitting for each stage must be ordered within six months of the first use of that stage. Any equipment or furniture ordered after six months is not considered part of the Initial Outfitting. Such equipment or furniture would not be an eligible Capital Project unless it otherwise meets the criteria established by this Directive for Capital Projects, in which case it may be processed as a separate Capital Project.

5.3 Initial Outfitting - Eligible Costs

- 1) Non-moveable equipment that is a fixture of the building, structure, facility, or other Capital Asset, regardless of cost.
- 2) Individual pieces of moveable equipment or furniture, or equipment or furniture units must meet a minimum eligibility cost requirement of \$110 or more. An eligible *unit* consists of a functional group where some constituent elements may cost less than \$110, but combined cost is at least \$110. A functional group includes the furniture and equipment required to bring a space to use but excludes accessories as set forth in Section 5.4 of this Directive. Examples include, but are not limited to:
 - For an office: a desk, accompanying visitor and desk chairs, printer stand, and book cases;
 - For a conference room: a conference table, accompanying chairs, side table, and book cases; and
 - For a reception area: chairs, tables, and book cases. In the case of modular equipment and furniture, a functional group in each modular cubicle may include permanently attached overhead shelves, cabinets and built-in lights, the work surface and permanent attachments to the work surface such as a

keyboard tray and/or drawer and standing furniture and equipment required to bring the cubicle to use such as pedestal file cabinets, desk, and visitor chairs.

- 3) In the case of a library, the initial inventory of library books and other educational materials such as CDs and DVDs, regardless of individual costs, upon the acquisition or construction of collection space or upon a Betterment that converts space to use for collections.
- 4) In the case of a fire truck, ambulance, or other capital eligible vehicle, the initial inventory of ladders, hoses or other equipment necessary to the purpose of the vehicle, regardless of individual equipment costs.

5.4 Initial Outfitting - Ineligible Costs

- 1) Moveable or modular equipment or furniture with an individual or unit cost of less than \$110 or a functional group with a cost of less than \$110 are not eligible as a capital expenditure under any circumstance.
- 2) Consumable supplies of any kind, regardless of grouping or unit cost or whether they are required for first use. Examples of consumable supplies include, but are not limited to: toner, paper, CDs, DVDs, badges/IDs, utensils, and mouse pads. Also see Section 4.3 for additional examples.
- 3) Accessories with an individual or unit cost of less than \$110 and whose use is purely incidental to the functional group to which they relate are not eligible as capital expenditures. Examples include, but are not limited to, individual office or modular office trash cans, file trays, staplers and similar items, and modular cubicle accessories that are not permanently attached to the cubicle structure, such as removable hooks, pencil holders, and shelves.
- 4) Building maintenance equipment and grounds maintenance equipment, including but not limited to floor buffers, vacuum cleaners, snow and leaf blowing machines, regardless of unit cost, unless such equipment meets the Baseline Eligibility Criteria outlined in Section 3 of this Directive.

6. EQUIPMENT/EQUIPMENT SYSTEMS

Generally, equipment systems that meet the Baseline Eligibility Criteria outlined in this Directive and the additional criteria established in this section, are eligible Capital Projects. Equipment systems may be acquired independently, at the time of an Initial Outfitting, or as part of an Upgrade.

6.1 Eligibility Criteria

To be capital eligible, an equipment system must be composed of a group of related elements working together or a standalone piece of equipment that meets the Baseline Eligibility Criteria as described in Section 3 of the Directive. The elements are considered related if they are mutually dependent upon each other, and physically connected or

connected through a wireless network. All elements of an equipment that satisfy these criteria, regardless of individual cost, are capital eligible.

Typical equipment system elements include:

- 1) Machinery or equipment components and subcomponents, including initial parts;
- 2) Initial setup requirements including wire, cabling, interconnecting hardware, software, transmission devices; and
- 3) Any labor, service, or incidental parts (excluding consumable supplies) necessary to assemble the elements and prepare the equipment for its intended operational use for the duration of its useful life at that location.

6.2 *Equipment Systems – Eligible Costs*

Examples of interdependent equipment systems that could qualify as capital eligible include, but are not limited to:

- 1) Communications systems, such as telephone systems or police radio networks;
- 2) Electrical equipment systems, such as power supply, fire protection, or traffic control systems; and
- 3) Combination systems such as electro-mechanical and other equipment systems that are computer controlled.
- 4) Laptops, notebook computers, tablets and other similar products (*with the exception of eReaders*), that meet criteria set forth in Section 7 of this Directive.

6.3 *Equipment/Equipment Systems - Ineligible Costs*

The purchase of multiples of the same item that do not meet the requirements for mutual dependence and service of a defined geographic area or facility, are not equipment systems and are ineligible for capital funding unless each item alone meets the minimum Baseline.

Eligibility Criteria contained in Section 3. For example:

- 1) The purchase of multiple bookcases, desk calculators, single space parking meters, moveable refuse receptacles or similar low value items for distribution throughout an agency, regardless of the total cost of the expenditure, does not meet the criteria for an equipment or equipment system and is not eligible as a capital expenditure.
- 2) Replacement of individual components of equipment, or an equipment system(s), which does not, in and of itself, meet the baseline criteria.
- 3) Cell phones, blackberries, and similar products.
- 4) Elements that could be part of the computer system, but are not mutually

dependent upon each other, e.g. heavy duty carrying cases for audio-visual equipment.

- 5) Replacement of any equipment or equipment system(s) that was originally purchased with capital money and has not been in use for at least five years.

6.4 *Equipment/Equipment System Upgrades*

To be capital eligible expenditures, Upgrades to equipment systems must meet the Baseline Eligibility Criteria outlined in Section 3 and the additional criteria for Upgrades outlined in Section 4 of this Directive.

7. COMPUTER HARDWARE, SOFTWARE, NETWORKS, AND SYSTEMS

The costs of computer hardware, software, and networks that are integrated and meet the Baseline Eligibility Criteria of three years minimum useful life and a minimum cost threshold of \$35,000 as well as the additional criteria established in this section, are eligible Capital Projects. The elements of an information technology system are considered related if they are mutually dependent upon each other, and physical connected or connected through a wireless network. Acquisitions may be in the form of stand-alone purchases, subscription, or upgrades.

7.1 *Eligibility of Software*

Under the City's policy, operating and application software are considered integral components of computer systems. In concept, software is akin to the equipment, fixtures, or library books needed for a new capital facility, in the sense that the physical asset, in this case the computer hardware and/or network would be virtually useless without it. Consequently, within the restrictions set forth in this section, software is an eligible Capital Project.

7.2 *Computer Hardware, Software, Networks, and Systems – Eligible Costs*

The following expenditures are generally capital eligible:

- 1) The cost of computer hardware components, whether as part of a computer system or upgrade, or as a stand-alone purchase. Equipment purchased as part of a system, such as medical equipment controlled through electronic health record system and other equipment systems that are computer controlled must meet the requirements in Section 6 of this Directive.
- 2) The cost of operating system software purchased in conjunction with computer hardware or a system integration project.
- 3) The cost of purchasing, or a subscription for, software. Operating or applications software purchased in connection with a system Upgrade must meet the requirements of Section 4 of this Directive in addition to this section.

- 4) Outlays incurred and related to the development of software meeting the capitalization criteria in [*Directive #30 – Capital Assets*](#). Operating or applications software developed in connection with a system Upgrade must also meet the requirements of Section 4 of this Directive.
- 5) The cost of purchasing or developing software that provides for the conversion of old data or allows access to it by new systems. Data conversion may be capitalized only to the extent that it is determined to be necessary to make the computer application operate from a technical perspective.
- 6) The cost of purchasing, installing or developing computer networks.
- 7) The cost of quality assurance services incurred in connection with a computer system implementation project.
- 8) The cost of establishing a business continuity system only when the continuity system will also be used for normal production/operational purposes (e.g. testing, load balancing, or staging.) The monthly fees associated with the on-going maintenance of the system are not capital eligible.
- 9) Purchase of network printers if such purchase is a part of a larger Local Area Network (LAN) Upgrade.
- 10) Laptops, notebook computers, tablets and other similar products (*with the exception of eReaders*) that meet the following criteria: i) are kept in designated carts which keep the devices secure and accounted for when not in use, (ii) do not leave the building where they are housed, and (iii) are marked and tracked by a security/inventory system. In addition, the agency user of such devices must have a demonstrated track record of usage, ownership, or maintenance of such similar devices for a minimum of three years with virtually no loss or damage of equipment, and at least 95% of purchased equipment are still in use after 3 years. Each criteria must be evident and in place upon contract registration. Additional physical safeguards are not capitally eligible, but should be considered as protective measures to extend the life of the asset, for instance: cases, covers, sleeves, screen protectors, etc.
- 11) Subscription-based information technology arrangements (SBITAs) are only capital eligible if the City is a party to the subscription arrangement and they result in one of the three most common deployment models: Software as a Service (SaaS), Infrastructure as a Service (IaaS), and Platform as a Service (PaaS). The SBITA must be provided pursuant to a written agreement and must have a useful life at deployment of at least three years (refer to the related Frequently Asked Questions (FAQ's) for applicable renewal option scenarios).

7.3 City Employee Salary Costs-Eligible Costs

City employee salary costs in connection with the development of computer software,

networks and systems are eligible capital expenditures only:

- 1) When the individual employees are working on the system during the period starting with development and ending upon formal systems acceptance by the managing agency;
- 2) If the project cost, before City employee salaries, is at least ten million dollars; and
- 3) If costs are incurred during the Application Development Stage of the project. Activities in this stage include the technical design of the selected systems application alternative (see [Directive #30 – Capital Assets](#)).

Employee costs other than those of City employees and employees of City component units are not capital eligible.

All salary costs must be charged using IFAs in accordance with guidelines set forth here and in Section 9 of this Directive.

7.4 Computer Hardware, Software, Networks, and Systems – Ineligible Costs

The following costs are generally not eligible capital expenditures:

- 1) Preliminary business and operational planning for new or replacement systems and Upgrades.
- 2) Demonstration of potential systems, vendor selection, consultant selection; except for side-by-side pilots in relation to an already-defined Capital Project.
- 3) Ongoing preventive and/or remedial maintenance costs, including first year costs.
- 4) Annual fees for disaster recovery services.
- 5) Business process reengineering costs as described in the following section of this Directive.
- 6) Outlays associated with activities during the Preliminary Project and Post-Implementation/Operation Stages of internally generated software projects (see [Directive #30 – Capital Assets](#)).
- 7) Contingency fees for IT projects.
- 8) Travel/lodging expenses when listed as separate line items for otherwise capitally eligible IT consultants.
- 9) Replacement of any information technology equipment or systems that was

originally purchased with capital money and has not been in use for at least its initial service life capacity.

- 10) Computers connected only to the internet, unless the computers were acquired in connection with and for the purpose of operating specific cloud based software.
- 11) Short-term subscription-based information technology arrangements (SBITA). A SBITA is considered short-term if the services are provided for less than three years or a month-to-month option is exercised.

7.5 Business Process Reengineering Costs

Computer systems development projects may be closely associated with, or conducted in conjunction with, business process reengineering efforts. Generally, business reengineering involves the streamlining of operations for improved efficiency and effectiveness. It may include the hiring of consultants to provide operational guidance. The cost of business process reengineering, whether done by agency staff or third parties, must be charged to the expense budget. However, process reengineering which is inherent in the design of a system and the implementation of which is essential in order to make full use of the functionality contained by an otherwise capitolly-eligible computer system development project, may be capitalized as part of that system. Capitalization should cease no later than the point at which the computer software is substantially complete and operational.

8. LEASES AND LEASEHOLD BETTERMENTS

8.1 Lease Payments

Lease payments are ineligible for capital funding, except lease payments for temporary space to the extent that such temporary space is necessitated by the Betterment of an existing asset.

8.2 Leasehold Betterments

Betterments and Upgrades made to real property, structures, facilities, equipment, or other Capital Assets the City uses or controls under a long term lease may be eligible for capital funding provided that the project meets all Baseline Eligibility Criteria outlined in Section 3 of this Directive. The probable period of usefulness (PPU) used to structure the financing for such a Betterment or Upgrade must not exceed the useful life of the Betterment or Upgrade or the remaining term of the lease, whichever is shorter, but in no case can be less than five years.

Unexercised lease renewal options or purchase options may be counted in determining the remaining lease term for purposes of ascertaining whether the useful life of a Betterment is at least five years provided that the following conditions are satisfied, as demonstrated by the lease and supporting documentation: (i) such option may be unilaterally exercised by the City; (ii) the City agency that is a party to such lease is authorized, without further

regulatory approvals, to exercise such option; and (iii) the Commissioner or a Deputy Commissioner of such City agency has certified in writing that it intends unconditionally to exercise such option. Such unexercised options may not be counted in determining the remaining lease term where the City is not the lessee. In addition, in order to be eligible for capital funding, Betterments to leased property must meet all Baseline Eligibility Criteria outlined in Section 3 of this Directive.

8.3 Initial Outfitting of Leasehold

The Initial Outfitting of structures, facilities, equipment or other Capital Assets the City uses or controls under a long term lease may be eligible for Capital funding provided that the Initial Outfitting meets the requirements of Section 5 of this Directive. The PPU used to structure the financing for the Initial Outfitting must not exceed the remaining term of the lease or the useful life of the Betterment, whichever is shorter, and in no case can be less than five years. Unexercised renewal options or purchase options cannot be counted in determining the remaining lease term.

8.4 Leasehold Improvements

A leasehold improvement is a permanent Betterment or Upgrade that increases the usefulness of the leased property which will revert back to the lessor at the end of the lease term. Leasehold improvements which meet all the requirements of this Directive are eligible capital expenditures. Unexercised renewal options or purchase options cannot be counted in determining the lease term for minimum useful life.

9. INTERFUND AGREEMENTS (IFA)

An IFA is a mechanism that the City uses to reimburse the General Fund (Expense Budget) for the cost of City employees who work on capital projects.

The operative concept for IFAs is that they are buy/sell agreements that enable the Capital Projects Fund to reimburse the General Fund for in-house Capital Project costs initially charged to the General Fund. IFAs take on the identity of contracts in which the “vendor” agency agrees to perform prescribed services. IFA terms and conditions, in many respects, are the same as those in a contract negotiated with an outside consultant or contractor. These services are subject to audit in the same manner as they would be if performed by an outside contractor.

There are five expense components that comprise eligible IFA charges:

- 1) *First-line* employee services (as defined in Section 9.1 of this Directive). These are the direct wage and salary costs of full-time, part time, or seasonal employees when working on Capital Projects, and employees who work on computer system Capital Projects as provided in as provided in Section 7 of this Directive.
- 2) Fringe benefit costs for first-line employees.
- 3) Administrative overhead costs including personal services, fringe benefits, and related OTPS costs such as supplies, rent, and utilities incurred by the agency that

contributes first-line employee services.

- 4) Administrative overhead costs, including personal services, fringe benefits, and related OTPS, such as supplies, rent, and utilities for the agency's executive staff (commissioner, deputy commissioner and assistants).
- 5) Citywide overhead costs covering the agency's share of services provided by specified City overhead agencies.

Hourly rates for first-line employees, fringe benefit rates and citywide overhead agency services are determined by OMB. OMB works with agencies to determine allocation bases and procedures, and combines all five elements into a single billing rate (customized for each agency, and by bureau within agency, where applicable) which is applied to first-line employee hours or other appropriate methodology.

9.1 First-Line Employee – Eligible Costs

Eligible first-line employee costs include:

- 1) Design, engineering, architectural and construction supervision services incurred in the planning, development, review or construction stages of Capital Projects by the first-line managing agency.
- 2) Legal services provided in connection with the planning for or purchase of a Capital Asset.
- 3) Legal, legal support, and engineering services incurred in connection with judgments and claims related to Capital Projects.
- 4) Costs incurred in connection with the development of computer software, networks and systems under the restrictions set forth in Section 7 of this Directive.
- 5) In limited situations, direct construction labor when approved by OMB.

9.2 First-Line Employee – Ineligible Costs

Ineligible first-line employee costs include:

- 1) Wage and salary costs of employees when not working on Capital projects and activities or whose cost is necessary as a general cost of doing the agency's business.
- 2) Hours spent on warranty work and follow-up by first-line employees once a project is completed.
- 3) Pre-scope work that cannot be attributed to a specific Capital Project or activity
- 4) Any ineligible costs and expenses identified in the preceding sections of this Directive are also ineligible IFA costs and expenses.

10. CITY CAPITAL GRANT PROJECTS ON PRIVATE PROPERTY

City capital grant projects on privately-owned property must meet all the requirements of this Directive. In addition, such projects must comply with significant legal requirements that are not addressed in this Directive. Examples of such City capital grant projects include construction or reconstruction of charter schools, cultural institutions and social services organization on privately-owned space. Funding of internal staff of private organization is not eligible.

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