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REPORT TO COUNCIL

DATE: October 6, 2016
TO: City Council
FROM: Bryant Enge, Director
Tawnya Harris, Program Manager
SUBJECT: Portland, Oregon Sign Annual Report

In accordance with Ordinance 187060, and Section 3.15.010 of the City Charter, which requires the Portland Oregon Sign program to submit an annual report to City Council concerning its activities. The Portland Oregon Sign program is pleased to present its first Annual Report. This report summarizes and highlights performance results, program development and future plans. It also includes historical information and financial data. The report is intended to be informational and to provide City Council with an assessment of the program.

Since the installation of the Portland Oregon Sign program in 2013, we have generated interest in the sign, established a Fee Schedule and Acceptable Use Policy. In addition, we have secured Copyrights and Trademarks. Program fees are based on the type of entity and the annual gross of the entity. Government agencies and other charitable organizations may have their fees waived. The Acceptable Use Policy enforces goodwill in licensing the mark, and the value of goodwill in the minds of citizens of Portland, Oregon and elsewhere. A written Intellectual Property License Agreement (IPLA) issued by the Bureau of Internal Business Services, Portland Oregon Sign Program is required for the commercial use of the Portland Oregon Sign. Use is subject to approval. Request for an IPLA can be submitted via the Portland Oregon Sign website:

www.portlandoregon.gov/bibs/pdxsign

We are looking forward to continue to build on last year's success. We thank you for your time reviewing the Portland Oregon Sign Program Annual Report and hope you find it informative.

An Equal Opportunity Employer

To help ensure equal access to programs, services and activities, the Office of Management & Finance will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities upon request.

www.portlandonline.com/omf/operations

PORTLAND OREGON SIGN PROGRAM
ANNUAL REPORT
2016



Prepared by
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PORTLAND OREGON SIGN PROGRAM ANNUAL REPORT

An iconic national symbol for the City of Portland and its citizens.



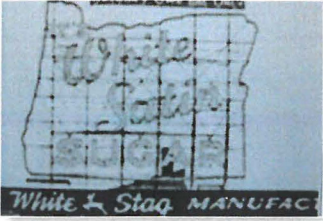
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Program Introduction

History



The Portland Oregon sign is a historic neon-lit sign atop the White Stag, Hirsch-Weiss building located at 70 NW Couch in Portland’s historic “Old Town” district. The sign was erected in 1940 by Ramsay Signs for the White Satin Sugar Co., and has represented various commercial interests over its 76-year lifespan. Originally, the sign read “White Satin Sugar” inside an outline of the State of Oregon. In 1950, the sign was animated to show the state filling with sugar. Today, distinctive features include a leaping white “stag” (whose nose is lit up with a red bulb during the holiday season), the script “Portland Oregon” prominently displayed, and the words “Old Town” less prominent at the bottom of the sign.

In 2010, City Council approved an agreement under which the City of Portland took ownership of the sign. The City of Portland owns the intellectual property rights for the sign’s image, including a U.S. federal copyright registration, an Oregon state trademark registration, several U.S. federal trademark registrations, and common law copyright and trademark rights.



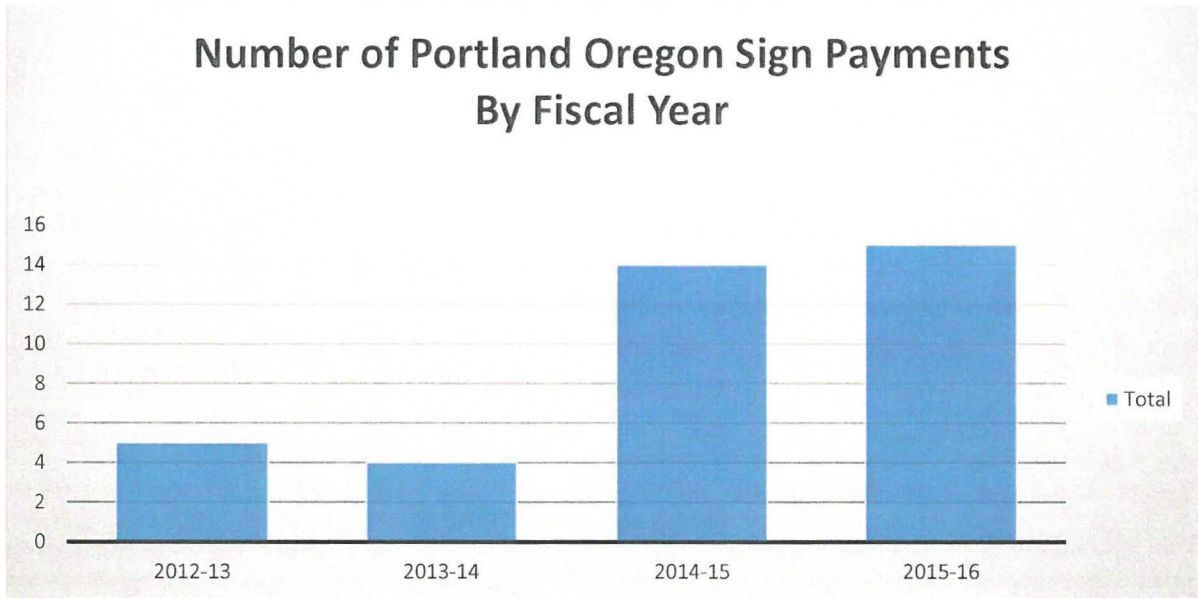
The sign has been managed by the Office of Management and Finance’s Bureau of Internal Business Services since 2013. The program’s objective has been to recover at least approximately \$30,000 in annual maintenance and operations costs through the collection of license fees from commercial interests for use of the sign’s image.

To date, the Portland Oregon sign image has been licensed by various firms, including Wieden Kennedy/Travel Portland, Chrysler Corporation, Pac Sun, Whole Foods Market, Little Bay Root and Nike. In February 2015, the City also recovered \$30,000 from Pabst Brewing Company, as part of resolving a dispute stemming from Pabst’s unauthorized commercial use of a version of the City sign image.

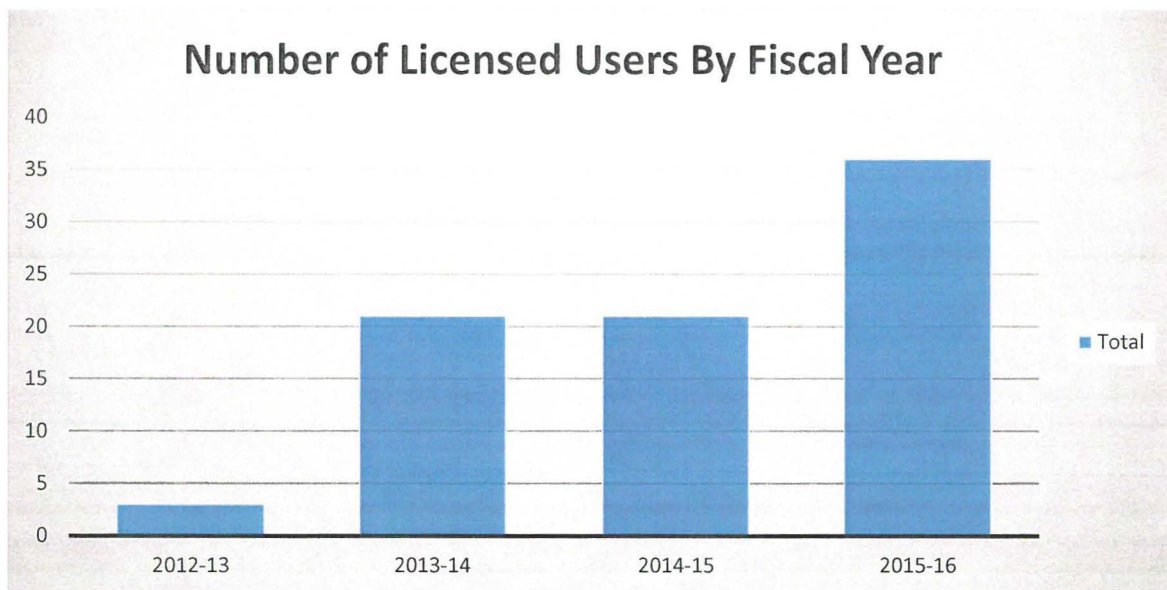


Financial Overview

In FY 2015-16, operational expenses were \$30,119 whereas gross revenues were \$39,330; program net income was \$9,210. The Portland Oregon sign program thus achieved an operating surplus for the first time in its three years of existence. Demand for use of the sign has been increasing over the past several years. The financial results depicted here are derived from SAP financial statements.



Since the installation of the Portland Oregon Sign Program in 2013, the program has issues approximately 78 license agreements.



Program Development

Intellectual Property Rights

The program has examined other municipal government practices for managing intellectual property (IP). Staff research found that the City of Portland could enhance revenues through intellectual property protections and additional branding efforts. Some examples of well-managed municipally-owned IP include the “I ♥ NY ®” logo and the Seattle Space Needle image. For example, according to public records, the “I ♥ NY ®” licensing program generates well over one million dollars per year for New York state.

In 2014, after considering such other municipal government practices, the advice of the City Attorney’s office, and the advice of expert outside counsel (Shawn Kolitch of Kolisch Hartwell, P.C.), the City initiated a process to solidify its intellectual property rights in the sign image by registering the copyright in the sign image with the U.S. Copyright Office, and registering the sign image as a federal trademark with the United States Patent and Trademark Office (USPTO) in various fields of use.

The City obtained a U.S. federal copyright registration in August 2015, which allows the City to exclude others from using the copyrighted sign image or any substantially similar variation without a license from the City. The City has also obtained federal trademark registrations covering bike jerseys, stickers and buttons. Additional federal trademark registrations covering t-shirts, tote bags, chamber of commerce services (e.g., promoting business and tourism), intellectual property licensing, glassware, beer and alcoholic beverages have been allowed by the USPTO. Federal trademark registration provides the right to exclude others from using the mark (or any confusingly similar variation) nationwide in connection with particular goods and services, unless licensed to do so by the City.

Taken together, the City’s federal trademark and copyright rights can be used to license the City sign image and enforce the City’s rights against those who use the image without the City’s permission. In fact, under U.S. law, trademark owners have a duty to police the use of their marks and to stop others from using marks in a confusingly similar way. The City will continue to attempt to expand its licensing program to generate a positive cash flow from the sign image, and will selectively and strategically choose enforcement actions to take, as it did in the case of unauthorized use by Pabst in 2015.

To continue the development of the Portland Oregon Sign licensing program, the City recently submitted an application to the USPTO to register a “City of Roses” variation of the City sign image (see right) as a federal trademark, which will not include the OLD TOWN element. If the City can obtain a federal trademark registration for this variation of the sign image, the City will be able to license the “City of Roses” version of the sign image in addition to the “Old Town” version. This plan is consistent with best practices and the advice of counsel, and if successful, will further strengthen the City’s intellectual property rights for the sign image and enhance the revenue base in order to ensure the long-term preservation of the iconic neon sign. As described previously, this is part of a plan under which the City has already obtained several U.S. federal trademark and copyright registrations covering the City sign image, and the City is likely to pursue others as the sign licensing program evolves.



Program Development

Acceptable use Policy

The Portland Oregon Sign program enforces goodwill in licensing the mark, and the value of goodwill in the minds of the citizens of the City of Portland and elsewhere. In 2015, the Bureau of Internal Business Services established an Acceptable Use Policy (AUP) and fee schedule for use of the Portland Oregon Sign mark. The purpose of the AUP is to ensure compliance with applicable laws, rules and regulations. Parties must obtain an Intellectual Property License Agreement (IPLA) before selling, advertising, or creating for sale, distribution or giveaway of any goods or services using the Sign.

Fee Structure

Program fees are based on the type of entity and the annual gross revenue of the entity. Government agencies and other charitable organizations may have the fees waived. Currently, there is no charge to the film industry for incidental use. The City wants to encourage the film industry in Portland, and filming in Portland brings revenue to the city and citizens through additional jobs in areas like catering, extras, makeup artist, and rentals. To date, the City has granted approximately 78 image and film license agreements.

Future Plans



The program has identified several opportunities to further develop the Portland Oregon Sign program:

1. **Secure Intellectual Property Rights**: Strengthening its intellectual property rights in the sign, by pursuing additional U.S. federal trademark registrations.
2. **Develop a Branding Strategy**:
 - a. Promoting Portland brands that have national and international networks by developing relationships with organizations and focusing on target markets;
 - b. Capitalize on opportunities with City bureaus, local businesses and festival associations to market Point of Sale merchandise and further branding opportunities.



Contact Us

The Portland Oregon Sign, also known as the White Stag sign or Made in Oregon sign, is located in the historic Old Town/Skidmore district, it is listed in the National Register of Historic Places. You can find more information about the Portland Oregon sign program, including the Acceptable Use Policy, Fee schedule, and use application online at: www.portlandoregon.gov/bibs/pdxsign



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References

- Historical White Stag information (Source: https://en.wikipedia.org/wiki/White_Stag_sign)
- I ♥ NY revenue information (Source: http://www.nytimes.com/2013/05/30/nyregion/new-york-challenges-a-coffee-shop-logo.html?_r=0)
- Front page: Portland Oregon Sign photo, (Source: Greg Vaugh. www.GregVaugh.com)
- Space Needle, Sky City information (Source: <http://www.manta.com/c/mm6zg1p/space-needle-skycity>)
- Seattle Space Needle information (Source: <https://www.spaceneedle.com/fun-facts/>)



1234

Agenda No.

REPORT

Title

Accept the Portland Oregon Sign 2016 Annual Program Review. (Report).

INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales	CLERK USE: DATE FILED <u>NOV 01 2016</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Hales	By:  Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL	ACTION TAKEN:
Bureau: OMF/Bureau of Internal Business Services CAO: Fred Miller Bureau Head: Bryant Enger 	NOV 09 2016 ACCEPTED
Prepared by: Tawnya Harris Date Prepared: August 25, 2016	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date November 9, 2016	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/> Pull
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	