STATE OF MAINE
DEPARTMENT OF LABOR
BUREAU OF LABOR STANDARDS
WORKPLACE SAFETY AND HEALTH DIVISION
45 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0045

JANET T. MILLS
GOVERNOR

LAURA A. FORTMAN
COMMISSIONER

MICHAEL ROLAND
DIRECTOR

January 14, 2022

Erin Herbig, City Manager
City of Belfast/ Public Works Department
131 Church Street
Belfast, ME 04915

Inspection Number: 1552614

Dear Erin Herbig:

The Bureau of Labor Standards completed an inspection on 09/09/2021 in which workplace conditions were found that violate Occupational Safety and Health rules. SEE: Title 26 MRSA Chapter 6; 29 CFR parts 1910 & 1926. The unsafe conditions identified are listed in the enclosed citation document attached to this report along with the reference to the applicable Safety and Health standard or regulation that applies. All unsafe condition(s) identified must be corrected by the abatement date indicated on the report.

The enclosed citations will become a final order within fifteen (15) business days from the day it was received, unless you request a penalty discussion or file an appeal (see employer options) within the specified time frame listed above. The total amount of the proposed penalty for the citations(s) is $700 payable to the "Treasurer, State of Maine".

Employer options (within 15 business days):

Informal Conference: Within fifteen (15) days of receipt, you have the option of meeting with the Bureau Director or their designee to present any evidence which you believe would support an adjustment to the citation(s) and/or penalty. Please keep in mind, an informal conference does not take the place of a written request letter for a penalty discussion or formal appeal. An informal conference is not required and does not need to be in writing. If you choose to request an informal conference, it is highly recommended to call our office to schedule this informal conference as soon as you get this report. The informal conference does not delay or replace the contest time period for the two options below.

Penalty Discussion: If you intend to correct all hazards identified and wish to work with the Workplace Safety & Health Division to possibly reduce the penalty amount, you may request a "Penalty Discussion", in writing within fifteen (15) days of receipt of this report. (We will contact you to have a penalty discussion after receipt of the completed "Abatement Certification" form). This discussion will pertain only to the penalty and not the violation(s). All proposed penalties will be stayed until after the penalty discussion.

Or

Formal Appeal: You may file a formal appeal of any citation, abatement date, or penalty within fifteen (15) days of receipt of this report. Please be specific as to what citation(s), abatement date or penalty you wish to appeal. If a request for a formal appeal is received, the Director will set a time and date for a hearing with the Maine Board of Occupational Safety & Health (BOSH). All proposed penalties will be stayed until after the formal appeal is heard.

PHONE: (207) 623-7900 TTY USERS CALL MAINE RELAY 711 FAX: (207) 623-7937
OFFICES LOCATED AT: CENTRAL MAINE COMMERCE CENTER, 45 COMMERCE DR., AUGUSTA, ME 04330

As the employer, you must respond in writing to the Director of the Bureau or their designee, at the address above, within fifteen (15) business days of receipt of this report stating what option you intend to choose toward correction of the hazards. If no response is received within that time frame you accept all citations, dates of correction, any penalties assessed, and the citation report will become a final order. We strongly recommend that any correspondence be sent by certified mail. Failure to correct violations may result in additional penalties of up to a $1000.00 per violation, for each day hazards are not corrected.

Extension of Abatement Date(s):

An employer may ask for an extension of an abatement date. The request must be in writing and received prior to the assigned abatement date. Please be specific as to the citation(s) you are asking an extension for and the reason for the extension.

Dates to Remember:

-Respond in writing, to the Director or the Bureau within fifteen (15) business days of receipt of this report indicating what option you choose.
-All citations must be corrected by the abatement date listed on the citation page(s) of this report.
-Once the hazards have been corrected, the completed "abatement certification form" included in this report must be received by the Bureau within ten (10) business days after the citation abatement date.

Posting Requirements:

The law requires that a copy of this Citation and notice of penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if this is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This citation must remain posted until the violations(s) cited herein have been abated.

Employer Discrimination Unlawful:

The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under the Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Maine Department of Labor, Bureau of Labor Standards at the address above.

The statutory authority for this order is established at Title 26 MRSA, sections 44, 44-A, 45, 46 and 565 et seq. anyone having questions regarding the enclosed citation(s) or your fifteen (15) business day options may contact the Bureau of Labor Standards, Workplace Safety and Health Division at (207) 623-7923.

Steven L. Greeley, Director
Workplace Safety & Health Division
Bureau of Labor Standards

ABATEMENT CERTIFICATION WORKSHEET

City of Belfast/ Belfast Public Works Department
45 Front Street
Belfast, ME 04915
Issuance Date:01/14/2022

Inspection Number: 1552614

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: Workplace Safety & Health Division, 45 State House Station, Augusta Maine 04333-0045.

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____
_____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

_____ _____
Signature Date

_____ _____
Typed or Printed Name Title

NOTE: MRSA Title 26 Chapter 3 §46 Any employer who fails to correct a violation for which a citation has been issued under section 45 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board in the case of any review proceeding initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

Maine Department of Labor
Bureau of Labor Standards
Workplace Safety & Health Division

Inspection Number: 1552614
Inspection Date: 09/09/2021-12/09/2021
Issuance Date: 01/14/2022

Citation and Notification of Penalty

Company Name: City of Belfast/ Belfast Public Works Department
Inspection Site: 45 Front Street Belfast, ME 04915

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.28(b)(1)(i):The employer did not ensure that each employee on a walking-working surface with an unprotected side or edge that is 4 feet (1.2 m) or more above a lower level was protected from falling by a guardrail system, safety net system, travel restraint system, or personal fall arrest system.

On September 9, 2021 four Belfast Public Works employees were working together cutting up and removing an old dock system located in a public parking lot at 45 Front Street in Belfast, Maine. Once the dock debris was loaded in Truck #157 two employees climbed the fixed truck ladder to secure the dock material prior to transport. Once in the truck body, employees stood and walked on the dock material placing the walking-working surface greater than 4 feet above the ground below with unprotected sides, and no fall protection. Employee #1 was working on the passenger's side of the truck body and employee #2 was working on the driver's side of the truck body. As employee #2 was walking on the dock debris he lost his balance and fell to the ground below landing on his head. Employee #2 died as a result of his injuries.

Acceptable and feasible methods to correct the conditions include but are not limited to: Provide fall protection equipment, positioning devices or alternative procedures to eliminate entry such as dump truck tarps when there's a concern debris will fly out during travel. Assess tasks performed by employees which could place them in the body of dump trucks without fall protection such as breaking up sand / salt clumps, shoveling material out of the dump body or maintenance and repairs of the sanding system. Train on fall protection and new procedures.

Date by Which Violation Must Be Abated:	**February 18, 2022**
Proposed Penalty:	**$700.00**

Steven L. Greeley, Director
Workplace Safety & Health Division