



# CITY COUNCIL AGENDA



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[lisa.goodwin@bangormaine.gov](mailto:lisa.goodwin@bangormaine.gov)

**PLEDGE OF ALLEGIANCE**

Currently, the public has the choice to participate in meetings in person at City Hall now located at 262 Harlow Street or remotely through Zoom. Meetings are available to view through Youtube website, and the Government Channel 1303, after the fact. Public comment, whether in person or through Zoom, requires a person to state their name and town of residence, and any inappropriate or offensive remarks may be removed or interrupted, and the Council Chair will have discretion over the time allowed for comment. On Zoom, the public may be recognized to speak by the hand wave function or on a phone by pressing \*9.

**PROCLAMATION: Proclaiming April 26, 2024 as Arbor Day**

**PROCLAMATION: Proclaiming May 10, 2024 as Child Care Providers Appreciation Day**

**PROCLAMATION: Proclaiming the Week of May 6, 2024 as Economic Development Week**

**PUBLIC COMMENT**

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**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

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\*Explanatory Note: All items listed in the Consent Agenda are considered routine and are proposed for adoption by the City Council by one motion without discussion or deliberation. If discussion on any item is desired any member of the Council or public may merely request removal of the item to its normal sequence in the regular agenda prior to a motion for passage of the Consent Agenda.

**MINUTES OF: Bangor City Council Regular Meeting of April 8, 2024, Finance Committee Meetings of April 1, 2024 and April 17, 2024, and Business and Economic Development Committee Meetings of April 1, 2024 and April 17, 2024**

**LIQUOR LICENSE RENEWALS: Application for Liquor License Renewal Malt, Wine, Spirits of Waterfront Concerts, LLC d/b/a Waterfront Concerts, 1 Railroad Street HAWES**

**Application for Liquor License Renewal Malt, Wine, Spirits of Nocturnem LLC d/b/a Nocturnem Draft Haus, 56 Main Street HAWES**

**Application for Liquor License Renewal Malt, Wine, Spirits of First Lady, Inc. d/b/a Governor’s Restaurant, 643 Broadway HAWES**

**Application for Liquor License Renewal Malt, Wine, Spirits of Chase’s Family Restaurant Inc. d/b/a Chase’s Family Restaurant & Hideaway Lounge, 1575 Hammond Street HAWES**

**LIQUOR LICENSE NEW: Application for Liquor License New With Auxiliary License Malt, Wine, Spirits of Bangor Birdies LLC d/b/a Bangor Birdies, 278 Webster Avenue HAWES**

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 22, 2024**

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**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**24-124      ORDER              Authorizing City Manager to Execute MaineDOT  
Locally Administered Project Agreement for WIN  
#28458.00 Mt. Hope Avenue Sidewalk**              **DEANE**

**Executive Summary:** This Order will authorize the City Manager to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #028476.00 Mt. Hope Avenue Sidewalk.

The scope of work consists of a six foot wide sidewalk along Mt. Hope Avenue, starting at Saratoga Avenue and continuing northeasterly for approximately 2,065 feet to a trail leading to Eastern Maine Community College. The total project costs is \$792,172.00. Federal share is 80% or \$633,737.60, and the City local match is 20% or \$158,434.40.

This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 17, 2024.

**24-125      ORDER              Authorizing City Manager to Execute a MaineDOT  
Locally Administered Project Agreement for WIN  
#28474.00 Fourteenth Street Extension Shared-Use  
Pathway**              **SCHAEFER**

**Executive Summary:** This Order will authorize the City Manager to execute a Locally Administered Project Agreement with the Maine Department of Transportation for the WIN #28474.00, Fourteenth St Extension Shared-Use Pathway.

The scope of work consists of a shared-use pathway along Fourteenth Street Extension, starting at Ohio Street and continuing approximately 0.38 mile to Valley Avenue where it will connect to an existing pathway. The total project costs is \$462,799.00. The Federal share is 80% or 370,223.20 and the City local match is 20% or \$92,555.80.

This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 17, 2024.

**24-126      ORDER              Authorizing City Manager to Execute MaineDOT  
Locally Administered Project Agreement for WIN  
#28476.00 Broadway and North Park Street  
Intersection Improvements**              **HAWES**

**Executive Summary:** This Order will authorize the City Manager to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #028476.00 Broadway and North Park Street Intersection Improvements.

The scope of work consists of a traffic signal upgrade. The total project costs is \$714,699.00. Federal share is 80% or \$571,759.20, the State share is 10% or \$71,469.90, & the City local match is 10% or \$71,469.90.

This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 17, 2024.

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 22, 2024**

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**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**24-127      ORDER              **Appointing Election Clerks****

**FISH**

**Executive Summary:** This Order will appoint Election Clerks to work at elections for the next two years. Under State election law, the Municipal Officers shall appoint at least one Election Clerk from each major political party to serve at each voting place during the time the polls are open. The Municipal Officers shall consider persons nominated by the major parties but are not required to appoint them. If a municipal committee of a major party does not submit nominations, the municipal officers may appoint registered voters enrolled in that party. The law does not prohibit nominations from sources other than the municipal party committees. If a minor party committee nominates election clerks, at least one appointment must be made from the minor party nominations. Additional unenrolled or qualified minor election clerks may be appointed if there are insufficient major party clerks available. If there are not sufficient Election Clerks to fill vacancies for a specific election, the Clerk or Warden may appoint Election Clerks for that specific election. The list of Election Clerks is a combination of names of individuals who have asked to serve as well as individuals who have served in previous elections. Neither major political party submitted names for consideration.

**24-128      ORDER              **Authorizing Execution of a Contract for Design and  
Engineering Services for \$298,900 with Carpenter  
Associates for the Passenger Parking Lot Project****

**LEONARD**

**Executive Summary:** The City Council recently approved appropriating \$6,500,000 from the Airport Unappropriated Fund Balance to fund a new passenger parking lot adjacent to Godfrey Boulevard.

The new 826 space lot will mitigate parking shortages experienced by the Airport during peak demand.

To expedite the construction of the new lot, so it is available before the 2024 November peak travel season, staff requested to waive the bid process and contract with Carpenter Associates for the design and engineering work at a cost of \$298,900. Carpenter Associates is currently assisting with the Airport Terminal expansion project and is able to begin the work immediately.

This item was reviewed and recommended for passage by the Finance Committee at the April 17, 2024 meeting.

**24-129      ORDER              **Amending Fund Balance Policy by Adding a Vacant  
Property Reserve to Section 5.1 General Fund  
Assigned Fund Balances****

**FOURNIER**

**Executive Summary:** This Order will amend Council Order 11-228, the City's Fund Balance Policy, by adding a new General Fund Assigned Fund Balance entitled Vacant Property Reserve. This reserve is being proposed in response to the City Council's priority and staff's efforts to identify and assess vacant property with the goal of utilizing the property for housing needs.

Funding for the reserve will come from the fees established for the City's Vacant Property Registry in excess of the costs to administer the program or from the City's unassigned fund balance, if that balance exceeds the fund balance target set by Article VIII, Section 16 of the City Charter.

## REGULAR MEETING BANGOR CITY COUNCIL – APRIL 22, 2024

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<b>CONSENT AGENDA ITEM NO.</b>	<b>ASSIGNED TO COUNCILOR</b>
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The City Council has established housing as a priority for the 2024 & 2025 fiscal years. City staff has identified properties within the City that could provide additional housing, some of which have been vacant for multiple years. As a result, the City established a Vacant Property Registry to track vacant property and established a fee for the Registry to encourage owners to redevelop, sell, or occupy the property.

If approved, the creation of the reserve is to provide funding to ensure compliance with the Ordinance, and to address acquisition, demolition, rehabilitation, or respond to public hazards in relation to vacant property

This item was reviewed and recommended for approval at the Finance Committee meeting on April 17, 2024.

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<b>REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.</b>	<b>ASSIGNED TO COUNCILOR</b>
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<b><u>24-130</u></b>	<b><u>ORDINANCE</u></b>	<b>Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 670 Ohio Street, from Low Density Residential District (LDR) to Neighborhood Service District (NSD) (First Reading and Referral to Planning Board Meeting on May 7, 2024)</b>	<b>HAWES</b>
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**Executive Summary:** This Ordinance would amend the Land Development Code, District Map to re-zone the property at Map-Lot R35-030, located at 670 Ohio Street, from Low Density Residential District (LDR) to Neighborhood Service District (NSD). The total area requested to be changed is approximately 4 acres. The applicants and owners of record are Lisa Clark and John Clark.

The area around the property consists of primarily residential use with commercial uses nearby to the west along Union Street. The change to the NSD district would allow for small-scale commercial uses (limited to 2,000 square feet of floor area or less), and some low to medium density residential uses. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this property in the Neighborhood Residential area, which consists of “medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses.” The Planning Division finds this proposed change to be in alignment with the Comprehensive Plan.

<b><u>24-131</u></b>	<b><u>ORDINANCE</u></b>	<b>Amending Chapter 165, Land Development, Section 165-16, to Clarify Regarding Expansion of Legal Nonconformities (First Reading and Referral to Planning Board Meeting on May 7, 2024)</b>	<b>TREMBLE</b>
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**Executive Summary:** This Ordinance amendment, if passed, would revise the City’s Land Development Code authorizing the expansion of legally existing nonconformities to limit such expansions to residential uses only.

In recently revising the Land Development Code to allow for expansions of legally existing, nonconforming uses under certain conditions, the City’s primary goal was to reduce the burden and expense required of owners of

**UNFINISHED BUSINESS  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

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residential units to bring them into compliance with the Code and thereby increase the number of available housing units within the City. The proposed amendment is intended to avoid unintended consequences of increasing non-conformities involving commercial and industrial uses.

**24-118      ORDINANCE      Amending the Code of the City of Bangor by      **SCHAEFER**  
Updating the Expiration Process for Short-Term  
Rental Licenses and Adding Required Details for  
Short-Term Rental License Applications**

**Executive Summary:** The Ordinance changes would update the City’s Code of Ordinances to change the expiration date for all short-term rental licenses from December 31<sup>st</sup> to May 31<sup>st</sup>. Currently, the Code sets the expiration date for non-hosted rentals to December 31<sup>st</sup> and for hosted rentals to a year from when the license was issued. Updating the expiration date for all licenses to one date will provide consistency and clarity for applicants. Additionally, setting the date to May 31<sup>st</sup> will allow time to calculate the new annual city-wide cap on non-hosted rentals based on April 1<sup>st</sup> tax data.

The ordinance update also changes the process for expiration so that any license that expires without renewal is treated as a new license, and it adds additional details necessary for license applications, such as the number of bedrooms located within a short-term rental unit.

This item was reviewed and unanimously recommended for passage at the Planning Board meeting on April 16, 2024.

**24-119      ORDINANCE      Amending Chapter 165, Land Development Code,      **FOURNIER**  
District Map to Re-zone a Property Located at 1017  
Union Street from Shopping and Personal Service  
District (S&PS) to Government and Institutional  
Service District (G&ISD)**

**Executive Summary:** This Ordinance would amend the Land Development Code, District Map to re-zone the property at Map-Lot R24-017, located at 1017 Union Street, from Shopping and Personal Service District (S&PS) to Government and Institutional Service (G&ISD). The total area requested to be changed is approximately 17.45 acres. The applicant is Encompass Health Maine Real Estate, LLC and the owner of record is Union Street Associates, LLC.

The zoning around the property is primarily S&PS to the east, west, and south, and High Density Residential (HDR) and Low Density Residential (LDR) to the north. There are also multiple nearby parcels in the G&ISD. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this property in the Neighborhood Residential area, which consists of “medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses.” The Planning Division finds this proposed change to be in alignment with the Comprehensive Plan.

This item was reviewed and unanimously recommended for passage at the Planning Board meeting on April 16, 2024.

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 22, 2024**

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<b>UNFINISHED BUSINESS ITEM NO.</b>		<b>ASSIGNED TO COUNCILOR</b>
<b><u>24-120</u></b>	<b><u>ORDINANCE</u></b> Amending Chapter 23, Boards, Committees and Commissions, Section 23-3(E) of the Code of Ordinances, To Make the Appeal Process to the Board of Appeals More Efficient	<b>YACOUBAGHA</b>

**Executive Summary:** This Ordinance amendment would revise the City’s Board of Appeals ordinance to make the appeals process more efficient.

Under the current ordinance, the Board of Appeals is required to hold a public hearing within 60 days of receiving an application for appeal, and there is no provision to allow a routine continuance from that deadline in instances where the applicant requests one, except to convene the entire Board. The proposed amendment would give the Chair of the Board of Appeals the authority to grant a routine continuance to an applicant requesting one without convening the Board to do so. The proposed amendment would also clarify that the 60 days begins from the date the written appeal and applicable fee are received.

This Ordinance amendment was reviewed and recommended for passage by the Government Operations Committee on April 1, 2024.

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<b>NEW BUSINESS ITEM NO.</b>		<b>ASSIGNED TO COUNCILOR</b>
<b><u>PUBLIC HEARING:</u></b>	<b>Special Amusement License Renewal of Waterfront Concerts, LLC d/b/a Waterfront Concerts, 1 Railroad Street</b>	<b>HAWES</b>
<b><u>24-132</u></b>	<b><u>ORDER</u></b> Adopting the Penobscot Climate Action Plan	<b>FISH</b>

**Executive Summary:** Approval of this Order would adopt the Penobscot Climate Action Plan to serve as a guide for reducing the City's greenhouse gas emissions and increasing the City's resilience to impacts from climate change. This plan will become an addendum to the City's Comprehensive Plan.

In February of 2021, City of Bangor adopted a resolve committing the City to adopting a climate action plan that would establish a baseline inventory of city-wide greenhouse gas emissions and would assist Maine in reducing greenhouse gas emissions by 45% by 2030 and 80% by 2050, and achieving carbon neutrality by 2045.

The City embarked on a climate action planning process in the fall of 2021 with staff from BACTS (Bangor Area Comprehensive Transportation System), the Town of Orono, and the University of Maine. The process involved over two years of meetings with various stakeholders, working groups, and officials from municipalities in the BACTS region, as well as public outreach via workshops, pop-up events, and surveys. The resulting plan includes a vulnerability assessment and greenhouse gas inventory for the BACTS region and a list of strategies and toolkits to both increase the region's resilience and decrease the region's greenhouse gas emissions in line with the goals stated above. On April 1, 2024, the Government Operations Committee reviewed and recommended this item for approval.



**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 22, 2024**

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**NEW BUSINESS  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

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<b><u>24-133</u></b>	<b><u>ORDER</u></b>	<b>Authorizing Transfer of \$4,500,000 from Unassigned Fund Balance to Various Assigned Fund Balances</b>	<b>TREMBLE</b>
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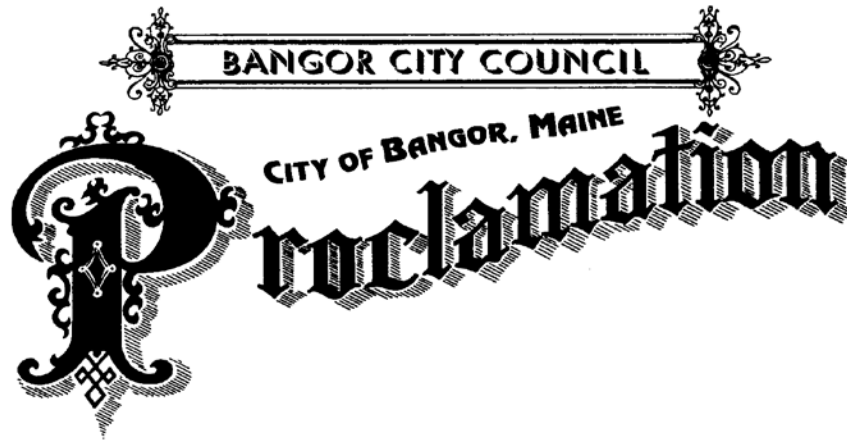
**Executive Summary:** This Order will authorize the transfer of \$4,500,000 from the unassigned fund balance to various capital reserve assigned fund balances. The Charter specifies that the City will maintain a fund balance of no less than 8.33% of the prior year’s operating expenditures and no more than 16.66%. The audit for fiscal year ending 2023 indicates that the City has an unassigned fund balance of approximately \$19.9 million which represents 16.84% of the prior year expenditures.

Funding of capital replacement reserves has not been part of the City's annual budget process for nearly a decade. The ability to fund capital needs without impacting the tax rate has been part of the City's overall financial management.

Staff recommendation is that \$4,500,000 be transferred to the following reserves; \$1,925,000 to the Improvement Reserve, \$475,000 to the Fire Equipment Reserve, \$1,650,000 to the Pooled Equipment Reserve, \$150,000 to the Energy Efficiency Reserve and \$300,000 to the Bus Equipment Reserve.

If approved, the unassigned fund balance would drop to approximately \$15.4 million which represents 13.03% of the operating budget.

This item was reviewed and recommended for approval at the Finance Committee meeting on April 17, 2024.



**PROCLAIMING APRIL 26, 2024, AS ARBOR DAY**

**WHEREAS,** In 1872 the Nebraska Board of Agriculture set aside a special day for the planting of trees; and

**WHEREAS,** The first Arbor Day was observed 152 years ago in Nebraska, where more than a million trees were planted; and

**WHEREAS,** Arbor Day is now observed throughout the nation and the world; and

**WHEREAS,** Trees reduce the erosion of topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life giving oxygen and provide habitat for wildlife; and

**WHEREAS,** Trees are a renewable resource providing us with paper, wood for our homes, fuel for our fires and beauty for our community; and

**WHEREAS,** Trees, where they are planted, are a source of joy and spiritual renewal; and

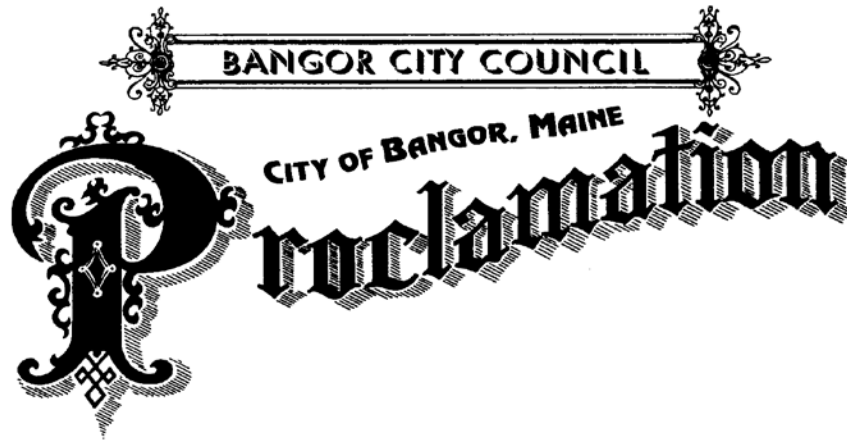
**WHEREAS,** The staff and students of the Vine Street School are demonstrating leadership in promoting a clean environment by planting and caring for trees.

**NOW, THEREFORE, I, Cara Pelletier, Mayor of the City of Bangor,** on behalf of the City Council and the citizens of Bangor, do hereby proclaim April 26, 2024, as Arbor Day in the City of Bangor. I urge all of our citizens to set aside time on that day and throughout the year to appreciate the importance of trees to our quality of life and to engage in efforts to protect our trees and woodlands.

Given this the 22<sup>nd</sup> day of April, 2024.

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Cara Pelletier, Mayor



**PROCLAIMING MAY 10, 2024, AS CHILD CARE PROVIDERS APPRECIATION DAY**

**WHEREAS,** Child Care Providers Appreciation Day, May 10, 2024, is recognized as part of Teacher Appreciation Week; and

**WHEREAS,** the first years of a child's life are the period of the most rapid brain growth and lay the foundation for future learning; and

**WHEREAS,** high quality Child Care provides a safe nurturing place for the enrichment and development of many children in the Bangor community and is a vital force in our economy; and

**WHEREAS,** we recognize that roles of Child Care providers include providing safety, nurturing and security to the youngest members of our community, enabling parents to go to work, and businesses to thrive; and

**WHEREAS,** Child Care programs are mostly small businesses, run and staffed by women who continue to struggle to hire people to work for long hours with low pay; and

**WHEREAS,** the future depends on the quality of early childhood experiences for young children today, and support for high quality Child Care programs represents a worthy commitment to our children's future.

**NOW, THEREFORE, I, Cara Pelletier, Mayor of the City of Bangor,** on behalf of the City Council and the citizens of Bangor, hereby proclaim May 10, 2024, as Child Care Providers Appreciation Day, and urge all citizens to recognize that Child Care Providers should be valued, respected and fairly compensated for the important roles they play in our community.

Given this the 22<sup>nd</sup> day of April, 2024.

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Cara Pelletier, Mayor



## PROCLAIMING THE WEEK OF MAY 6, 2024, AS ECONOMIC DEVELOPMENT WEEK

- WHEREAS,** more than 100,000 economic development or related professionals worldwide are committed to creating, retaining and expanding top-tier opportunities that facilitate long-term, equitable community growth; and
- WHEREAS,** the divisions in the City of Bangor's Community & Economic Development Department work to cultivate thriving neighborhoods, champion sustainability and resiliency, boost economic prosperity, enhance quality of life, and build a robust tax base for citizens; and
- WHEREAS,** the City of Bangor works in diverse economic environments, including rural and urban areas; with our neighboring communities, with numerous state and federal departments, as well as looking to public-private partnerships; our chamber of commerce; the Downtown Business Partnership, Husson University, Eastern Maine Community College and the University of Maine System; and many other similar organizations and associations, all to stimulate and grow our economy, and
- WHEREAS,** our city leaders serve as stewards, bridging connections between community stakeholders such as residents, business leaders, industry executives, and educational administrations, to collaborate in promoting job creation, community investment, infrastructure advancements and an optimistic future; and
- WHEREAS,** the City of Bangor has invested in its economic future dating back to the fur trades, the lumber industry, then on to numerous retail and service markets, and the health service industry, as well as city investments in education, recreation and resident services; and
- WHEREAS,** we respect and concede our livelihood and prosperity are on the sacred and ancestral lands of the Wabanaki people; and
- WHEREAS,** since 1926, the International Economic Development Council, of which the city is a member, has been a driving force in advancing economic development initiatives, with a steadfast commitment to fostering growth and prosperity in communities of all sizes worldwide through equity, inclusion, sustainability, resilience and innovation.

**NOW, THEREFORE, I, Cara Pelletier, Mayor of the City of Bangor,** on behalf of the City Council and the citizens of Bangor, hereby proclaim the week of May 6, 2024, as Economic Development Week, a community celebration that supports expanding opportunities, bettering lives and moving society forward.

Given this the 22<sup>nd</sup> day of April, 2024.

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Cara Pelletier, Mayor



# CONSENT AGENDA

*Meeting called to order at 7:00 PM  
 Motion made and seconded to select Richard Fournier as  
 Chair Pro Temp  
 Motion Passed  
 Councilors Present: Deane, Fish, Fournier, Leonard,  
 Tremble, Yacoubagha  
 Councilors Absent: None  
 Meeting adjourned at 8:04 PM*

**PUBLIC COMMENT**

*Scott Pardy spoke in favor of Overdose Prevention Centers (OPCs).*

*Stan MacMillan felt surrounding communities should be paying their fair share for the services provided regarding drug addiction.*

*Suzette Furrow stated residents were not notified of the forums on public bathrooms and felt they should have received a letter. She did not feel bathrooms were needed in the public parks and needed to be located in areas that could be monitored 24/7.*

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**CONSENT AGENDA  
 ITEM NO.**

**ASSIGNED TO  
 COUNCILOR**

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**MINUTES OF:**

*Bangor City Council Regular Meeting of March 25, 2024, Finance Committee Meetings of March 11, 2024 and March 18, 2024, Government Operations Committee Meeting of April 1, 2024 and Infrastructure Committee Meeting of March 18, 2024*

*Action: Approved*

<u>24-114</u>	<u>ORDER</u>	<i>Appointing Jennifer Gunderman-King as Local Health Officer in Accordance with Maine Center for Disease Control and Prevention Requirements</i>	<b>DEANE</b>
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*Action: Passed*

<u>24-115</u>	<u>ORDER</u>	<i>Authorizing Execution of Extension to Lease with The First - Exchange Street Property</i>	<b>TREMBLE</b>
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*Action: Passed*

<u>24-116</u>	<u>ORDER</u>	<i>Authorizing City Manager to Accept a Donation of 19 Trees from Bangor Beautiful</i>	<b>SCHAEFER</b>
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*Action: Passed*

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 8, 2024**

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<b>CONSENT AGENDA</b>			<b>ASSIGNED TO</b>
<b>ITEM NO.</b>			<b>COUNCILOR</b>
<u>24-117</u>	<u>RESOLVE</u>	<i>Ratifying Staff Action Regarding 169 Thornton Road</i>	<b>LEONARD</b>
	<i>Action:</i>	<i>Passed</i>	
<b>REFERRALS TO COMMITTEE AND FIRST READING</b>			<b>ASSIGNED TO</b>
<b>ITEM NO.</b>			<b>COUNCILOR</b>
<u>24-118</u>	<u>ORDINANCE</u>	<i>Amending the Code of the City of Bangor by Updating the Expiration Process for Short-Term Rental Licenses and Adding Required Details for Short-Term Rental License Applications</i>	<b>SCHAEFER</b>
	<i>Action:</i>	<i>First Reading and Referral to Planning Board Meeting on April 16, 2024</i>	
<u>24-119</u>	<u>ORDINANCE</u>	<i>Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 1017 Union Street from Shopping and Personal Service District (S&amp;PS) to Government and Institutional Service District (G&amp;ISD)</i>	<b>FOURNIER</b>
	<i>Action:</i>	<i>First Reading and Referral to Planning Board Meeting on April 16, 2024</i>	
<u>24-120</u>	<u>ORDINANCE</u>	<i>Amending Chapter 23, Boards, Committees and Commissions, Section 23-3(E) of the Code of Ordinances, To Make the Appeal Process to the Board of Appeals More Efficient</i>	<b>YACIOUBAGHA</b>
	<i>Action:</i>	<i>First Reading</i>	
<b>UNFINISHED BUSINESS</b>			<b>ASSIGNED TO</b>
<b>ITEM NO.</b>			<b>COUNCILOR</b>
<u>24-107</u>	<u>ORDINANCE</u>	<i>Amending the Code of the City of Bangor by Reducing Restrictions on Setbacks and Dimensional Requirements for Accessory Dwelling Units (ADUs) and Clarifying the Minimum Structure Size in Accordance with LD 2003</i>	<b>FISH</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Vote: 5 – 1 Councilors Voting Yes: Deane, Fish, Leonard, Yacoubagha, Fournier Councilors Voting No: Tremble Passed</i>	

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 8, 2024**

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<b>UNFINISHED BUSINESS</b>			<b>ASSIGNED TO</b>
<b>ITEM NO.</b>			<b>COUNCILOR</b>
<u>24-108</u>	<u>ORDINANCE</u>	<i>Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 12 Carroll Street from Urban Residence District 1 (URD-1) to Urban Residence District 2 (URD-2)</i>	<b>HAWES</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Vote: 6 – 0 Councilors Voting Yes: Deane, Fish, Leonard, Tremble, Yacoubagha, Tremble Councilors Voting No: None Passed</i>	
<u>24-109</u>	<u>ORDINANCE</u>	<i>Amending Chapter 291, Vehicles and Traffic, to Update Vehicle Weight Limits to Coordinate with Maine DOT Weight Limits</i>	<b>FOURNIER</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Vote: 6 – 0 Councilors Voting Yes: Deane, Fish, Leonard, Tremble, Yacoubagha, Tremble Councilors Voting No: None Passed</i>	
<u>24-110</u>	<u>RESOLVE</u>	<i>Appropriating an Amount Not to Exceed \$6,500,000 from the Airport Unappropriated Fund Balance to Fund Construction of a Passenger Parking Lot</i>	<b>TREMBLE</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Passed</i>	
<b>NEW BUSINESS</b>			<b>ASSIGNED TO</b>
<b>ITEM NO.</b>			<b>COUNCILOR</b>
<u>24-121</u>	<u>ORDER</u>	<i>Authorizing the City Manager to Accept a Release Deed from PS Bangor, LLC for Parcel R69-002-B</i>	<b>YACOUBAGHA</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Passed</i>	
<u>24-122</u>	<u>ORDER</u>	<i>Updating the City's Matured Tax and Utility Lien Policy To Comply With New State Law</i>	<b>DEANE</b>
	<i>Action:</i>	<i>Motion made and seconded for Passage Passed</i>	



**NEW BUSINESS**  
**ITEM NO.**

**ASSIGNED TO**  
**COUNCILOR**

24-123

ORDER

*Authorizing the Execution of a Consent to Sublease the  
Parking Area Adjacent to Ground Round*

*FISH*

*It was previously determined that Councilor Tremble has a  
conflict of interest. Councilor Tremble left the room.*

*Action: Motion made and seconded for Passage  
Passed*

*Councilor Tremble returned to the meeting.*

ATTEST:

  
Lisa J. Goodwin, MMC, City Clerk



**Finance Committee Minutes  
April 1, 2024  
Council Chambers, 262 Harlow St.**

**Councilors in Attendance (Committee Members): Tremble, Fournier, Leonard, Yacoubagha, Deane**

**Other Councilors in Attendance: Schaefer, Fish**

**Staff in Attendance: Little, Huotari, Laurie, Smith, Huotari A., O'Donnell, Szewczyk, Innis**

**Meeting Start: 5:33 pm**

**1. Consent Agenda**

- a. Emergency Repair – Sky Bridge Roof Repair – Airport – Roof Systems of Maine – \$40,435**

Motion made and seconded to approve contract; motion passed unanimously

**2. Bids/Purchasing**

- a. Request to Waive Bid Process – Avigilon Security Camera Server Software – Information Services – Norris/Minuteman - \$69,000**

Motion made and seconded to approve purchase; motion passed unanimously

- b. Partial Roof Replacement 112 Maine Avenue – Airport – Roof Systems of Maine - \$26,378**

Motion made and seconded to approve contract; motion passed unanimously

- c. Partial Roof Replacement 198 Maine Avenue – Airport – Roof Systems of Maine - \$26,378**

Motion made and seconded to approve contract; motion passed unanimously

**d. Request to Waive Bid Process – Building 457 Roof Repair – Airport – Roof Systems of Maine - \$65,800**

Motion made and seconded to approve contract; motion passed unanimously

**e. Request to Waive Bid Process – Metal Castings – Water Quality Management – EJ Prescott - \$25,697**

Motion made and seconded to approve purchase; motion passed unanimously

**f. Sole Source Purchase – Rotork Valve Actuators – Water Quality Management – Atlantic Fluid Technology - \$41,731**

Motion made and seconded to approve purchase; motion passed unanimously

**g. Perry Road Pump Station and K-Mart Pump Station Evaluations – Water Quality Management/Engineering – Haley Ward, Inc. - \$47,000**

Motion made and seconded to approve contract; motion passed unanimously

**h. Small Front-End Loader – Public Works – Chadwick-Baross - \$82,900**

Motion made and seconded to approve purchase; motion passed unanimously

**i. 2WD Truck – Public Works – Darling's Ford - \$61,435**

Motion made and seconded to approve purchase; motion passed unanimously

**3. Discussion Regarding the Request to Acquire Property at R69-002-B, near Lowe's**

Staff discussed that the City has been approached by the owner of Lot R69-002-B near the Lowes parking lot in regard to deeding the property to the City. Staff from various Departments reviewed the proposal and property and recommended the City accept the parcel. The lot is a possible location for new housing.

Motion made and seconded to recommended acceptance of the property, motion passed unanimously

**4. Discussion Regarding the Review of Matured Tax or Utility Lien Policy**

City Solicitor, Dave Szewczyk, provided an updated Matured Tax or Utility Lien Policy that will comply with the new State of Maine law. The primary changes relate to how lien acquired property is sold and that any excess funds are returned to the former owner.

Motion made and seconded to recommended updated policy, motion passed unanimously

## 5. Finance Director Update

Finance Director, David Little, updated the Committee regarding the City's year ended, June 30, 2023 audit. A completed draft audit has been sent to the City's external auditors and staff will address any additional questions they may arise as quickly as possible. Staff anticipates the final audited financial statements will be issued by the end of April.

### **Other:**

Councilor Richard Fournier inquired about the School budget. City Manager, Debbie Laurie, stated that based on the approved School budget, there was a request to increase the taxpayer supportive education by \$3.4 Million.

**Meeting End: 6:00 pm**

*Upcoming Items (subject to change)  
(Anticipated dates are subject to change)*

- Procurement Policy Recommendations (TBA)
- Abatement Policy (TBA)



**Finance Committee Minutes  
April 17, 2024  
Council Chambers, 262 Harlow St.**

**Councilors in Attendance (Committee Members): Tremble, Deane, Leonard, Fournier**

**Other Councilors in Attendance: Pelletier, Fish, Schaefer, Hawes**

**Staff in Attendance – Little, Huotari, Saavedra, Emerson, Laurie, Szewczyk**

**Meeting Start: 5:15 pm**

**1. Consent Agenda**

**a. Workout Agreement – 35 Webster Avenue North - Roy**

Motion made and seconded to approve consent item; motion passed unanimously.

**2. Bids/Purchasing**

**a. Customs and Border Protection Furniture – Airport - \$58,771**

Motion made and seconded to approve purchase; motion passed unanimously.

**b. Request to Waive Bid Process – Passenger Parking Lot – Airport – \$298,900**

Motion made and seconded to recommend contract; motion passed unanimously.

**3. Council Order – Amending Fund Balance Policy – Vacant Property Reserve**

Motion made and seconded to recommend approval to Council, motion passed unanimously.

**4. Council Order – Transfer of Fund Balance**

Motion made and seconded to recommend approval to Council, motion passed unanimously.

**Meeting End: 5:28 pm**

## **BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE**

Monday, April 1, 2024 @ 5:15 PM

Penobscot Room, Lower Floor of Penquis CAP

### **MEETING MINUTES**

City Councilors Present: Dean, Fish, Fournier, Leonard, Schaefer, Tremble, Yacoubagha.

City Staff Present: Collette, Hernandez-Smith, Innis, Krieg, Mullins, Stanicki.

Councilor Schaefer called the meeting to order at 5:15 P.M.

- 1. LAND DEVELOPMENT CODE AMENDMENT PROPOSAL – INCREASE HEIGHT LIMITS IN SOME RESIDENTIAL DISTRICTS**, Action requested to recommend to Council

Development Director Anne Krieg introduced the agenda item. Planning Officer Anja Collette presented to the Committee and gave overview of the proposal.

Councilor Tremble asked to clarify the existing height limits vs. the proposed height limits – Collette clarified. Tremble also asked about screening requirements for HVAC and solar arrays – Collette responded that no screening requirements are proposed, especially for rooftop solar arrays, due to difficulty to achieve, but added that staff can look into this if desired. Tremble did not think this would be necessary. Councilor Schaefer added that screening could be detrimental to efficacy of solar arrays.

Councilor Fournier asked if this proposal will be presented to the Planning Board – Planning Officer Collette responded that it will.

Councilor Schaefer asked that staff ensure that existing properties are protected from possible adverse effects of increased building heights when finalizing the amendment's language. Planning Officer Collette responded that there are already some protections existing and that staff will ensure that this is maintained.

Councilor Tremble asked if this amendment had been specifically requested by interested parties – Development Director Krieg responded that it had.

Councilor Fournier expressed support for the proposal and noted that any comments on possible revisions from the Planning Board would be welcome.

**2. GENERAL STAFF CHECK-IN**  
**A. JANE'S WALK – MAY 4, 2024**

Planning Officer Anja Collette presented the agenda item and gave overview of the event and staff's participation.

**B. INTRODUCTION OF NEW STAFF MEMBERS**

Development Director Anne Krieg introduced new staff members – Housing Officer Kyle Mullins and Economic Development Officer Biguita Hernandez-Smith.

**C. ACTIVITIES FOR COMMUNITY DEVELOPMENT WEEK 2024**

Development Director Anne Krieg introduced the agenda item. Community Development Officer Robyn Stanicki presented to the Committee and gave overview of planned activities.

Councilor Yacoubagha asked if activities would provide any overview of efficacy of program over the last year – Community Development Officer Stanicki responded that these activities are more casual in nature but can provide some overview of program efficacy. Noted that there is a targeted evaluation process that occurs yearly. Yacoubagha requested that Committee receive copy of this yearly evaluation report moving forward – Stanicki and Development Director Krieg confirmed that this will be done.

Councilor Fish asked to confirm workshop dates – Community Development Officer Stanicki confirmed and mentioned option for Zoom participation, as well.

**3. LEASES**  
**A. EXTENSION – THE FIRST PARKING LOT**

Development Director Anne Krieg presented the agenda item.

Councilor Schaefer asked if there are changes to the lease – Development Director Krieg confirmed that there are not.

Councilor Tremble asked to clarify the terms of the lease – Development Director Krieg clarified.

Councilor Tremble moved to approve the extension of the parking lot lease to The First, seconded by Councilor Fish. Vote unless doubted, no doubt. Motion passed.

**B. SUBLEASE – PARKING LOT ON ODLIN ROAD (BY GROUND ROUND, FORMERLY)**

Councilor Tremble reported a conflict of interest regarding the agenda item. Councilor Leonard moved that Councilor Tremble has a conflict of interest, seconded by Councilor Fish. Vote unless doubted, no doubt. Motion passed.

Assistant City Solicitor Grace Innis presented to the Committee and gave overview of proposed sublease.

Councilor Fournier asked to confirm the term length of the existing lease – Assistant City Solicitor Innis confirmed and noted that term length of sublease is shorter.

Councilor Leonard moved to authorize the City Manager to enter into sublease agreement for parking lot on Odlin Road, seconded by Councilor Fish. Vote unless doubted, no doubt. Motion passed.

Meeting adjourned at 5:32 P.M.

Meeting minutes respectfully submitted,

Sarah Maquillan  
Admin. Asst.  
C&ED



## **BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE**

Wednesday, April 17 @ 5:15 PM

Penobscot Room, Lower Floor of Penquis CAP

### **MEETING MINUTES**

City Councilors Present: Fish, Hawes, Leonard, Schaefer, Tremble.

City Staff Present: Collette, Stanicki, Szewczyk.

Chair Hawes called the meeting to order at 5:29 P.M.

#### **1. STAFF CHECK-INS A. SHORT-TERM RENTAL PROCESS**

Planning Officer Anja Collette presented to the Committee and gave progress update.

#### **B. QUARTERLY HOUSING UPDATE**

Planning Officer Collette presented the agenda and gave update.

Chair Hawes thanked staff for monitoring housing projects and providing quarterly updates.

#### **C. CDBG ACTION PLAN UPDATE**

Community Development Officer Robyn Stanicki presented to the Committee and gave update.

#### **2. ANNUAL AFFORDABLE HOUSING TAX INCREMENT FINANCING (TIF) REPORTS, Action requested to accept reports**

Community Development Officer Stanicki presented the agenda item and gave overview of the submitted reports.

Councilor Schaefer moved to accept the reports, seconded by Councilor Fish. Vote unless doubted, no doubt.

#### **3. PROPOSED LAND DEVELOPMENT CODE CHANGE – NON-CONFORMING SECTION – LEGAL DEPARTMENT, Action requested to recommend passage**

City Solicitor Dave Szewczyk presented to the Committee and gave overview of the proposal.

Councilor Fish asked for some specific examples of non-conforming residential uses – Planning Officer Collette responded and clarified uses and the proposed amendment.

Councilor Dean asked if this would allow for a garage to be built that does not conform to setback requirements – Planning Officer Collette responded and clarified that setback requirements will need to be followed for any new structures.

Councilor Tremble asked if Planning Board approval would be required for allowed expansions – Planning Officer Collette responded that only permitting from Code Enforcement would be required. Tremble expressed some concern about not allowing for expansions for non-conforming commercial properties, and asked if there is any process for requesting an exception be granted in certain cases. City Solicitor Szewczyk responded that there is a process through the Board of Appeals to request a variance.

Councilor Schaefer moved to recommend passage, seconded by Councilor Leonard. Vote unless doubted, no doubt.

**4. EXECUTIVE SESSION – 1 M.R.S.A. § 405(6)(C) – DISPOSITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT – 1 ITEM FROM C&ED, Action requested to provide staff direction**

Councilor Schaefer moved to enter into Executive Session pursuant to 1 M.R.S.A. § 405(6)(C).

Public meeting adjourned at 5:44 P.M.

Meeting minutes respectfully submitted,

Sarah Maquillan  
Admin. Asst.  
C&ED





## CITY OF BANGOR ORDER

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04/22/2024 24-124

Date: 04/22/2024

Item No: 24-124

Assigned to Councilor: Deane

Authorizing City Manager to Execute MaineDOT Locally Administered Project Agreement for WIN #28458.00 Mt. Hope Avenue Sidewalk

Be it Ordered by the City Council of the City of Bangor that,

the City Manager is hereby authorized to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #28458.00 Mt. Hope Avenue Sidewalk

The total project costs is \$792,172.00. Federal share is 80% or \$633,737.60, and the City local match is 20% or \$158,434.40.



<i>MaineDOT use only</i>
AMS ID: _____
CSN: _____
PROGRAM: <u>Multimodal Program</u>

<i>Locally Administered Project (Payable)</i>	
Total Amount: <u>\$792,172.00</u>	MaineDOT WIN: <u>28458.00</u>
Federal Share: <u>\$633,737.60</u>	Federal Project #: <u>2845800</u>
Local Match: <u>\$158,434.40</u>	State Vendor ID: <u>VC1000007010</u>
Effective Date: _____	Federal Unique Entity ID: <u>MLLMBKS2LVQ5</u>
Expiration Date: <u>12/31/2028</u>	Federal Assistance Listing #: <u>20.205</u>

*Note: The table above is included herein for administrative purposes only. It is not part of the agreement below.*

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Agreement for a Federally Funded Locally Administered Project**  
 With the  
**City of Bangor**  
 Regarding  
**New Sidewalk on Mt. Hope Avenue**

This subaward agreement for a federal-aid project (the **Agreement**) is entered into by and between the Maine Department of Transportation (**MaineDOT**), an agency of state government with its headquarters at 24 Child Street in Augusta, Maine, and a mailing address of 16 SHS, Augusta, ME 04333-0016; and the City of Bangor (the **City**), a municipal corporation organized and existing under the laws of Maine, with its principal administrative offices at 40 Harlow St., in Bangor, Maine, and a mailing address of the same. (*MaineDOT and the City are referred to collectively as the Parties and individually as a Party.*)

**RECITALS**

- A. **SCOPE OF WORK.** This Agreement shall apply to design, right of way, and construction work for a 6-foot-wide sidewalk along Mt. Hope Avenue, starting at a sidewalk at Saratoga Avenue and continuing northeasterly for about 2,065 feet to a trail leading to Eastern Maine Community College (the **Project**); and
- B. **FUNDING AWARD.** MaineDOT in 2024 awarded the City federal-aid funding for the Project; and
- C. **ROLE OF CITY.** The City, unless otherwise specified herein, shall carry out the work as a Locally Administered Project (LAP) subject to the policies and procedures in the MaineDOT Local Project Administration Manual & Resource Guide (LPA Manual) and MaineDOT’s oversight under Title 23 USC §106(g)(4) and Title 23 CFR part 635.105.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing statements, the Parties agree to the following:

**1. APPENDICES**

- Funding award letter and response; and
- Federal Title VI Assurances.

## 2. PROJECT MANAGEMENT

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2.1 The City shall place in responsible charge of the Project a full-time employee with Local Project Administration (LPA) certification and appropriate qualifications, as set out in Chapter 1 of the MaineDOT LPA Manual. This person shall abide by the provisions of this Agreement and all policies and procedures in the LPA Manual. The Local Project Administrator is as follows:

- Richard May, Stormwater Utility Manager, City of Bangor.  
Phone: 207-992-4243  
Email: [richard.may@bangormaine.gov](mailto:richard.may@bangormaine.gov)

*Note: The City shall notify MaineDOT if this person ceases to oversee the Project.*

2.2 MaineDOT will assign a Project Manager to carry out MaineDOT's responsibilities under this Agreement. The Project Manager or a designee will have the authority to enforce all provisions of this Agreement and take all other action necessary to assure the proper performance of this Agreement. MaineDOT has assigned the following person to serve as Project Manager:

- Project Manager: Dan Loring, Multimodal Program  
Phone: 207-624-3451  
Email: [Daniel.M.Loring@maine.gov](mailto:Daniel.M.Loring@maine.gov)

## 3. FINANCIAL OBLIGATIONS

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3.1 AUTHORIZATION. MaineDOT's financial participation in the Project will begin upon the full execution of this Agreement (the Effective Date).

3.2 COST-SHARING. The estimated cost of the Project is **\$792,172.00**, which the Parties shall share at the percentages set out below.

- a. FEDERAL SHARE. MaineDOT, with funding from the Federal Highway Administration (FHWA), will share in cost of the Project at the rate of 80 percent, up to **\$633,737.60**.
- b. LOCAL MATCH. The City shall share in the cost of the Project at the rate of 20 percent, for an estimated contribution of **\$158,434.40**. Additionally, the City shall be fully responsible for:
  - i. All costs exceeding the Agreement maximum incurred without a modification in place;
  - ii. All costs incurred before the Effective Date of this Agreement; and
  - iii. All costs determined by MaineDOT or the FHWA to be federally non-participating.

3.3 FINANCIAL UPDATES. The Parties shall review the estimated Project Cost set out in 3.2 above at Preliminary Design Report (PDR), Plan Impacts Complete (PIC), and final Plans, Specifications & Estimate (PS&E). The Parties shall work in partnership to appropriate any additional funds needed to meet the latest estimate. Additionally, the City shall provide MaineDOT's Project Manager with one of the following:

- a. A statement acknowledging the latest estimate and affirming its commitment to the Project; or
- b. A formal request to cancel the Project, which may require the City to repay funds spent toward the Project if such action results in federal non-participation in the Project.

- 3.4 **REIMBURSEMENT.** The City shall pay Project costs as they occur and request periodic reimbursement for MaineDOT's portion. Invoices shall be submitted to MaineDOT's Project Manager at least *every six months* in the format of Letter 4 from the LPA Manual, as follows:
- a. Each invoice shall include a progress report for the service period of the invoice;
  - b. Each invoice shall include enough backup to satisfy the MaineDOT Project Manager;
  - c. Each invoice shall show MaineDOT's and the City's portions of Project costs, including a running total of costs invoiced to date;
  - d. The City must certify that amounts claimed are correct and not claimed previously;
  - e. Upon completion of the Project and payment in full of all contracted parties, the City shall submit to MaineDOT a final invoice modeled after Letter 20 from the LPA Manual. Payment shall be contingent on a passing inspection of the Project by MaineDOT and receipt of a completed consultant evaluation, contractor evaluation and as-built plans (if applicable).
- 3.5 **MAINEDOT COSTS.** MaineDOT will charge to the Project its costs for services performed on the Project. The City shall share in these costs commensurate with its share percentage of the Project. MaineDOT, at a minimum, will reconcile these costs upon completion of the Project and deduct the City's share percentage from the final invoice payment under 3.4(e) above.

#### **4. DESIGN, RIGHT OF WAY, AND CONSTRUCTION**

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- 4.1 **KICKOFF.** The Parties shall hold a kickoff meeting to go over the Project upon the execution in full of this Agreement.
- 4.2 **PROGRESS UPDATES.** The City shall provide MaineDOT with written progress updates upon request. If the City fails to respond to repeated requests for such updates, MaineDOT reserves the right to declare the City to be in default of this Agreement.
- 4.3 **ENGINEERING SERVICES.** A professional engineer licensed in Maine shall supervise all design work on the Project. If the City intends to hire a consultant to serve as the required engineer of record, the City shall use a qualifications-based selection in accordance with 23 CFR part 172 and Chapter 2 of the LPA Manual (Hiring Consultants), as follows.
- a. Using price as a ranking factor shall make consultant work ineligible for reimbursement.
  - b. The City shall obtain MaineDOT's written approval of any contract or contract modification. Work performed without such approval shall be ineligible for reimbursement.
  - c. The City shall incorporate by reference the terms and conditions of MaineDOT's Consultant General Conditions into its contracts for consultant services.
  - d. The City shall fill out a consultant evaluation upon completion of its contract with any consultant. A copy of the completed form shall be provided to MaineDOT.
- 4.4 **SURVEY.** Unless MaineDOT approves otherwise in writing, MaineDOT shall be responsible for all survey work on the state highway system, and the City shall be responsible for all survey work off of the state system.

- 4.5 **DESIGN WORK.** The City, in coordination with its contracted consultant, shall be responsible for developing all design plans, specifications, estimates and contract documents. The design of the Project shall comply with the Americans with Disabilities Act (ADA) and all other applicable laws, regulatory requirements, and engineering standards.
- a. The City shall submit the following to MaineDOT for review and comment:
    - i. Preliminary design report;
    - ii. Design plan impacts (if right-of-way mapping will be required); and
    - iii. Final plans, specifications and estimate package (PS&E).
  - b. The bid documents shall contain all applicable special provisions and federal requirements – including but not limited to Form FHWA-1273 and signed Title VI Assurances – as set out in Chapter 7 of the LPA Manual (Final PS&E Package).
  - c. Electronic design files provided to MaineDOT for use in the right-of-way process shall conform to MaineDOT’s Electronic Exchange of CADD Data policy, found online: <http://www.maine.gov/mdot/caddsupport/>.
  - d. MaineDOT will enforce all applicable engineering standards, laws and regulatory requirements and will require changes to the design plans or specifications if they are not met.
  - e. MaineDOT will give the City written construction authorization once MaineDOT accepts the final PS&E package as complete. Receipt of such authorization shall not relieve the City and its consultant of responsibility for meeting all engineering standards, laws and regulatory requirements that apply to the Project.
- 4.6 **PUBLIC PARTICIPATION.** During preliminary design, the City shall conduct a public process appropriate for the scope of work and acceptable to MaineDOT’s Project Manager. The City shall provide MaineDOT with a signed public process certification modeled after Letter 10 from the LPA Manual, as part of the Project’s environmental package.
- 4.7 **ENVIRONMENTAL REQUIREMENTS.** MaineDOT will carry out the National Environmental Policy Act (NEPA) process. The City shall provide MaineDOT with signed Letter 11 from the LPA Manual and the completed NEPA Documentation Checklist to assist with this work. Additionally:
- a. The City shall be responsible for obtaining all environmental approvals, permits and licenses for the Project – outside of the NEPA process; and
  - b. The City shall provide MaineDOT with a signed environmental certification modeled after Letter 12 from the LPA Manual, as part of the final PS&E package for the Project.
- 4.8 **UTILITY COORDINATION.** The City shall identify all utilities and any railroad affected by the Project and shall coordinate any facility relocations in accordance with Chapter 5 of the LPA Manual (Utility Coordination). The City shall provide MaineDOT with a signed certification modeled after Letter 13 from the LPA Manual, as part of the final PS&E package.
- 4.9 **RIGHT-OF-WAY.** The Parties will coordinate the right-of-way process, if applicable, as follows:
- a. MaineDOT will carry out the right-of-way process if the Project is located primarily on the state highway system (the state system).



- b. The City shall lead the right-of-way process if the Project is located primarily off the state system. In carrying out the right-of-way process, the City shall:
  - i. Abide by the requirements of the federal Uniform Act, the MaineDOT Right of Way Manual, and Chapter 6 of the LPA Manual (Right of Way);
  - ii. Provide MaineDOT with a certification modeled after Letter 14 from the LPA Manual.
- c. If the Project is located partially on and partially off the state system:
  - i. One certified appraiser shall complete the appraisals for all parcels, and a second certified appraiser shall perform the required appraisal reviews;
  - ii. Negotiations with property owners will be conducted by MaineDOT for rights on the state system and by the City for rights off the state system; and
  - iii. MaineDOT will acquire the necessary rights on the state system, and the City shall acquire the necessary rights off the state system.
- d. MaineDOT will participate financially in right-of-way settlements up to 110 percent of the Determination of Just Compensation for each parcel. MaineDOT's participation in any settlement exceeding this amount shall require MaineDOT's approval.
- e. The City shall dedicate to the Project for public use into perpetuity any municipal property needed for the Project.

4.10 ADVERTISING FOR BIDS. The City shall use competitive bidding to hire a construction contractor upon receiving MaineDOT's written construction authorization. The City shall abide by Section 102 of MaineDOT's Standard Specifications (Bidding) and Chapter 8 of the LPA Manual (Advertise & Award). *Advertising without authorization shall result in federal non-participation.*

4.11 AWARDING A CONTRACT. Upon receiving written approval from MaineDOT, the City shall award a contract to the lowest responsive/responsible bidder in accordance with Section 103 of MaineDOT's Standard Specifications (Award and Contracting), as follows:

- a. Negotiation with any bidder, after bids are opened and before a contract is awarded, is prohibited by the federal regulations found in 23 CFR §635.113. Any such negotiation shall give MaineDOT just cause to find the City to be in default of this Agreement.
- b. The City shall administer the construction contract for the duration of the Project.

4.12 CONSTRUCTION OVERSIGHT. During construction, the City shall assure that there is adequate supervision and inspection to complete the Project in conformance with the approved plans and specifications. Accordingly, the City shall be responsible for the following:

- a. Providing a resident inspector who is either a municipal employee with the appropriate qualifications – as set out in Chapter 11 of the LPA Manual (Construction Administration) – or a consultant hired through a qualifications-based selection.
- b. Holding a pre-construction meeting and a separate pre-paving meeting.
- c. Providing a paving inspector and a concrete technician with required certifications to be on site for paving and concrete work. *One person may perform both roles, if certified.*

- d. Coordinating materials testing as necessary to comply with the Minimum Testing Requirements that MaineDOT will establish for the Project.
- e. Submitting proposed contract modifications (change orders) to MaineDOT for review and concurrence. MaineDOT may deny reimbursement to the Town for work performed under a change carried out without MaineDOT's concurrence.
- f. Obtaining MaineDOT's approval of changes to the approved PS&E design plans proposed during construction. If a change made in the field without MaineDOT's prior approval is found to be non-compliant with the ADA or any applicable engineering standard, MaineDOT will require the Town to make corrections at its own expense, without reimbursement for the work.

4.13 **FINAL INSPECTION.** MaineDOT will inspect the completed Project for compliance with the plans, specifications and provisions of the construction contract. MaineDOT reserves the right to require any work determined to be out of such compliance to be addressed to MaineDOT's satisfaction, before paying the final invoice from the City for the Project.

## **5. MAINTENANCE AFTER CONSTRUCTION**

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The City shall maintain the completed sidewalk for the duration of its useful design life. Maintenance shall consist of general upkeep and repairs to preserve year-round public access, including for persons with disabilities, with only isolated or temporary interruptions in accessibility. Maintenance shall include reasonable snow removal efforts, in accordance with the requirements of 23 USC §116 and 28 CFR §35.133. *This Section 5 shall survive the expiration of this Agreement.*

## **6. RECORDS AND AUDITS**

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- 6.1 Project Records, whether printed or electronic, shall include all plans, specifications, contracts, reports, notes, or other documents prepared by or for the City. The City shall retain all Project Records for at least **3 years** from either the date of MaineDOT's acceptance of the final invoice for the Project or the termination of this Agreement. If any litigation, claim, negotiation or audit has begun before the end of this retention period, all Project Records shall be kept for at least 3 years after the litigation, claim, negotiation or audit is resolved.
- 6.2 The City and any contracted party working on its behalf shall allow representatives of the Federal Government and the State of Maine to inspect and audit Project Records at any time. Copies shall be provided at no cost to the agencies requesting them.
- 6.3 Audits shall be conducted in accordance with Title 2 in the Code of Federal regulations (2 CFR), subpart F, §200.500 through §200.512 – Audit Requirements.

*This Section 6 shall survive the termination or expiration of this Agreement.*

## **7. DEBARMENT**

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- 7.1 By signing this Agreement, the City certifies that, for the term of the Project, it shall not permit any consultant, contractor, subcontractor or any other third party to work on any aspect of the Project if that entity or its principals has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from doing business with any federal department or agency. (Verification shall be made through the federal SAM.Gov website.)

- 7.2 If the City contracts with any third party pursuant to this Agreement, the City shall require that party and its principals to certify that they:
- a. Have not within a 3-year period preceding the date of a contract for the Project been convicted of a crime or had a civil judgment rendered against them in connection with the following:
    - i. Obtaining, attempting to obtain, or performing a federal, state or local public transaction or contract under a public transaction;
    - ii. Violation of federal or state antitrust statutes;
    - iii. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - b. Are not under indictment for or otherwise charged criminally or civilly by a federal, state or local governmental entity with commission of any offense enumerated above; and
  - c. Have not within a 3-year period preceding this Agreement had one or more federal, state or local public transactions terminated for cause or default.

## **8. CONFLICT OF INTEREST**

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- 8.1 No municipal official or employee with a direct or indirect financial or other personal interest in any contract or subcontract for the Project shall negotiate, make, accept or approve any such contract or subcontract.
- 8.2 No professional performing services for the City on the Project shall have a direct or indirect financial or other personal interest in any contract or subcontract for the Project, other than the person's employment or retention by the City. No officer or employee of any professional retained by the City to work on the Project shall have a direct or indirect financial or other personal interest in real property acquired for the Project unless the interest is disclosed in the public record and such officer or employee has not participated in such acquisition for and on behalf of the City.
- 8.3 No person or entity entering into a contract for services for the Project shall have a direct or indirect financial or other personal interest in the Project or in its outcome, other than the performance of the contract. This prohibition covers the following:
- a. Any agreement with, or other interest involving, third parties having an interest in the outcome of the Project that is the subject to the contract; and
  - b. Any agreement providing incentives or guarantees of future work on the Project or related matters; and
  - c. Any interest in real property acquired for the Project unless such real property interest is disclosed in the public record before the person or entity enters into the contract.

## **9. GENERAL PROVISIONS**

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- 9.1 LEGAL COMPLIANCE. This Agreement shall be construed under the laws of the State of Maine. During the performance of the Project, the Parties agree to comply with and abide by all applicable federal, state and local laws, statutes, rules, regulations, standards and guidelines; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achieving the intent of this Agreement.

- 9.2 **INDEMNIFICATION.** To the extent permitted by law, the City shall indemnify and hold harmless the State of Maine, its agents, employees and contractors from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the City, its consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S., §8101 et seq.) or any other privileges or immunities provided by law. ***This section shall survive the termination or expiration of this Agreement.***
- 9.3 **CONFIDENTIALITY.** Information pertaining to right-of-way appraisals, negotiations with property owners, and detailed construction cost estimates shall be kept confidential to the extent required by state law: 23 M.R.S.A., §63.
- 9.4 **STATE OF MAINE’S RIGHTS OF SET-OFF.** MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State’s option to withhold for purposes of set-off monies due the City under a specific project contract up to any amounts due and owed to MaineDOT regarding this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State for any reason. MaineDOT shall exercise its set-off rights in accordance with standard state practices including, in cases of set-off pursuant to an audit, the finalization of the audit. *MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the City for purposes of set-off to recover the amount owed.*
- 9.5 **NON-APPROPRIATION.** Notwithstanding anything herein to the contrary, the City acknowledges and agrees that although the execution of this Agreement manifests MaineDOT’s intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, such obligations by law are subject to available budgetary appropriations by the Federal Government and the State of Maine. This Agreement creates no obligation on behalf of MaineDOT in excess of such appropriations.
- 9.6 **LOBBYING.** By signing this Agreement, the undersigned municipal representative certifies that no appropriated federal funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 9.7 **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Agreement:
- a. The City shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to an actual occupational qualification. The City shall take affirmative action to assure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. The City agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this section.
  - b. The City – in all solicitations or advertising for employees placed by or on behalf of the City relating to this Agreement – shall state that all qualified applicants shall receive consideration

for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

- c. The City shall cause the foregoing provisions to be inserted into any contract for work covered by this Agreement so that such provisions shall be binding upon each contractor, except for contracts or subcontracts for standard commercial supplies or raw materials.

- 9.8 FLOW DOWN. Contracts between the City and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 9.9 ASSIGNMENT. No assignment of this Agreement is contemplated, and no assignment shall be made without MaineDOT's express written permission.
- 9.10 AMENDMENT AND MODIFICATION. This Agreement may only be modified or amended in writing and signed by duly authorized representatives of the Parties.
- 9.11 BINDING EFFECT. The Parties shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 9.12 INDEPENDENT CAPACITY. The City, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- 9.13 ENTIRE AGREEMENT. This document represents the entire Agreement between the Parties. Neither MaineDOT nor the City shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.
- 9.14 ELECTRONIC SIGNATURES. Each Party agrees that this Agreement may be signed electronically and that all electronic signatures on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility.
- 9.15 NOTICE. Any communications, requests or notices required or appropriate to be given under this Agreement shall be made in writing and may be sent by email, with express acknowledgement of receipt by the receiving Party.

## **10. DEFAULT AND TERMINATION**

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- 10.1 MaineDOT shall have just cause to terminate this Agreement upon or after the occurrence of one or more of the following events, which shall constitute default of this Agreement by the City:
  - a. The City withdraws its support for the Project, causing cancellation of the Project;
  - b. The City fails to advertise the Project within 3 years of the execution of this Agreement, without receiving a time extension in writing from MaineDOT;
  - c. The City makes no effort to respond to repeated requests for progress updates;
  - d. The City takes any action that renders the Project ineligible for federal funding;
  - e. The City misrepresents or falsifies any claim for reimbursement;
  - f. The City uses Project funds for a purpose not authorized by this Agreement; and
  - g. The City fails to meet the standards of performance set out in this Agreement.

- 10.2 In the event of a default, MaineDOT will afford the City a cure period of 14 calendar days, effective on the City's receipt of Notice of Default. If the City fails to address all grounds for default within this cure period or any longer period as MaineDOT may authorize, MaineDOT may terminate this Agreement for cause, with the following conditions:
- a. MaineDOT, at its discretion, may require the City to return all payments from MaineDOT toward the Project and to reimburse MaineDOT for its internal costs; and
  - b. The City shall forfeit all federal funds remaining in the terminated Project.
- 10.3 The Parties may terminate this Agreement for convenience by mutual consent for any reason not defined as default. MaineDOT may reimburse the City for eligible work performed under this Agreement up to the effective date of termination for convenience.

## 11. TERM AND EXPIRATION

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All provisions of this Agreement – *except for those provisions that by their very nature are intended to survive* – shall expire upon payment by MaineDOT of the final invoice from the City under section 3.4(e) above or **December 31, 2028** (Expiration Date), whichever occurs first. The City shall submit any request for a time extension to MaineDOT in writing before the Expiration Date.

## 12. MUNICIPAL APPROVAL

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The City's undersigned representative assures that the City's legislative body has approved the City's entry into this Agreement, has appropriated or authorized the use of any required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Debbie Laurie, City Manager \***

By: \_\_\_\_\_  
**Todd Pelletier, P.E., Director \***  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*\* Pursuant to 10 M.R.S.A. §9502, et seq., I certify that the foregoing electronic signature: (a) is intended to have the same force as my manual signature, (b) is unique to me, (c) is capable of verification, (d) is under my control, and (e) is linked to data in such a manner that it is invalidated if the data are changed.*

## APPENDIX

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DRAFT



STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

24-124  
APRIL 22, 2024

Janet T. Mills  
GOVERNOR

Bruce A. Van Note  
COMMISSIONER

January 17, 2023

Richard May  
73 Harlow St  
Bangor, ME 04401

### **Bangor Mount Hope Ave Sidewalk**

Dear Project Applicant:

The Maine Department of Transportation (MaineDOT) is pleased to inform you that your municipality's grant application for Bicycle/Pedestrian Program Funding has been approved, and your community has been selected to receive state transportation funding assistance at this time for the **Design and Construction** activities on your project.

Your community's project has been included in MaineDOT's 2024-25-26 Capital Work Plan, pending final authorization of state funds. MaineDOT has currently programmed up to **\$633,737.60** in state transportation funding for the preliminary design, survey/mapping, right-of-way work and the construction costs for your project, contingent upon the minimum required local match of **\$158,434.40**. The funding amounts approved were based on the preliminary estimates provided to the Department as part of your application and MaineDOT's internal discussions which may have adjusted these amounts.

Currently, MaineDOT intends this to be a locally administered project. Please confirm on the form at the end of this letter that your municipality is willing and able to administer the project. Requirements for state and federally funded locally administered projects may be found on the MaineDOT website: <http://www.maine.gov/mdot/lpa/>. Please keep in mind that MaineDOT staff time required to review project plans is part of the costs allocated to project funding. Furthermore, please note that funding for this project, is contingent upon MaineDOT receiving adequate state transportation funding to support it, and MaineDOT reserves the right to withdraw funds from this project for any reason.





**Within the next 30 days**, return the following documentation via email:

- 1) One original signed letter
- 2) Appropriate documentation authorizing the local match
- 3) Your agreement to administer this project locally

Please call me at **(207) 592-3384** with any questions or to review any issues related to the project. Thank you very much for your continued efforts to improve the transportation system within your community.

Sincerely,

**Dakota Hewlett**  
Active Transportation Planner  
Bicycle and Pedestrian Funding Program Manager  
Maine Department of Transportation  
207-592-3384  
Dakota.Hewlett@maine.gov

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**Municipality:** Bangor

**Authorized Signature:** 

**Title:** Richard May, Stormwater Manager

**Date:** January 22, 2024

**Prefer:**  **Locally Administered Project**

**MaineDOT Administers the Project**

**Description of Local Match commitment including the source, approval date, etc. (Please attach supportive documentation):**

**\$250,000 in matching local funds have been budgeted for in fiscal year 2026 to match MDOT Work Plan Timeline. See attached Capital Improvement Plan.**



**CITY COUNCIL ACTION**

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Council Meeting Date: 04/24/2023

Item No: 23-127

Responsible Dept: Engineering

Requested Action: Order

Map/Lot: N/A

**Title, Order**

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Authorizing the Engineering Department to Apply for Grant Funding From the Maine Department of Transportation (MDOT) BikePed Program to Partially Fund Sidewalk and Drainage Construction on Mount Hope Avenue.

**Summary**

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This order will allow the City to apply for and accept grant funding from the Maine Department of Transportation (MDOT) for sidewalk and storm drain construction on Mount Hope Avenue.

The Engineering Department has identified a gap in sidewalk infrastructure on Mount Hope Avenue between Saratoga Avenue and the walking trail to Eastern Maine Community College (EMCC), which is near the entrance to the State-owned Dorothea Dix campus. Sidewalk from East side neighborhoods and downtown extends to Saratoga Ave. Sidewalk from Hogan Road extends roughly 800 feet towards Saratoga Ave to the EMCC trail. This 800 foot segment of sidewalk was constructed on Mount Hope Avenue from Hogan Road to the EMCC walking trail, which was also partially grant funded.

In order to install the 2,000 feet of sidewalk needed to close the gap, the Engineering Department has proposed to install curbing, esplanade, and a closed drainage system. This will not only improve pedestrian access and connectivity, but will also improve drainage in the area, including a small sewer separation.

The BikePed program is looking for projects that fill gaps such as these, which make this a good candidate for grant funding. We will be requesting the maximum \$400,000 award from BikePed grant application and have budgeted \$500,000 in capital funds from the Stormwater Utility in FY25 to fund the remainder of this project, should we receive grant funding from this application.

This item was reviewed and approved by the Infrastructure Committee on April 18, 2023

**Committee Action**

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Committee: Infrastructure Committee

Meeting Date: 04/18/2023

Action: Recommend for passage

For:

Against:

**Staff Comments & Approvals**

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City Manager

City Solicitor

Finance Director

**Introduced for:** Consent



24-124  
APRIL 22, 2024

# DEPARTMENT OF ENGINEERING

## CITY OF BANGOR

JOHN THERIAULT PE, PTOE  
CITY ENGINEER

January 22, 2024

Dakota Hewlett  
Active Transportation Planner  
MaineDOT Division of Public Outreach and Planning  
16 State House Station  
24 Child Street  
Augusta, ME 04333-0016  
(207)592-3384

Dear Dakota,

I am pleased to be responding to your January 17 approval letter for the Mount Hope Avenue Sidewalk Project 028458.00 which is in the MaineDOT workplan for 2026. This letter is confirm that Bangor is willing to locally administer this project.

We had anticipated budgeting matching funds in our capital improvement plan for this project during fiscal year 2024, which we have now moved to fiscal year 2026 to match the DOT work plan timeline.

Please feel free to contact me if you have any questions regarding this application or any of the other projects referenced within.

Sincerely,

Richard May

Stormwater Manager  
Engineering Department  
City of Bangor  
73 Harlow Street  
Bangor, ME 04401  
[Richard.may@bangormaine.gov](mailto:Richard.may@bangormaine.gov)  
207-992-4243

CC: Daniel Loring

## **U.S. Department of Transportation (USDOT)**

### **Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances**

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#### **DOT Order No. 1050.2A**

The **City of Bangor** AGREES THAT, as a condition of receiving financial assistance from the U.S. Department of Transportation (USDOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

#### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), which prohibits discrimination based on race, color, national origin;
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations are referred to hereinafter as the “Acts” and the “Regulations” respectively.

#### **General Assurances**

In accordance with the Acts, the Regulations and other pertinent directives, circulars, policy memoranda and/or guidance, the Subrecipient hereby gives assurance that it will promptly take any measures necessary to assure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Subrecipient receives Federal financial assistance from the USDOT, including the FHWA.”*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress regarding Title VI and other nondiscrimination requirements (the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Subrecipient, so long as any portion of the program is federally assisted.

#### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Subrecipient agrees with and gives the following Assurances with respect to its federally assisted projects:

1. The Subrecipient agrees that each “activity”, “facility” or “program” – as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. §21 – will be (regarding an “activity” facilitated), or will be (regarding a “facility” operated), or will be (regarding a “program” conducted) in compliance with all requirements imposed by, or pursuant to, the Acts and the Regulations.
2. The Subrecipient will insert the following notification in all solicitations for bids, requests for proposals for work, or material subject to the Acts and the Regulations made regarding all federal-aid highway programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Subrecipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

- 3. The Subrecipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.**
4. If applicable, the Subrecipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Subrecipient.
5. That where the Subrecipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Subrecipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Subrecipient will include the clauses in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Subrecipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Subrecipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Subrecipient or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Subrecipient retains ownership or possession of the property.
9. The Subrecipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Subrecipient agrees that the United States has a right to seek judicial enforcement regarding any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Subrecipient agrees to comply with (and to require sub-grantees, contractors, successors, transferees, and/or assignees to comply with) applicable provisions governing the FHWA and USDOT access to records, accounts, documents, information, facilities and staff. The Subrecipient also recognizes that it must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA and USDOT. The Subrecipient must keep records, reports, and submit the material for review upon request to the FHWA and USDOT, or their designees, in a timely, complete and accurate way. Additionally, the Subrecipient must comply with all other reporting, data collection and evaluation requirements, as prescribed by law or detailed in program guidance.

The Subrecipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal and Federal financial assistance extended after the date hereof by the USDOT under the Federal-Aid Highway Program. This ASSURANCE is binding on the Subrecipient, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal-Aid Highway Program.

The person signing below is authorized to sign this ASSURANCE on behalf of the Subrecipient.

## City of Bangor

By: \_\_\_\_\_  
**Debbie Laurie, City Manager**

DATED: \_\_\_\_\_

Encl.: Appendix A through Appendix E

## APPENDIX A PERFORMANCE REQUIREMENTS

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During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference.
2. **Non-discrimination:** The contractor, as regards the work performed during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Subrecipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Subrecipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the Subrecipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will insert the provisions of paragraphs one through six of the Assurances in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Subrecipient or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance. If the contractor becomes involved in or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Subrecipient to enter into any litigation to protect the interests of the Subrecipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



**APPENDIX B**  
**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

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If applicable, the following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation (USDOT) as authorized by law and upon the condition that the Subrecipient will accept title to the lands and maintain the project constructed thereon in accordance with 49 U.S. Code §5334, the Regulations for the Administration of the Federal Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the USDOT in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, non-discrimination in federally assisted programs of the USDOT pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Subrecipient all the right, title and interest of the USDOT in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto the Subrecipient and its successors forever, subject to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Subrecipient, its successors and assigns.

The Subrecipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that

- (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination regarding any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\*
- (2) that the Subrecipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the USDOT, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [i and
- (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the USDOT will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the USDOT and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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If applicable, the following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Subrecipient pursuant to the provisions of Assurance 7(a):

- A. The Subrecipient, for itself, its assignees, and successors in interest, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above non-discrimination covenants, Subrecipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above non-discrimination covenants, the Subrecipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Subrecipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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If applicable, the following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Subrecipient pursuant to the provisions of Assurance 7(b):

- A. The Subrecipient, for itself, its assignees, and successors in interest, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above non-discrimination covenants, the Subrecipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. \*
- C. With respect to deeds, in the event of breach of any of the above non-discrimination covenants, the Subrecipient will thereupon revert to and vest in and become the absolute property of the Subrecipient and its assigns. \*

(\*Reverter clause and related language to be used only when it is determined that such a clause IS necessary to make clear the purpose of Title VI.)

## APPENDIX E

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During the performance of this contract, the contractor – for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) – agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 5 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



**CITY COUNCIL ACTION**

04/22/2024 24-125

Council Meeting Date: 04/22/2024

Item No: 24-125

Responsible Dept: Engineering

Requested Action: Order

Map/Lot: N/A

**Title, Order**

Authorizing City Manager to Execute a MaineDOT Locally Administered Project Agreement for WIN #28474.00 Fourteenth Street Extension Shared-Use Pathway

**Summary**

This Order will authorize the City Manager to execute a Locally Administered Project Agreement with the Maine Department of Transportation for the WIN #28474.00, Fourteenth St Extension Shared-Use Pathway.

The scope of work consists of a shared-use pathway along Fourteenth Street Extension, starting at Ohio Street and continuing approximately 0.38 mile to Valley Avenue where it will connect to an existing pathway.

The total project costs is \$462,799.00. The Federal share is 80% or 370,223.20 and the City local match is 20% or \$92,555.80.

City Staff recommends approval.

**Committee Action**

Committee: Infrastructure Committee

Action: Recommend for passage

Meeting Date: 04/17/2024

For:

Against:

**Staff Comments & Approvals**

City Manager

City Solicitor

Finance Director

**Introduced for:** Consent



## **CITY OF BANGOR ORDER**

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04/22/2024 24-125

Date: 04/22/2024

Item No: 24-125

Assigned to Councilor: Schaefer

Authorizing City Manager to Execute a MaineDOT Locally Administered Project Agreement for WIN #28474.00 Fourteenth Street Extension Shared-Use Pathway

Be it Ordered by the City Council of the City of Bangor that,

the City Manager is hereby authorized to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #28474.00 Fourteenth Street Extension Shared-Use Pathway.

The total project costs is \$462,799.00. The Federal share is 80% or 370,223.20 and the City local match is 20% or \$92,555.80.



<i>MaineDOT use only</i>
AMS ID: _____
CSN: _____
PROGRAM: <u>Multimodal Program</u>

<i>Locally Administered Project (Payable)</i>	
Total Amount: <u>\$462,779.00</u>	MaineDOT WIN: <u>28474.00</u>
Federal Share: <u>\$370,223.20</u>	Federal Project #: <u>2847400</u>
Local Match: <u>\$92,555.80</u>	Bangor Vendor ID: <u>VC1000007010</u>
Effective Date: _____	Bangor Unique Entity ID: <u>MLLMBKS2LVQ5</u>
Expiration Date: <u>12/31/2028</u>	Federal Assistance Listing #: <u>20.205</u>

*Note: The table above is included herein for administrative purposes only. It is not part of the agreement below.*

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Agreement for a Federally Funded Locally Administered Project**  
 With the  
**City of Bangor**  
 Regarding  
**Shared-Use Pathway Along 14<sup>th</sup> Street Extension**

This subaward agreement for a federal-aid project (the **Agreement**) is entered into by and between the Maine Department of Transportation (**MaineDOT**), an agency of state government with its headquarters at 24 Child Street in Augusta, Maine, and a mailing address of 16 State House Station, Augusta, ME 04333-0016; and the City of Bangor (the **City**), a municipal corporation organized and existing under the laws of Maine, with its principal administrative offices at 40 Harlow Street in Bangor, Maine, and a mailing address of the same. (*MaineDOT and the City are referred to collectively as the Parties and individually as a Party.*)

**RECITALS**

- A. **SCOPE OF WORK**. This Agreement shall apply to design and construction work for a shared-use pathway along 14<sup>th</sup> Street Extension, starting at Ohio Street and continuing approximately 0.38 mile to Valley Avenue, where it will connect with an existing pathway (the **Project**); and
- B. **FUNDING AWARD**. MaineDOT in 2024 awarded the City federal-aid funding for the Project; and
- C. **ROLE OF CITY**. The City shall carry out the work as a Locally Administered Project, unless otherwise specified herein, subject to the policies and procedures in the MaineDOT Local Project Administration Manual & Resource Guide (LPA Manual) and MaineDOT’s oversight under Title 23 USC §106(g)(4) and Title 23 CFR part 635.105.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing statements, the Parties agree to the following:

**1. APPENDICES**

- Funding award letter; and
- Federal Title VI Assurances.

## 2. PROJECT MANAGEMENT

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2.1 The City shall place in responsible charge of the Project a full-time employee with Local Project Administration (LPA) certification and appropriate qualifications, as set out in Chapter 1 of the MaineDOT LPA Manual. This person shall abide by the provisions of this Agreement and all policies and procedures in the LPA Manual. The Local Project Administrator is the following:

- ☐ Ted Trembley, Design Engineer/Project Manager, City of Bangor.  
Phone: 207-992-4251  
Email: [Ted.Trembley@bangormaine.gov](mailto:Ted.Trembley@bangormaine.gov)

*Note: The City shall notify MaineDOT if this person ceases to oversee the Project.*

2.2 MaineDOT will assign a Project Manager to carry out MaineDOT's responsibilities under this Agreement. The Project Manager or a designee will have the authority to enforce all provisions of this Agreement and take all other action necessary to assure the proper performance of this Agreement. MaineDOT has assigned the following person to serve as Project Manager:

- ☐ Project Manager: Dan Loring, Multimodal Program  
Phone: 207-624-3451  
Email: [Daniel.M.Loring@maine.gov](mailto:Daniel.M.Loring@maine.gov)

## 3. FINANCIAL OBLIGATIONS

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3.1 AUTHORIZATION. MaineDOT's financial participation in the Project will begin upon the full execution of this Agreement (the Effective Date).

3.2 COST-SHARING. The estimated cost of the Project is **\$462,779.00**, which the Parties shall share at the percentages set out below.

- a. FEDERAL SHARE. MaineDOT, with funding from the Federal Highway Administration (FHWA), will share in cost of the Project at the rate of 80 percent, up to **\$370,223.20**.
- b. LOCAL MATCH. The City shall share in the cost of the Project at the rate of 20 percent, for an estimated contribution of **\$92,555.80**. Additionally, the City shall be fully responsible for:
  - i. All costs exceeding the Agreement maximum incurred without a modification in place;
  - ii. All costs incurred before the Effective Date of this Agreement; and
  - iii. All costs determined by MaineDOT or the FHWA to be federally non-participating.

3.3 FINANCIAL UPDATES. The Parties shall review the estimated Project Cost set out in 3.2 above at the milestones Preliminary Design Report (PDR), Plan Impacts Complete (PIC), and final Plans, Specifications & Estimate (PS&E). The Parties shall work in partnership to appropriate any additional funds needed to meet the latest estimate. Additionally, the City shall provide MaineDOT's Project Manager with one of the following:

- a. A statement acknowledging the latest estimate and affirming its commitment to the Project; or
- b. A formal request to cancel the Project, which may require the City to repay funds spent toward the Project if such action results in federal non-participation in the Project.



- 3.4 **REIMBURSEMENT.** The City shall pay Project costs as they occur and request periodic reimbursement for MaineDOT's portion. Invoices shall be submitted to MaineDOT's Project Manager at least *every six months* in the format of Letter 4 from the LPA Manual, as follows:
- a. Each invoice shall include a progress report for the service period of the invoice;
  - b. Each invoice shall include enough backup to satisfy the MaineDOT Project Manager;
  - c. Each invoice shall show MaineDOT's and the City's portions of Project costs, including a running total of costs invoiced to date;
  - d. The City must certify that amounts claimed are correct and not claimed previously;
  - e. Upon completion of the Project and payment in full of all contracted parties, the City shall submit to MaineDOT a final invoice modeled after Letter 20 from the LPA Manual. Payment shall be contingent on a passing inspection of the Project by MaineDOT and receipt of a completed consultant evaluation, contractor evaluation and as-built plans (if applicable).
- 3.5 **MAINE DOT COSTS.** MaineDOT will charge to the Project its costs for services performed on the Project. The City shall share in these costs commensurate with its share percentage of the Project. MaineDOT, at a minimum, will reconcile these costs upon completion of the Project and deduct the City's share percentage from the final invoice payment under 3.4(e) above.

#### **4. DESIGN, RIGHT OF WAY, AND CONSTRUCTION**

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- 4.1 **KICKOFF.** The Parties shall hold a kickoff meeting to go over the Project upon the execution in full of this Agreement.
- 4.2 **PROGRESS UPDATES.** The City shall provide MaineDOT with written progress updates upon request. If the City fails to respond to repeated requests for such updates, MaineDOT reserves the right to declare the City to be in default of this Agreement.
- 4.3 **ENGINEERING SERVICES.** A professional engineer licensed in Maine shall supervise all design work on the Project. If the City intends to hire a consultant to serve as the engineer of record, the City shall use a qualifications-based selection in accordance with 23 CFR part 172 and Chapter 2 of the LPA Manual (Hiring Consultants), as follows.
- a. Using price as a ranking factor shall make consultant work ineligible for reimbursement.
  - b. The City shall obtain MaineDOT's written approval of any contract or contract modification. Work performed without such approval shall be ineligible for reimbursement.
  - c. The City shall incorporate by reference the terms and conditions of MaineDOT's Consultant General Conditions into its contracts for consultant services.
  - d. The City shall fill out a consultant evaluation upon completion of its contract with any consultant. A copy of the completed form shall be provided to MaineDOT.
- 4.4 **SURVEY.** Unless MaineDOT approves otherwise in writing, MaineDOT shall be responsible for all survey work on the state highway system, and the City shall be responsible for all survey work off of the state system.

- 4.5 **DESIGN WORK.** The City, in coordination with its contracted consultant, shall be responsible for developing all design plans, specifications, estimates and contract documents. The design of the Project shall comply with the Americans with Disabilities Act (ADA) and all other applicable laws, regulatory requirements, and engineering standards.
- a. The City shall submit the following to MaineDOT for review and comment:
    - i. Preliminary design report;
    - ii. Design plan impacts (if right-of-way mapping will be required); and
    - iii. Final plans, specifications and estimate package (PS&E).
  - b. The bid documents shall contain all applicable special provisions and federal requirements – including but not limited to Form FHWA-1273 and signed Title VI Assurances – as set out in Chapter 7 of the LPA Manual (Final PS&E Package).
  - c. Electronic design files provided to MaineDOT for use in the right-of-way process shall conform to MaineDOT’s Electronic Exchange of CADD Data policy, found online: <http://www.maine.gov/mdot/caddsupport/>.
  - d. MaineDOT will enforce all applicable engineering standards, laws and regulatory requirements and will require changes to the design plans or specifications if they are not met.
  - e. MaineDOT will give the City written construction authorization once MaineDOT accepts the final PS&E package as complete. Receipt of such authorization shall not relieve the City and its consultant of responsibility for meeting all engineering standards, laws and regulatory requirements that apply to the Project.
- 4.6 **PUBLIC PARTICIPATION.** During preliminary design, the City shall conduct a public process appropriate for the scope of work and acceptable to MaineDOT’s Project Manager. The City shall provide MaineDOT with a signed public process certification modeled after Letter 10 from the LPA Manual, as part of the Project’s environmental package.
- 4.7 **ENVIRONMENTAL REQUIREMENTS.** MaineDOT will carry out the National Environmental Policy Act (NEPA) process. The City shall provide MaineDOT with signed Letter 11 from the LPA Manual and the completed NEPA Documentation Checklist. Additionally:
- a. The City shall be responsible for obtaining all environmental approvals, permits and licenses for the Project – outside of the NEPA process; and
  - b. The City shall provide MaineDOT with a signed environmental certification modeled after Letter 12 from the LPA Manual, as part of the final PS&E package for the Project.
- 4.8 **UTILITY COORDINATION.** The City shall identify all utilities and any railroad affected by the Project and shall coordinate any facility relocations in accordance with Chapter 5 of the LPA Manual (Utility Coordination). The City shall provide MaineDOT with a signed certification modeled after Letter 13 from the LPA Manual, as part of the final PS&E package.
- 4.9 **RIGHT-OF-WAY.** The Parties will coordinate the right-of-way process, if applicable, as follows:
- a. MaineDOT will carry out the right-of-way process if the Project is located primarily on the state highway system.

- b. The City shall lead the right-of-way process if the Project is located primarily off the state highway system. In carrying out the right-of-way process, the City shall:
  - i. Abide by the requirements of the federal Uniform Act, the MaineDOT Right of Way Manual, and Chapter 6 of the LPA Manual (Right of Way);
  - ii. Provide MaineDOT with a certification modeled after Letter 14 from the LPA Manual.
- c. If the Project is located partially on and partially off the state system:
  - i. One certified appraiser shall complete the appraisals for all parcels, and a second certified appraiser shall perform the required appraisal reviews;
  - ii. Negotiations with property owners will be conducted by MaineDOT for rights on the state system and by the City for rights off the state highway system; and
  - iii. MaineDOT will acquire the necessary rights on the state system, and the City shall acquire the necessary rights off the state highway system.
- d. MaineDOT will participate financially in right-of-way settlements up to 110 percent of the Determination of Just Compensation for each parcel. MaineDOT's participation in any settlement exceeding this amount shall require MaineDOT's approval.
- e. The City shall dedicate to the Project for public use into perpetuity any municipal property needed for the Project (if applicable).

4.10 ADVERTISING FOR BIDS. The City shall use competitive bidding to hire a construction contractor upon receiving MaineDOT's written construction authorization. The City shall abide by Section 102 of MaineDOT's Standard Specifications (Bidding) and Chapter 8 of the LPA Manual (Advertise & Award). *Advertising without authorization shall result in federal non-participation.*

4.11 AWARDING A CONTRACT. Upon receiving written approval from MaineDOT, the City shall award a contract to the lowest responsive/responsible bidder in accordance with Section 103 of MaineDOT's Standard Specifications (Award and Contracting), as follows:

- a. Negotiation with any bidder, after bids are opened and before a contract is awarded, is prohibited by the federal regulations found in 23 CFR §635.113. *Any such negotiation shall give MaineDOT just cause to find the City to be in default of this Agreement.*
- b. The City shall administer the construction contract for the duration of the Project.

4.12 CONSTRUCTION OVERSIGHT. During construction, the City shall ensure that there is adequate supervision and inspection to complete the Project in conformance with the approved plans and specifications. Accordingly, the City shall be responsible for the following:

- a. Providing a resident inspector who is either a municipal employee with the appropriate qualifications – as set out in Chapter 11 of the LPA Manual (Construction Administration) – or a consultant hired through a qualifications-based selection.
- b. Holding a pre-construction meeting and, if applicable, a separate pre-paving meeting.
- c. Providing a paving inspector and a concrete technician with required certifications to be on site for paving and concrete work. *One person may perform both roles, if certified.*
- d. Coordinating materials testing as necessary to comply with the Minimum Testing Requirements that MaineDOT will establish for the Project.

- e. Submitting proposed contract modifications (change orders) to MaineDOT for review and concurrence. MaineDOT may deny reimbursement to the Town for work performed under a change carried out without MaineDOT's concurrence.
  - f. Obtaining MaineDOT's approval of changes to the approved PS&E design plans proposed during construction. If a change made in the field without MaineDOT's prior approval is found to be non-compliant with the ADA or any applicable engineering standard, MaineDOT will require the Town to make corrections at its own expense, without reimbursement for the work.
- 4.13 **FINAL INSPECTION.** MaineDOT will inspect the completed Project for compliance with the plans, specifications and provisions of the construction contract. MaineDOT reserves the right to require any work determined to be out of such compliance to be addressed to MaineDOT's satisfaction, before paying the final invoice from the City for the Project.

## **5. MAINTENANCE AFTER CONSTRUCTION**

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The City shall maintain the completed sidewalk for the duration of its useful design life. Maintenance shall consist of general upkeep and repairs to preserve year-round public access, including for persons with disabilities, with only isolated or temporary interruptions in accessibility. Maintenance shall include reasonable snow removal efforts, in accordance with 23 USC §116 and 28 CFR §35.133. *This Section 5 shall survive the expiration of this Agreement.*

## **6. RECORDS AND AUDITS**

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- 6.1 Project Records, whether printed or electronic, shall include all plans, specifications, contracts, reports, notes, or other documents prepared by or for the City. The City shall retain all Project Records for at least **3 years** from either the date of MaineDOT's acceptance of the final invoice for the Project or the termination of this Agreement. If any litigation, claim, negotiation or audit has begun before the end of this retention period, all Project Records shall be kept for at least 3 years after the litigation, claim, negotiation or audit is resolved.
- 6.2 The City and any contracted party working on its behalf shall allow representatives of the Federal Government and the State of Maine to inspect and audit Project Records at any time. Copies shall be provided at no cost to the agencies requesting them.
- 6.3 Audits shall be conducted in accordance with Title 2 in the Code of Federal regulations (2 CFR), subpart F, §200.500 through §200.512 – Audit Requirements.

*This Section 6 shall survive the termination or expiration of this Agreement.*

## **7. DEBARMENT**

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- 7.1 By signing this Agreement, the City certifies that, for the term of the Project, it shall not permit any consultant, contractor, subcontractor or any other third party to work on any aspect of the Project if that entity or its principals has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from doing business with any federal department or agency. (Verification shall be made through the federal SAM.Gov website.)
- 7.2 If the City contracts with any third party pursuant to this Agreement, the City shall require that party and its principals to certify that they:

- a. Have not within a 3-year period preceding the date of a contract for the Project been convicted of a crime or had a civil judgment rendered against them in connection with the following:
  - i. Obtaining, attempting to obtain, or performing a federal, state or local public transaction or contract under a public transaction;
  - ii. Violation of federal or state antitrust statutes;
  - iii. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- b. Are not under indictment for or otherwise charged criminally or civilly by a federal, state or local governmental entity with commission of any offense enumerated above; and
- c. Have not within a 3-year period preceding this Agreement had one or more federal, state or local public transactions terminated for cause or default.

## **8. CONFLICT OF INTEREST**

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- 8.1 No municipal official or employee with a direct or indirect financial or other personal interest in any contract or subcontract for the Project shall negotiate, make, accept or approve any such contract or subcontract.
- 8.2 No professional performing services for the City on the Project shall have a direct or indirect financial or other personal interest in any contract or subcontract for the Project, other than the person's employment or retention by the City. No officer or employee of any professional retained by the City to work on the Project shall have a direct or indirect financial or other personal interest in real property acquired for the Project unless the interest is disclosed in the public record and such officer or employee has not participated in such acquisition for and on behalf of the City.
- 8.3 No person or entity entering into a contract for services for the Project shall have a direct or indirect financial or other personal interest in the Project or in its outcome, other than the performance of the contract. This prohibition covers the following:
  - a. Any agreement with, or other interest involving, third parties having an interest in the outcome of the Project that is the subject to the contract; and
  - b. Any agreement providing incentives or guarantees of future work on the Project or related matters; and
  - c. Any interest in real property acquired for the Project unless such real property interest is disclosed in the public record before the person or entity enters into the contract.

## **9. GENERAL PROVISIONS**

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- 9.1 **LEGAL COMPLIANCE.** This Agreement shall be construed under the laws of the State of Maine. During the performance of the Project, the Parties agree to comply with and abide by all applicable federal, state and local laws, statutes, rules, regulations, standards and guidelines; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achieving the intent of this Agreement.
- 9.2 **INDEMNIFICATION.** To the extent permitted by law, the City shall indemnify and hold harmless the State of Maine, its agents, employees and contractors from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the City, its consultants or contractors.

Nothing herein shall waive any defense, immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S., §8101 et seq.) or any other privileges or immunities provided by law. ***This section shall survive the termination or expiration of this Agreement.***

- 9.3 **CONFIDENTIALITY**. Information pertaining to right-of-way appraisals, negotiations with property owners, and detailed construction cost estimates shall be kept confidential to the extent required by state law: 23 M.R.S.A., §63.
- 9.4 **STATE OF MAINE’S RIGHTS OF SET-OFF**. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State’s option to withhold for purposes of set-off monies due the City under a specific project contract up to any amounts due and owed to MaineDOT regarding this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State for any reason. MaineDOT shall exercise its set-off rights in accordance with standard state practices including, in cases of set-off pursuant to an audit, the finalization of the audit. *MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the City for purposes of set-off to recover the amount owed.*
- 9.5 **NON-APPROPRIATION**. Notwithstanding anything herein to the contrary, the City acknowledges and agrees that although the execution of this Agreement manifests MaineDOT’s intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, such obligations by law are subject to available budgetary appropriations by the Federal Government and the State of Maine. This Agreement creates no obligation on behalf of MaineDOT in excess of such appropriations.
- 9.6 **LOBBYING**. By signing this Agreement, the undersigned municipal representative certifies that no appropriated federal funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 9.7 **EQUAL EMPLOYMENT OPPORTUNITY**. During the performance of this Agreement:
- a. The City shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to an actual occupational qualification. The City shall take affirmative action to assure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. The City agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this section.
  - b. The City – in all solicitations or advertising for employees placed by or on behalf of the City relating to this Agreement – shall state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The City shall cause the foregoing provisions to be inserted into any contract for work covered by this Agreement so that such provisions shall be binding upon each contractor, except for contracts or subcontracts for standard commercial supplies or raw materials.

- 9.8 FLOW DOWN. Contracts between the City and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 9.9 ASSIGNMENT. No assignment of this Agreement is contemplated, and no assignment shall be made without MaineDOT's express written permission.
- 9.10 AMENDMENT AND MODIFICATION. This Agreement may only be modified or amended in writing and signed by duly authorized representatives of the Parties.
- 9.11 BINDING EFFECT. The Parties shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 9.12 INDEPENDENT CAPACITY. The City, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- 9.13 ENTIRE AGREEMENT. This document represents the entire Agreement between the Parties. Neither MaineDOT nor the City shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.
- 9.14 ELECTRONIC SIGNATURES. Each Party agrees that this Agreement may be signed electronically and that all electronic signatures on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility.
- 9.15 NOTICE. Any communications, requests or notices required or appropriate to be given under this Agreement shall be made in writing and may be sent by email, with express acknowledgement of receipt by the receiving Party.

## **10. DEFAULT AND TERMINATION**

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- 10.1 MaineDOT shall have just cause to terminate this Agreement upon or after the occurrence of one or more of the following events, which shall constitute default of this Agreement by the City:
- a. The City withdraws its support for the Project, causing cancellation of the Project;
  - b. The City fails to advertise the Project within 3 years of the execution of this Agreement, without receiving a time extension in writing from MaineDOT;
  - c. The City makes no effort to respond to repeated requests for progress updates;
  - d. The City takes any action that renders the Project ineligible for federal funding;
  - e. The City misrepresents or falsifies any claim for reimbursement;
  - f. The City uses Project funds for a purpose not authorized by this Agreement; and
  - g. The City fails to meet the standards of performance set out in this Agreement.

- 10.2 In the event of a default, MaineDOT will afford the City a cure period of 14 calendar days, effective on the City's receipt of Notice of Default. If the City fails to address all grounds for default within this cure period or any longer period as MaineDOT may authorize, MaineDOT may terminate this Agreement for cause, with the following conditions:
- a. MaineDOT, at its discretion, may require the City to return all payments from MaineDOT toward the Project and to reimburse MaineDOT for its internal costs; and
  - b. The City shall forfeit all federal funds remaining in the terminated Project.
- 10.3 The Parties may terminate this Agreement for convenience by mutual consent for any reason not defined as default. MaineDOT may reimburse the City for eligible work performed under this Agreement up to the effective date of termination for convenience.

## 11. TERM AND EXPIRATION

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All provisions of this Agreement – *except for those provisions that by their very nature are intended to survive* – shall expire upon payment by MaineDOT of the final invoice from the City under section 3.4(e) above or **December 31, 2028** (Expiration Date), whichever occurs first. The City shall submit any request for a time extension to MaineDOT in writing before the Expiration Date.

## 12. MUNICIPAL APPROVAL

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The City's undersigned representative assures that the City's legislative body has approved the City's entry into this Agreement, has appropriated or authorized the use of any required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Debbie Laurie, City Manager \***

By: \_\_\_\_\_  
**Todd Pelletier, P.E., Director \***  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*\* Pursuant to 10 M.R.S.A. §9502, et seq., I certify that the foregoing electronic signature: (a) is intended to have the same force as my manual signature, (b) is unique to me, (c) is capable of verification, (d) is under my control, and (e) is linked to data in such a manner that it is invalidated if the data are changed.*



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**APPENDIX**

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DRAFT



STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

24-125  
APRIL 22, 2024

Janet T. Mills  
GOVERNOR

Bruce A. Van Note  
COMMISSIONER

January 17, 2023

John Theriault  
73 Harlow St  
Bangor, ME 04401

### **Bangor Fourteenth Street Extension Multi-Use Path**

Dear Project Applicant:

The Maine Department of Transportation (MaineDOT) is pleased to inform you that your municipality's grant application for Bicycle/Pedestrian Program Funding has been approved, and your community has been selected to receive state transportation funding assistance at this time for the **Construction** activities on your project.

Your community's project has been included in MaineDOT's 2024-25-26 Capital Work Plan, pending final authorization of state funds. MaineDOT has currently programmed up to **\$370,223.20** in state transportation funding for the preliminary design, survey/mapping, right-of-way work and the construction costs for your project, contingent upon the minimum required local match of **\$92,555.80**. The funding amounts approved were based on the preliminary estimates provided to the Department as part of your application and MaineDOT's internal discussions which may have adjusted these amounts.

Currently, MaineDOT intends this to be a locally administered project. Please confirm on the form at the end of this letter that your municipality is willing and able to administer the project. Requirements for state and federally funded locally administered projects may be found on the MaineDOT website: <http://www.maine.gov/mdot/lpa/>. Please keep in mind that MaineDOT staff time required to review project plans is part of the costs allocated to project funding. Furthermore, please note that funding for this project, is contingent upon MaineDOT receiving adequate state transportation funding to support it, and MaineDOT reserves the right to withdraw funds from this project for **any reason**.

The municipality should not authorize any work or expend any funds on this project (including local match funding) before you have signed a ***Locally Administered Project Agreement*** with the MaineDOT and have received a formal notice to proceed. All expenditures made before an agreement is in place and MaineDOT issues a written ***Notice to Proceed***, are ***ineligible*** for reimbursement. Your Project Manager will be **Daniel Loring**, who will contact you about the next steps. Until then, please feel free to contact me with any questions you may have about the project or the next steps in this process.

The following information details your project's estimated funding amounts and the specific information and project details we have within our system. Please review and verify the following information:

**Project Name:** Bangor Fourteenth Street Extension Multi-Use Path

**Project Identification Number:** (WIN) 028474.00

**Project Manager:** Daniel Loring

**Contact Information:** [Daniel.M.Loring@maine.gov](mailto:Daniel.M.Loring@maine.gov)

**Proposed Scope:** Construction of multi-use sidepath

**Description:** Construction of 10 foot side sidepath along 14th St extension from Valley St to Ohio St. PE done in house by Bangor, to be reviewed by DOT. Construction of 2,000 feet of multi-use sidepath by removing climbing lane and constructing separated path.

**Estimated Planning Level Project Cost:** \$ 462,779.00

**Federal funding amount approved in the Work Plan:** \$ 370,223.20

**Local Match amount required for State funding Amount:** \$ 92,555.80

Please provide signatures on the last page to confirm your municipality still wants to design and/or construct this project and to re-certify that your local match has been officially obligated to the project.

**Within the next 30 days**, return the following documentation via email:

- 1) One original signed letter
- 2) Appropriate documentation authorizing the local match
- 3) Your agreement to administer this project locally

Please call me at **(207) 592-3384** with any questions or to review any issues related to the project. Thank you very much for your continued efforts to improve the transportation system within your community.

Sincerely,

**Dakota Hewlett**

Active Transportation Planner  
Bicycle and Pedestrian Funding Program Manager  
Maine Department of Transportation  
207-592-3384  
Dakota.Hewlett@maine.gov

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Municipality: BANGOR

Authorized Signature: [Signature]

Title: BANGOR CITY ENGINEER

Date: 1-22-2024

Prefer:  Locally Administered Project

MaineDOT Administers the Project

**Description of Local Match commitment including the source, approval date, etc.** *(Please attach supportive documentation):*

## APPENDIX A PERFORMANCE REQUIREMENTS

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During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference.
2. **Non-discrimination:** The contractor, as regards the work performed during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Subrecipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Subrecipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the Subrecipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will insert the provisions of paragraphs one through six of the Assurances in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Subrecipient or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance. If the contractor becomes involved in or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Subrecipient to enter into any litigation to protect the interests of the Subrecipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



**CITY COUNCIL ACTION**

04/22/2024 24-126

Council Meeting Date: 04/22/2024

Item No: 24-126

Responsible Dept: Engineering

Requested Action: Order

Map/Lot: N/A

**Title, Order**

Authorizing City Manager to Execute MaineDOT Locally Administered Project Agreement for WIN #28476.00 Broadway and North Park Street Intersection Improvements

**Summary**

This Order will authorize the City Manager to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #028476.00 Broadway and North Park Street Intersection Improvements.

The scope of work consists of a traffic signal upgrade.

The total project costs is \$714,699.00. Federal share is 80% or \$571,759.20, the State share is 10% or \$71,469.90, & the City local match is 10% or \$71,469.90.

City Staff recommends approval.

**Committee Action**

Committee: Infrastructure Committee

Action: Recommend for passage

Meeting Date: 04/17/2024

For:

Against:

**Staff Comments & Approvals**

City Manager

City Solicitor

Finance Director

**Introduced for:** Consent



## **CITY OF BANGOR ORDER**

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04/22/2024 24-126

Date: 04/22/2024

Item No: 24-126

Assigned to Councilor: Hawes

Authorizing City Manager to Execute MaineDOT Locally Administered Project Agreement for WIN #28476.00 Broadway and North Park Street Intersection Improvements

Be it Ordered by the City Council of the City of Bangor that,

the City Manager is hereby authorized to execute a Locally Administered Project Agreement with the Maine Department of Transportation for WIN #28476.00 Broadway & North Park Street Intersection Improvements.

The total project costs is \$714,699.00. Federal share is 80% or \$571,759.20, the State share is 10% or \$71,469.90, & the City local match is 10% or \$71,469.90.



<i>MaineDOT use only</i>
AMS ID: _____
CSN: _____
PROGRAM: <u>Multimodal Program</u>

<i>Locally Administered Project (Payable)</i>	
Total Amount: <u>\$714,699.00</u>	MaineDOT WIN: <u>28476.00</u>
Federal Share: <u>\$571,759.20</u>	Federal Project #: <u>2847600</u>
State Share: <u>\$71,469.90</u>	Bangor Vendor ID: <u>VC1000007010</u>
Local Match: <u>\$71,469.90</u>	Bangor Unique Entity ID: <u>MLLMBKS2LVQ5</u>
Effective Date: _____	Federal Assistance Listing #: <u>20.205</u>
Expiration Date: <u>6/30/2029</u>	

*Note: The table above is included herein for administrative purposes only. It is not part of the agreement below.*

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Agreement for a Federally Funded Locally Administered Project**  
 With the  
**City of Bangor**  
 Regarding  
**Intersection Improvements at Broadway and North Park Street**

This subaward agreement for a federal-aid project is entered into by and between the Maine Department of Transportation (**MaineDOT**), an agency of state government with its headquarters at 24 Child St. in Augusta, Maine, and a mailing address of 16 State House Station Augusta, ME 04333-0016; and the City of Bangor (the **City**), a municipal corporation organized and existing under the laws of Maine, with its principal administrative offices at 40 Harlow St., in Bangor, Maine, and a mailing address of the same. (*MaineDOT and the City are referred to collectively as the Parties and individually as a Party.*)

**RECITALS**

- A. **SCOPE OF WORK.** This Agreement shall apply to design and construction work for a traffic signal upgrade at the intersection of Broadway and North Park Street / Stillwater Avenue (the **Project**); and
- B. **ROLE OF BACTS.** The Bangor Area Comprehensive Transportation System (BACTS), the metropolitan planning organization for the Bangor Urbanized Area, programmed the Project for inclusion in the MaineDOT 2024-2026 Work Plan with the City’s support as a member of BACTS.
- C. **ROLE OF CITY.** The City, unless otherwise specified herein, shall carry out the work as a Locally Administered Project subject to the policies and procedures in the MaineDOT Local Project Administration Manual & Resource Guide (LPA Manual) and MaineDOT’s oversight under Title 23 USC §106(g)(4) and Title 23 CFR part 635.105.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing statements, the Parties agree to the following:

**1. APPENDICES**

- Operation and Maintenance of Traffic Signals; and
- Federal Title VI Assurances.



## 2. PROJECT MANAGEMENT

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2.1 The City shall place in responsible charge of the Project a full-time employee with Local Project Administration (LPA) certification. This person shall abide by the provisions of this Agreement and all policies and procedures in the LPA Manual. The Local Project Administrator is as follows:

- Ted Trembley, Design Engineer/Project Manager, City of Bangor  
Phone: 207-992-4251  
Email: [Ted.Trembley@bangormaine.gov](mailto:Ted.Trembley@bangormaine.gov)

*Note: The City shall notify MaineDOT if this person ceases to oversee the Project.*

2.2 MaineDOT will assign a Project Manager to carry out MaineDOT's responsibilities under this Agreement. The Project Manager or a designee will have the authority to enforce all provisions of this Agreement and take all other action necessary to assure the proper performance of this Agreement. MaineDOT has assigned the following person to serve as Project Manager:

- Dan Loring, Multimodal Program  
Phone: 207-624-3451  
Email: [Daniel.M.Loring@maine.gov](mailto:Daniel.M.Loring@maine.gov)

## 3. FINANCIAL OBLIGATIONS

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3.1 AUTHORIZATION. MaineDOT's financial participation in the Project will begin upon the full execution of this Agreement (the Effective Date).

3.2 COST-SHARING. BACTS programmed for the Project a total of **\$714,699.00**, which the Parties shall share as set out below. Costs eligible for federal/state participation shall not exceed this amount without written approval from BACTS. Upon receiving such approval, the Parties shall modify this Agreement.

- a. MAINEDOT SHARE. MaineDOT, using federal and state funds programmed by BACTS, will share in cost of the Project at the rate of 90 percent, up to **\$643,229.10**.
- b. LOCAL MATCH. The City shall share in the cost of the Project at the rate of 10 percent, for an estimated contribution of **\$71,469.90**. Additionally, the City shall be fully responsible for:
  - i. All costs exceeding the Agreement maximum incurred without a modification in place;
  - ii. All costs incurred before the effective date of this Agreement; and
  - iii. All costs determined to be federally non-participating.

3.3 FINANCIAL UPDATES. The Parties shall review the estimated Project Cost in 3.2 above at the milestones of Preliminary Design Report (PDR), Plan Impacts Complete (PIC), and final Plans, Specifications & Estimate (PS&E). After each review, each Party shall work with BACTS to appropriate the funds to meet the latest estimate. Additionally, the City shall provide MaineDOT's Project Manager with one of the following, in the format of Letter 9 from the LPA Manual:

- a. A statement acknowledging the latest estimate and affirming its commitment to the Project; or
- b. A request to cancel the Project, which may require repayment of costs incurred if such action results in federal non-participation in the Project.

- 3.4 **REIMBURSEMENT.** The City shall pay Project costs as they occur and request periodic reimbursement for MaineDOT's portion. Invoices shall be submitted to MaineDOT's Project Manager at least *every six months* in the format of Letter 4 from the LPA Manual, as follows:
- a. Each invoice shall include a progress report for the service period of the invoice;
  - b. Each invoice shall include enough backup to satisfy the MaineDOT Project Manager;
  - c. Each invoice shall show MaineDOT's and the City's portions of Project costs, including a running total of costs invoiced to date;
  - d. The City must certify that amounts claimed are correct and not claimed previously;
  - e. Upon completion of the Project and payment in full of all contracted parties, the City shall submit to MaineDOT a final invoice modeled after Letter 20 from the LPA Manual. Payment shall be contingent on a passing inspection of the Project by MaineDOT and receipt of a completed consultant evaluation, contractor evaluation and as-built plans (if applicable).
- 3.5 **MAINEDOT COSTS.** MaineDOT will charge to the Project its costs for services performed on the Project. The City shall share in these costs commensurate with its share percentage of the Project. MaineDOT, at a minimum, will reconcile these costs upon completion of the Project and deduct the City's share percentage from the final invoice payment under 3.4(e) above.
- 3.6 **REMAINING FUNDS.** MaineDOT will transfer into the BACTS holding **WIN 014272.40** any federal/state funds remaining in the Project once MaineDOT has paid the final invoice under 3.4(e) above. Any federal/state funds repaid to MaineDOT by the City also shall revert back to BACTS for reprogramming.

#### **4. DESIGN, RIGHT OF WAY, AND CONSTRUCTION**

---

- 4.1 **KICKOFF.** The Parties shall hold a kickoff meeting to go over the Project upon the execution in full of this Agreement.
- 4.2 **PROGRESS UPDATES.** The City shall provide MaineDOT with written progress updates upon request. If the City fails to respond to repeated requests for such updates, MaineDOT reserves the right to declare the City to be in default of this Agreement.
- 4.3 **ENGINEERING SERVICES.** A professional engineer licensed in Maine shall supervise all design work on the Project. If the City intends to hire a consultant to serve as the engineer of record, the City shall use a qualifications-based selection in accordance with 23 CFR part 172 and Chapter 2 of the LPA Manual (Hiring Consultants), as follows.
- a. Using price as a ranking factor shall make consultant work ineligible for reimbursement.
  - b. The City shall obtain MaineDOT's written approval of any contract or contract modification. Work performed without such approval shall be ineligible for reimbursement.
  - c. The City shall incorporate by reference the terms and conditions of MaineDOT's Consultant General Conditions into its contracts for consultant services.
  - d. The City shall fill out a consultant evaluation upon completion of its contract with any consultant. A copy of the completed form shall be provided to MaineDOT.

- 4.4 SURVEY. Unless MaineDOT approves otherwise in writing, MaineDOT shall be responsible for all survey work on the state highway system, and the City shall be responsible for all survey work off of the state highway system.
- 4.5 DESIGN WORK. The City, in coordination with its contracted consultant, shall be responsible for developing all design plans, specifications, estimates and contract documents. The design of the Project shall comply with the Americans with Disabilities Act (ADA) and all other applicable laws, regulatory requirements, and engineering standards.
- a. The City shall submit the following to MaineDOT for review and comment:
    - i. Preliminary design report;
    - ii. Design plan impacts (if right-of-way mapping will be required); and
    - iii. Final plans, specifications and estimate package (PS&E).
  - b. The bid documents shall contain all applicable special provisions and federal requirements – including but not limited to Form FHWA-1273 and signed Title VI Assurances – as set out in Chapter 7 of the LPA Manual (Final PS&E Package).
  - c. Electronic design files provided to MaineDOT for use in the right-of-way process shall conform to MaineDOT’s Electronic Exchange of CADD Data policy, found online: <http://www.maine.gov/mdot/caddsupport/>.
  - d. MaineDOT will enforce all applicable engineering standards, laws and regulatory requirements and will require changes to the design plans or specifications if they are not met.
  - e. MaineDOT will give the City written construction authorization once MaineDOT accepts the final PS&E package as complete. Receipt of such authorization shall not relieve the City and its consultant of responsibility for meeting all engineering standards, laws and regulatory requirements that apply to the Project.
- 4.6 PUBLIC PARTICIPATION. During preliminary design, the City shall conduct a public process appropriate for the scope of work and acceptable to MaineDOT’s Project Manager. The City shall provide MaineDOT with a signed public process certification modeled after Letter 10 from the LPA Manual, as part of the Project’s environmental package.
- 4.7 ENVIRONMENTAL REQUIREMENTS. MaineDOT will carry out the National Environmental Policy Act (NEPA) process. The City shall provide MaineDOT with signed Letter 11 from the LPA Manual and the completed NEPA Documentation Checklist to assist with this work. Additionally:
- a. The City shall be responsible for obtaining all environmental approvals, permits and licenses for the Project – outside of the NEPA process; and
  - b. The City shall provide MaineDOT with a signed environmental certification modeled after Letter 12 from the LPA Manual, as part of the final PS&E package for the Project.
- 4.8 UTILITY COORDINATION. The City shall identify all utilities and any railroad affected by the Project and shall coordinate any facility relocations in accordance with Chapter 5 of the LPA Manual (Utility Coordination). The City shall provide MaineDOT with a signed certification modeled after Letter 13 from the LPA Manual, as part of the final PS&E package.

- 4.9 RIGHT-OF-WAY. The Parties will coordinate the right-of-way process, if necessary, as follows:
- a. MaineDOT will carry out the right-of-way process if the Project is located primarily on the state highway system.
  - b. The City, at MaineDOT's discretion, may be required to participate in the right-of-way process for any portion of the Project off the state highway system. In doing so, the City and its contracted parties shall comply with the federal Uniform Act and abide by the MaineDOT Right of Way Manual and Chapter 6 of the LPA Manual (Right of Way).
  - c. If the Project is located partially on and partially off the state highway system:
    - i. One certified appraiser shall perform the appraisals for all parcels, and a second certified appraiser shall carry out the required appraisal reviews;
    - ii. MaineDOT will acquire rights located on the state highway system; and
    - iii. The City, at the discretion of MaineDOT, may be required to acquire rights located off the state highway system.
  - d. MaineDOT will participate financially in right-of-way settlements up to 110 percent of the Determination of Just Compensation for each parcel. MaineDOT's participation in any settlement exceeding this amount shall require MaineDOT's approval.
  - e. The City shall dedicate to the Project for public use into perpetuity any municipal property needed for the Project (if applicable).
- 4.10 ADVERTISING FOR BIDS. The City shall use competitive bidding to hire a construction contractor upon receiving MaineDOT's written construction authorization. The City shall abide by Section 102 of MaineDOT's Standard Specifications (Bidding) and Chapter 8 of the LPA Manual (Advertise & Award). *Advertising without authorization shall result in federal non-participation.*
- 4.11 AWARDING A CONTRACT. Upon receiving written approval from MaineDOT, the City shall award a contract to the lowest responsive/responsible bidder in accordance with Section 103 of MaineDOT's Standard Specifications (Award and Contracting) and administer the contract for the duration of the Project. *Negotiation with any bidder, after opening bids and before awarding a contract, is prohibited by the federal regulations found in 23 CFR §635.113.*
- 4.12 CONSTRUCTION OVERSIGHT. During construction, the City shall ensure that there is adequate supervision and inspection to complete the Project in conformance with the approved plans and specifications. Accordingly, the City shall be responsible for the following:
- a. Providing a resident inspector who is either a municipal employee with the appropriate qualifications – as set out in Chapter 11 of the LPA Manual (Construction Administration) – or a consultant hired through a qualifications-based selection.
  - b. Holding a pre-construction meeting and, if applicable, a separate pre-paving meeting.
  - c. Providing a paving inspector and a concrete technician with required certifications to be on site for paving and concrete work. *One person may perform both roles, if certified.*
  - d. Coordinating materials testing to comply with the Minimum Testing Requirements that MaineDOT will establish for the Project.

- e. Submitting proposed contract modifications (change orders) to MaineDOT for review and concurrence. MaineDOT may deny reimbursement to the City for work performed under a change carried out without MaineDOT's concurrence.
  - f. Obtain MaineDOT's approval of changes to the previously approved design plans and specifications proposed during construction. If a change made in the field without MaineDOT's prior approval is found to be non-compliant with the Americans with Disabilities Act or any applicable engineering standard, MaineDOT will require the City to make corrections at its own expense, without reimbursement for the work.
- 4.13 **FINAL INSPECTION.** MaineDOT will inspect the completed Project for compliance with the plans, specifications and provisions of the construction contract. MaineDOT reserves the right to require any work determined to be out of such compliance to be addressed to MaineDOT's satisfaction, before paying the final invoice from the City for the Project.

## **5. MAINTENANCE AFTER CONSTRUCTION**

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The appendix labeled "Perpetual Operation and Maintenance of Traffic Signals" shall govern all signal maintenance on the completed Project. *This section shall survive the expiration of this Agreement.*

## **6. RECORDS AND AUDITS**

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- 6.1 Project Records, whether printed or electronic, shall include all plans, specifications, contracts, reports, notes, or other documents prepared by or for the City. The City shall retain all Project Records for at least **3 years** from either the date of MaineDOT's acceptance of the final invoice for the Project or the termination of this Agreement. If any litigation, claim, negotiation or audit has begun before the end of this retention period, all Project Records shall be kept for at least 3 years after the litigation, claim, negotiation or audit is resolved.
- 6.2 The City and any contracted party working on its behalf shall allow representatives of the Federal Government and the State of Maine to inspect and audit Project Records at any time. Copies shall be provided at no cost to the agencies requesting them.
- 6.3 Audits shall be conducted in accordance with Title 2 in the Code of Federal regulations (2 CFR), subpart F, §200.500 through §200.512 – Audit Requirements.

*This Section 6 shall survive the termination or expiration of this Agreement.*

## **7. DEBARMENT**

---

- 7.1 By signing this Agreement, the City certifies that, for the term of the Project, it shall not permit any consultant, contractor, subcontractor or any other third party to work on any aspect of the Project if that entity or its principals has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from doing business with any federal department or agency. (Verification shall be made through the federal SAM.Gov website.) If the City cannot certify to this statement, it shall attach an explanation to this Agreement.
- 7.2 If the City contracts with any third party pursuant to this Agreement, the City shall require that party and its principals to certify that they:

- a. Have not within a 3-year period preceding the date of a contract for the Project been convicted of a crime or had a civil judgment rendered against them in connection with the following:
  - i. Obtaining, attempting to obtain, or performing a federal, state or local public transaction or contract under a public transaction;
  - ii. Violation of federal or state antitrust statutes;
  - iii. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- b. Are not under indictment for or otherwise charged criminally or civilly by a federal, state or local governmental entity with commission of any offense enumerated above; and
- c. Have not within a 3-year period preceding this Agreement had one or more federal, state or local public transactions terminated for cause or default.

## **8. CONFLICT OF INTEREST**

---

- 8.1 No municipal official or employee with a direct or indirect financial or other personal interest in any contract or subcontract for the Project shall negotiate, make, accept or approve any such contract or subcontract.
- 8.2 No professional performing services for the City on the Project shall have a direct or indirect financial or other personal interest in any contract or subcontract for the Project, other than the person's employment or retention by the City. No officer or employee of any professional retained by the City to work on the Project shall have a direct or indirect financial or other personal interest in real property acquired for the Project unless the interest is disclosed in the public record and such officer or employee has not participated in such acquisition for and on behalf of the City.
- 8.3 No person or entity entering into a contract for services for the Project shall have a direct or indirect financial or other personal interest in the Project or in its outcome, other than the performance of the contract. This prohibition covers the following:
  - a. Any agreement with, or other interest involving, third parties having an interest in the outcome of the Project that is the subject to the contract; and
  - b. Any agreement providing incentives or guarantees of future work on the Project or related matters; and
  - c. Any interest in real property acquired for the Project unless such real property interest is disclosed in the public record before the person or entity enters into the contract.

## **9. GENERAL PROVISIONS**

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- 9.1 LEGAL COMPLIANCE. This Agreement shall be construed under the laws of the State of Maine. During the performance of the Project, the Parties agree to comply with and abide by all applicable federal, state and local laws, statutes, rules, regulations, standards and guidelines; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achieving the intent of this Agreement.

- 9.2 INDEMNIFICATION. To the extent permitted by law, the City shall indemnify and hold harmless the State of Maine, its agents, employees and contractors from all claims, suits or liabilities arising from any negligent or wrongful act, error or omission by the City, its consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available under the Maine Tort Claims Act (14 M.R.S., §8101 et seq.) or any other privileges or immunities provided by law. *This indemnification provision shall survive the termination or expiration of this Agreement.*
- 9.3 CONFIDENTIALITY. Information pertaining to right-of-way appraisals, negotiations with property owners, and detailed construction cost estimates shall be kept confidential to the extent required by state law: 23 M.R.S.A., §63.
- 9.4 STATE OF MAINE'S RIGHTS OF SET-OFF. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for purposes of set-off monies due the City under a specific project contract up to any amounts due and owed to MaineDOT regarding this Agreement, and any other agreement/contract with any State of Maine department or agency, including any agreement/contract for a term commencing prior to the term of this Agreement, plus any amounts due and owed to the State for any reason. MaineDOT shall exercise its set-off rights in accordance with standard state practices including, in cases of set-off pursuant to an audit, the finalization of the audit. *If applicable, MaineDOT reserves the right to withhold or reduce future Local Road Assistance payments to the City for purposes of set-off to recover the amount owed.*
- 9.5 NON-APPROPRIATION. Notwithstanding anything herein to the contrary, the City acknowledges and agrees that although the execution of this Agreement manifests MaineDOT's intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, such obligations by law are subject to available budgetary appropriations by the Federal Government and the State of Maine. This Agreement creates no obligation on behalf of MaineDOT in excess of such appropriations.
- 9.6 LOBBYING. By signing this Agreement, the undersigned municipal representative certifies that no appropriated federal funds have been paid or will be paid, by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 9.7 EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Agreement:
- a. The City shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to an actual occupational qualification. The City shall take affirmative action to assure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. The City agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this section.

- b. The City – in all solicitations or advertising for employees placed by or on behalf of the City relating to this Agreement – shall state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
  - c. The City shall cause the foregoing provisions to be inserted into any contract for work covered by this Agreement so that such provisions shall be binding upon each contractor, except for contracts or subcontracts for standard commercial supplies or raw materials.
- 9.8 FLOW DOWN. Contracts between the City and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 9.9 ASSIGNMENT. No assignment of this Agreement is contemplated, and no assignment shall be made without MaineDOT’s express written permission.
- 9.10 AMENDMENT AND MODIFICATION. This Agreement may only be modified or amended in writing and signed by duly authorized representatives of the Parties.
- 9.11 BINDING EFFECT. The Parties shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 9.12 INDEPENDENT CAPACITY. The City, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of MaineDOT.
- 9.13 ENTIRE AGREEMENT. This document represents the entire Agreement between the Parties. Neither MaineDOT nor the City shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.
- 9.14 ELECTRONIC SIGNATURES. Each Party agrees that this Agreement may be signed electronically and that all electronic signatures on this Agreement are the same as handwritten signatures for the purposes of validity, enforceability and admissibility.
- 9.15 NOTICE. Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and may be sent by email, with express acknowledgement of receipt by the receiving Party.

## **10. DEFAULT AND TERMINATION**

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- 10.1 MaineDOT shall have just cause to terminate this Agreement upon or after the occurrence of one or more of the following events, which shall constitute default of this Agreement by the City:
- a. The City withdraws its support for the Project, causing cancellation of the Project;
  - b. The City fails to advertise the Project within 3 years of the execution of this Agreement, without receiving a time extension in writing from MaineDOT;
  - c. The City makes no effort to respond to repeated requests for progress updates;
  - d. The City takes any action that renders the Project ineligible for federal funding;
  - e. The City misrepresents or falsifies any claim for reimbursement;
  - f. The City uses Project funds for a purpose not authorized by this Agreement; and
  - g. The City fails to meet the standards of performance set out in this Agreement.



- 10.2 In the event of a default, MaineDOT will afford the City a cure period of 14 calendar days, effective on the City’s receipt of Notice of Default. If the City fails to address all grounds for default within this cure period or any longer period as MaineDOT may authorize, MaineDOT may terminate this Agreement for cause, with the following conditions:
- a. MaineDOT reserves the right to require the City to return all payments from MaineDOT toward the Project and to reimburse MaineDOT for its internal costs associated with the Project – if the default results in federal non-participation; and
  - b. All funds recovered from the City shall be put in the BACTS holding WIN: **014272.40**.
- 10.3 The Parties may terminate this Agreement for convenience by mutual consent for any reason not defined as default. MaineDOT may reimburse the City for eligible work performed under this Agreement until the effective date of termination for convenience.

**11. TERM AND EXPIRATION**

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All provisions of this Agreement – *except for those provisions that by their very nature are intended to survive* – shall expire upon payment by MaineDOT of the final invoice from the City under section 3.4(e) above or **June 30, 2029** (Expiration Date), whichever occurs first. The City shall submit any request for a time extension to MaineDOT in writing before the Expiration Date.

**12. MUNICIPAL APPROVAL**

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The City’s undersigned representative assures that the City’s legislative body has approved the City’s entry into this Agreement, has appropriated or authorized the use of any required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Debbie Laurie, City Manager \***

By: \_\_\_\_\_  
**Todd Pelletier, P.E., Director \***  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*\* Pursuant to 10 M.R.S.A. §9502, et seq., I certify that the foregoing electronic signature: (a) is intended to have the same force as my manual signature, (b) is unique to me, (c) is capable of verification, (d) is under my control, and (e) is linked to data in such a manner that it is invalidated if the data are changed.*

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**APPENDIX**

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DRAFT

## OPERATION & MAINTENANCE OF TRAFFIC SIGNALS

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- A. The **City of Bangor** (“the **City**”) agrees to operate and maintain all traffic signals and related equipment installed pursuant to this Agreement to function as designed and installed as part of the above-referenced Locally Administered Project, unless approved otherwise as hereinafter provided or as necessary as follows:
1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant thereto shall be repaired or corrected expeditiously in accordance with the Institute of Transportation Engineer’s (ITE) “Traffic Signal Installation and Maintenance Manual.” Any failure to correct the traffic **signal to function as designed could, upon written notification from the MaineDOT**, result in the **MaineDOT** making all necessary repairs at the **Municipality’s** expense.
  2. The visibility of the traffic signal shall be preserved and maintained at all times by removing any visual impairment thereto.
  3. No change in operation or modification to the traffic signal or any equipment appurtenant thereto shall be made without the express written approval of the **MaineDOT**.
  4. The **MaineDOT** shall be notified in writing prior to any removal or replacement of the traffic signal or any equipment and appurtenant thereto. Upon removal, such traffic signal or equipment so removed shall be disposed of as deemed appropriate by mutual agreement of the **MaineDOT** and Municipality without any cost to the **MaineDOT**, unless agreed otherwise in writing.
- B. The **City** agrees to be responsible for the electrical service for the traffic signals and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for the installation of such service.
- C. The **City** agrees to maintain all pavement markings (including stop bars, lane use arrows and all striping necessary to delineate the turning lane) and all traffic control signs as furnished under the project.
- D. The **City** agrees to allow the contractor for the project to control all traffic within all designated work areas at such times and in such a manner necessary to permit construction of the project and the installation of the traffic signal as specified in the traffic control plan approved by the **MaineDOT**.

## U.S. Department of Transportation (USDOT)

### Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

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#### **DOT Order No. 1050.2A**

The **City of Bangor** AGREES THAT, as a condition of receiving financial assistance from the U.S. Department of Transportation (USDOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

#### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), which prohibits discrimination based on race, color, national origin;
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of The Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations are referred to hereinafter as the “Acts” and the “Regulations” respectively.

#### **General Assurances**

In accordance with the Acts, the Regulations and other pertinent directives, circulars, policy memoranda and/or guidance, the Subrecipient hereby gives assurance that it will promptly take any measures necessary to assure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subrecipient receives Federal financial assistance from the USDOT, including the FHWA.”*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress regarding Title VI and other nondiscrimination requirements (the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Subrecipient, so long as any portion of the program is federally assisted.

#### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Subrecipient agrees with and gives the following Assurances with respect to its federally assisted projects:

1. The Subrecipient agrees that each “activity”, “facility” or “program” – as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. §21 – will be (regarding an “activity” facilitated), or will be (regarding a “facility” operated), or will be (regarding a “program” conducted) in compliance with all requirements imposed by, or pursuant to, the Acts and the Regulations.
2. The Subrecipient will insert the following notification in all solicitations for bids, requests for proposals for work, or material subject to the Acts and the Regulations made regarding all federal-aid highway programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Subrecipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively assure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

- 3. The Subrecipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.**
4. If applicable, the Subrecipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Subrecipient.
5. Where the Subrecipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. Where the Subrecipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Subrecipient will include the clauses in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Subrecipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. This Assurance obligates the Subrecipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Subrecipient or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Subrecipient retains ownership or possession of the property.
9. The Subrecipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Subrecipient agrees that the United States has a right to seek judicial enforcement regarding any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Subrecipient agrees to comply with (and to require sub-grantees, contractors, successors, transferees, and/or assignees to comply with) applicable provisions governing the FHWA and USDOT access to records, accounts, documents, information, facilities and staff. The Subrecipient also recognizes that it must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA and USDOT. The Subrecipient must keep records, reports, and submit the material for review upon request to the FHWA and USDOT, or their designees, in a timely, complete and accurate way. Additionally, the Subrecipient must comply with all other reporting, data collection and evaluation requirements, as prescribed by law or detailed in program guidance.

The Subrecipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal and Federal financial assistance extended after the date hereof by the USDOT under the Federal-Aid Highway Program. This ASSURANCE is binding on the Subrecipient, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal-Aid Highway Program.

The person signing below is authorized to sign this ASSURANCE on behalf of the Subrecipient.

## City of Bangor

By: \_\_\_\_\_  
**Debbie Laurie, City Manager**

DATED: \_\_\_\_\_

Encl.: Appendix A through Appendix E

## APPENDIX A PERFORMANCE REQUIREMENTS

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During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference.
2. **Non-discrimination:** The contractor, as regards the work performed during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Subrecipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Subrecipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the Subrecipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will insert the provisions of paragraphs one through six of the Assurances in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Subrecipient or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance. If the contractor becomes involved in or is threatened with litigation by a subcontractor or supplier because of such direction, the contractor may request the Subrecipient to enter into any litigation to protect the interests of the Subrecipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

---

If applicable, the following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation (USDOT) as authorized by law and upon the condition that the Subrecipient will accept title to the lands and maintain the project constructed thereon in accordance with 49 U.S. Code §5334, the Regulations for the Administration of the Federal Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration (FHWA) of the USDOT in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, non-discrimination in federally assisted programs of the USDOT pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Subrecipient all the right, title and interest of the USDOT in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto the Subrecipient and its successors forever, subject to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Subrecipient, its successors and assigns.

The Subrecipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that

- (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination regarding any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\*
- (2) that the Subrecipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the USDOT, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [i and
- (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the USDOT will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the USDOT and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)



## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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If applicable, the following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Subrecipient pursuant to the provisions of Assurance 7(a):

- A. The Subrecipient, for itself, its assignees, and successors in interest, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above non-discrimination covenants, Subrecipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above non-discrimination covenants, the Subrecipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Subrecipient and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX D

### CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

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If applicable, the following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Subrecipient pursuant to the provisions of Assurance 7(b):

- A. The Subrecipient, for itself, its assignees, and successors in interest, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above non-discrimination covenants, the Subrecipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. \*
- C. With respect to deeds, in the event of breach of any of the above non-discrimination covenants, the Subrecipient will thereupon revert to and vest in and become the absolute property of the Subrecipient and its assigns. \*

(\*Reverter clause and related language to be used only when it is determined that such a clause IS necessary to make clear the purpose of Title VI.)

## APPENDIX E

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During the performance of this contract, the contractor – for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) – agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 5 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



**CITY COUNCIL ACTION**

04/22/2024 24-127

Council Meeting Date: 04/22/2024

Item No: 24-127

Responsible Dept: City Clerk

Requested Action: Order

Map/Lot: N/A

**Title, Order**

Appointing Election Clerks

**Summary**

This Order will appoint Election Clerks to work at elections for the next two years. Under State election law, the Municipal Officers shall appoint at least one Election Clerk from each major political party to serve at each voting place during the time the polls are open. The Municipal Officers shall consider persons nominated by the major parties but are not required to appoint them. If a municipal committee of a major party does not submit nominations, the municipal officers may appoint registered voters enrolled in that party. The law does not prohibit nominations from sources other than the municipal party committees. If a minor party committee nominates election clerks, at least one appointment must be made from the minor party nominations. Additional unenrolled or qualified minor election clerks may be appointed if there are insufficient major party clerks available. If there are not sufficient election clerks to fill vacancies for a specific election, the Clerk or Warden may appoint election clerks for that specific election. The list of Election Clerks is a combination of names of individuals who have asked to serve as well as individuals who have served in previous elections. Neither major political party submitted names for consideration.

**Committee Action**

Committee:

Action: Recommend for passage

Meeting Date:

For:

Against:

**Staff Comments & Approvals**

City Manager

City Solicitor

Finance Director

**Introduced for:** Consent



**CITY OF BANGOR ORDER**

---

04/22/2024 24-127

Date: 04/22/2024

Item No: 24-127

Assigned to Councilor: Fish

Appointing Election Clerks

Be it Ordered by the City Council of the City of Bangor that, he Municipal Officers shall proceed to the appointment of Election Clerks as outlined on the attached list for a two-year term, in accordance with M.R.S. Title 21-A, §503.

**DEMOCRATIC**

Patricia	Allen	Andrew	Moeller
Kevin	Anderson	Susan	Monteith
Lesley	Anderson	Clare	Mundell
Tracy	Bigney	Linda	Murch
Crystal	Boone	Amanda	Neitz
Barbara	Borja	Nancy	Ogle
Thomas	Borja	Gloria	Owens
Steven	Bouchard	Dawn	Pelletier
Kimberly	Boucher	John	Poulin
Franklin	Bragg	Elizabeth	Rettenmaier
Jane	Bragg	Dominick	Rizzo
Suzanne	Brunner	Deborah	Rozeboom
Edwin	Brush	Brad	Ryder
George	Burgoyne	Lynda	Ryder
Peggy	Burgoyne	Cole	Sargent
Sarah	Byrne	Imke	Schessler-Jandreau
Karen	Carlson-Snider	Cynthia	Sereyko
Elizabeth	Carroll	David	Sereyko
Paul	Chaiken	Chung Ho	Shum
Julianne	Cormier	Richard	Slowikowski
Glenn	Correll	Benjamin	Speed
Pamela	Correll	Linda	Stearns
Rebecca	Cousins	Kim	Stewart
Frances	Day	Michael	Swazey
Frances	Day	Mary	Tedesco-Schneck
Sally	Dobres	Nicole	Vachon
Roberta	Downey	Jennifer	Wellington
Zachary	Falcon	Thomas	White-Hassler
Judith	Farley	Jane	White-Hassler
Carol	Farthing	Katherine	Whitney
Liana	Fellis	Susan	Wishkoski
Lisa	Frazell	David	Witham
Patricia	Goodhines	William	Wood
Stephanie	Graves	Hannah	Wunderli
Anne	Griffin		
Malcolm	Griffin		
Faith	Griffith		
Sharon	Hamilton		
Judy	Harrison		
Patricia	Hickey		
Thomas	Hickey		
Ann	Holland		
Janet	Jonas		
Kevin	Kenny		
Kevin	Kenny		
Arthur	Kotredes		
Chelsea LaRac	LaBouff		
Kimberly	Laperle		
Samantha	Le		
Jane	LeVie		
Linda	Lindblad		
Kimberly	Livingstone		
Sarah	Loyd		
Donna	Lyford		
Jane	Madigan		
Mallar	Sonia		
Gianna	Marrs		
Judy	Martin		
Timothy	Martin		
Karen	Marysdaughter		
Morgan	Mazzei		
Barbara	McDade		
Kim	Meyerdierks		

**UNENROLLED**

Andrew	Bergeron
David	Blethen
Jocelyn	Cogen
Lynn	DeGrenier
Paul	DeGrenier
Kate	Dickerson
Della	Gleason
Michael	Gleason
Cathy	Jordan
Cathy	Jordan
Lloyd	Leeman
Ronald	Lemin
Clifford	Lippitt
Mira	Olson
Anne	Pooler
Bonnie	Puls
Yovanne	Stevenson
Jennifer	Strouse
Martin	Tesseo
Matthew	Tilley
Heather	Tribe
Jean	Vermette
JoAnn	White
William	Whitham
Peter	Witham
Molly	Wunderli

**GREEN INDEPENDENT**

Lee	Clein
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**NO LABELS**

Sally	McManus
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**REPUBLICAN**

Gloria	Adams
Samuel	Anderson
Anne	Baker
Sharon	Buck
Janice	Budden
Vera	Byrd
Greta	Choquet
Pamela	Coffey-Paine
Nancy	Desmarais
Reda	Edelman
Nichi	Farnham
Kayla	Flewelling
Terri	Franck
Michael	Furrow
Suzaette	Furrow
Terry	Hamm-Morris
Tammy	Hersom
Jo Ann	Higgins
Janis	Hill
Jeanne	Hill
Catherine	Icenogle-Baldwin
Teresa	Joy
Melody	Keller
Mary	Khoury
Rebecca	Krupke
Cathy	Lemin
Rebecca	MacIlroy
Alvin	MacNevin
Sonia	Mallar
Karen	Marsters
Vicki	Martin
Ruth	Pierson
Scott	Porter
Anne Marie	Quin
Rosemary	Ray
Hilari	Simmons
J. Diann	Stewart
Lovern	Stockwell
Candace	Ward
Lesley	Waterman
Raymond	Wortman
Celia	Yates



**CITY COUNCIL ACTION**

04/22/2024 24-128

Council Meeting Date: 04/22/2024

Item No: 24-128

Responsible Dept: Airport

Requested Action: Order

Map/Lot: N/A

**Title, Order**

Authorizing Execution of a Contract for Design and Engineering Services for \$298,900 with Carpenter Associates for the Passenger Parking Lot Project

**Summary**

The City Council recently approved appropriating \$6,500,000 from the Airport Unappropriated Fund Balance to fund a new passenger parking lot adjacent to Godfrey Boulevard.

The new 826 space lot will mitigate parking shortages experienced by the Airport during peak demand.

To expedite the construction of the new lot, so it is available before the 2024 November peak travel season, staff requested to waive the bid process and contract with Carpenter Associates for the design and engineering work at a cost of \$298,900. Carpenter Associates is currently assisting with the Airport Terminal expansion project and is able to begin the work immediately.

This item was reviewed and recommended for passage by the Finance Committee at the April 16, 2024 meeting.

**Committee Action**

Committee: Finance Committee  
Action: Recommend for passage

Meeting Date: 04/16/2024

For: Against:

**Staff Comments & Approvals**

City Manager

City Solicitor

Finance Director

**Introduced for:** Consent



## **CITY OF BANGOR ORDER**

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04/22/2024 24-128

Date: 04/22/2024

Item No: 24-128

Assigned to Councilor: Leonard

Authorizing Execution of a Contract for Design and Engineering Services for \$298,900 with Carpenter Associates for the Passenger Parking Lot Project

Be it Ordered by the City Council of the City of Bangor that, the Finance Director is hereby authorized to execute a contract for design and engineering services with Carpenter Associates for the passenger parking lot project in the amount of \$298,900.







## CITY OF BANGOR ORDER

04/29/2024 24-129

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Date: 04/29/2024

Item No: 24-129

Assigned to Councilor: Fournier

Amending Fund Balance Policy by Adding a Vacant Property Reserve to Section 5.1 General Fund Assigned Fund Balances

Whereas; on June 27, 2011 by Council Order 11-228, the City Council approved a Fund Balance Policy;

Whereas; Section 5.1 General Fund Assigned Fund Balances identifies the City's assigned fund balances, as well as the funding mechanism if any, and allowable uses;

Whereas; in response the City Council priority on housing, the City established a Vacant Property Registry to track vacant property which requires owners to pay a fee to encourage owners to rehab, sell or occupy the property;

Whereas; the City may acquire, demolish, rehab, or respond to public hazards related to vacant property;

Be it Ordered by the City Council of the City of Bangor that, the Fund Balance Policy is amended as follows: The Vacant Property Reserve provides funding to ensure compliance with the Ordinance, and to address acquisition, demolition, rehabilitation, or respond to public hazards in relation to vacant property. On an annual basis, the Finance Director, in consultation with the City Manager, may place any revenue collected from the Vacant Property Registry fee that exceeds the costs to administer the program into this fund balance.



REFERRALS TO  
COMMITTEES  
& FIRST READING



## **CITY COUNCIL ACTION**

---

Council Meeting Date: April 22, 2024

Item No: 24-130

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: R35-030

### **Title, Ordinance**

---

Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 670 Ohio Street, from Low Density Residential District (LDR) to Neighborhood Service District (NSD).

### **Summary**

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This Ordinance would amend the Land Development Code, District Map to re-zone the property at Map-Lot R35-030, located at 670 Ohio Street, from Low Density Residential District (LDR) to Neighborhood Service District (NSD). The total area requested to be changed is approximately 4 acres. The applicants and owners of record are Lisa Clark and John Clark.

The area around the property consists of primarily residential use with commercial uses nearby to the west along Union Street. The change to the NSD district would allow for small-scale commercial uses (limited to 2,000 square feet of floor area or less), and some low to medium density residential uses. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this property in the Neighborhood Residential area, which consists of "medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses". The Planning Division finds this proposed change to be in alignment with the Comprehensive Plan.

### **Committee Action**

---

Committee: Planning Board

Meeting Date: May 7, 2024

Action:

For:


Against:

### **Staff Comments & Approvals**

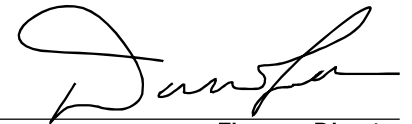
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City Manager



City Solicitor



Finance Director

**Introduced for:** First Reading and Referral



## CITY COUNCIL ORDINANCE

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Date: April 22, 2024

Assigned to Councilor: Hawes

**ORDINANCE**, Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located 670 Ohio Street, from Low Density Residential District (LDR) to Neighborhood Service District (NSD).

**WHEREAS**, the area around the property consists of primarily residential use with commercial uses nearby to the west along Union Street;

**WHEREAS**, the change to the NSD district would allow for small-scale commercial uses and some low to medium density residential uses;

**WHEREAS**, the 2022 Comprehensive Plan shows this property in the Neighborhood Residential area, which consists of "medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses";

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT**

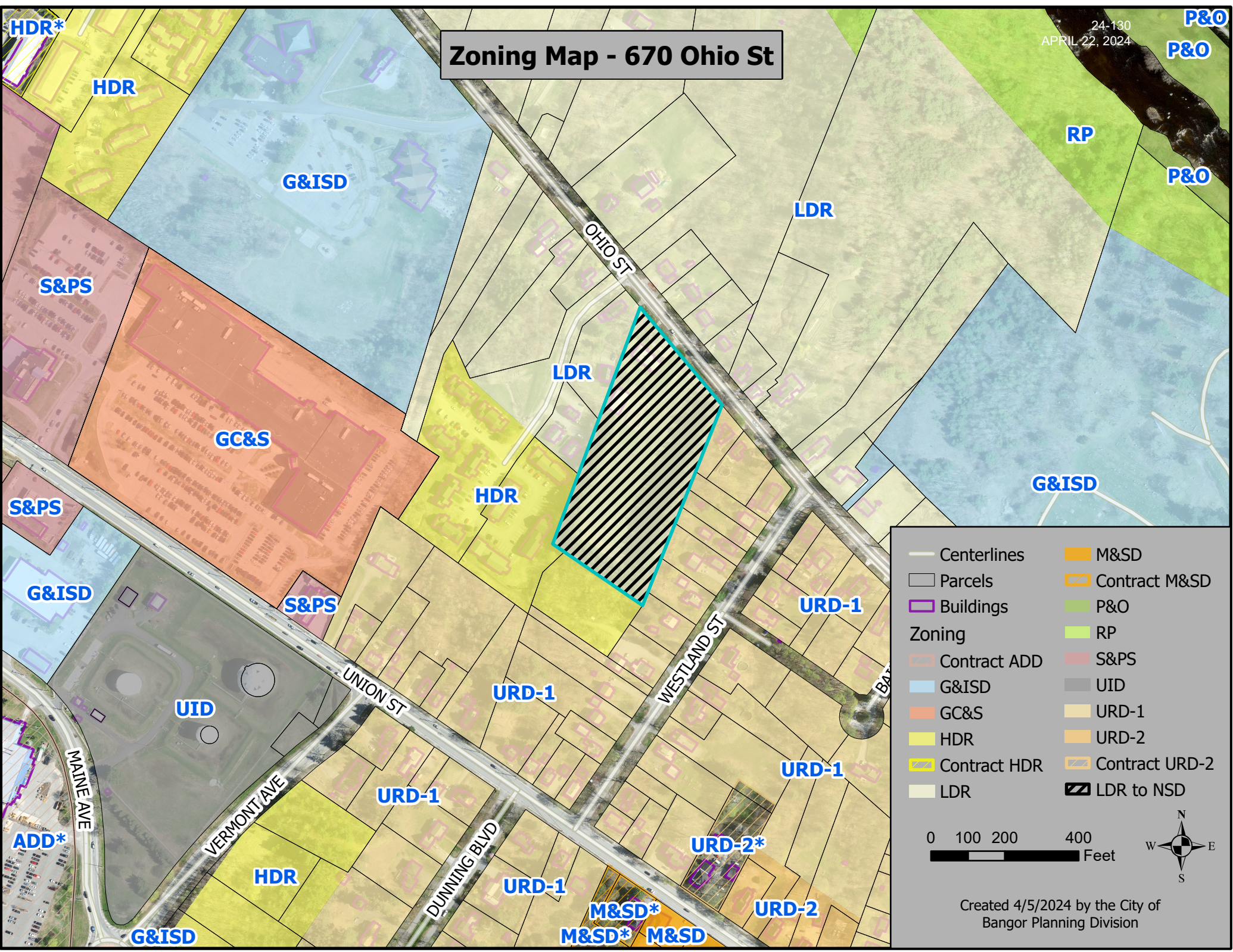
Chapter 165 of the Code of the City of Bangor, District Map, is amended to reclassify the property at Map-Lot R35-030, located at 670 Ohio Street, from Low Density Residential (LDR) to Neighborhood Service District (NSD). The total area requested to be changed is approximately 4 acres and is shown in the attached exhibit.

HDR\*

24-130  
APRIL 22, 2024

P&O  
P&O

# Zoning Map - 670 Ohio St



	Centerlines		M&SD
	Parcels		Contract M&SD
	Buildings		P&O
<b>Zoning</b>			RP
	Contract ADD		S&PS
	G&ISD		UID
	GC&S		URD-1
	HDR		URD-2
	Contract HDR		Contract URD-2
	LDR		LDR to NSD

0 100 200 400 Feet

Created 4/5/2024 by the City of Bangor Planning Division



## **CITY COUNCIL ACTION**

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Council Meeting Date: April 22, 2024

Item No: 24-131

Responsible Dept: Legal

Action Requested: Ordinance

Map/Lot: N/A

### **Title, Ordinance**

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Amending Chapter 165, Land Development, Section 165-16, to Clarify Regarding Expansion of Legal Nonconformities

### **Summary**

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This Ordinance amendment, if passed, would revise the City's Land Development Code authorizing the expansion of legally existing nonconformities to limit such expansions to residential uses only.

In recently revising the Land Development Code to allow for expansions of legally existing, nonconforming uses under certain conditions, the City's primary goal was to reduce the burden and expense required of owners of residential units to bring residential units into compliance with the Code and thereby increase the number of available housing units within the City. The proposed amendment is intended to avoid unintended consequences of increasing non-conformities involving commercial and industrial uses.

### **Committee Action**

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Committee: Business and Economic Development

Meeting Date: 04/17/2024

Action:

For:

Against:

### **Staff Comments & Approvals**

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City Manager

City Solicitor

Finance Director

**Introduced for:** First Reading and Referral to Planning Board May 7, 2024



## CITY COUNCIL ORDINANCE

---

Date: April 22, 2024

Assigned to Councilor: Tremble

**ORDINANCE**, Amending Chapter 165, Land Development, Section 165-16, to Clarify Legal Nonconformities

**WHEREAS**, at present, the Land Development Code allows for expansions of all legally existing, nonconforming uses under certain conditions; and

**WHEREAS**, the City's primary goal in recently revising the Land Development Code to allow for such expansions of these nonconforming uses was to reduce the burden and expense for residential land owners to bring their non-conforming residential units into compliance with the Code with the goal of increasing available housing units within the City; and

**WHEREAS**, the proposed ordinance revisions would limit the expansion of legally nonconforming uses to residential uses only;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT**

Chapter 165-16 of the Code of the City of Bangor is amended as follows:

**§ 165-16 Nonconforming uses.**

The use of any land or structure, or any portion thereof, which is made nonconforming as a result of the enactment of this Code, or any subsequent amendment thereto, may be continued, but only in strict compliance with the following requirements:

- A. A nonconforming residential use of land or structure may continue to exist and may expand in size within the lot boundaries or building, provided the expanded use meets all other requirements of that District, to the greatest extent possible. All such expansions of a nonconforming use are subject to the following: Review and approval by the Code Enforcement Officer is required to ensure that all other requirements of the respective district are met. This allowance for expansion does not include the addition of residential dwelling units.
- (1) ~~For commercial nonconforming uses, review and approval by the Planning Board under Article XVI to ensure the expansion of the nonconforming use does not increase any adverse impact on adjacent properties.~~
  - (2) ~~For noncommercial nonconforming uses, review and approval by the Code Enforcement Officer to ensure all other requirements of the respective district are met. This allowance for expansion does not include the addition of residential dwelling units.~~

B. Nonconforming commercial or industrial uses may continue to exist but may not expand in size.



- ~~BC.~~ A non-conforming use of land or structure may transfer to another nonconforming use, provided that the new use meets all other requirements of the district, except that a nonconforming marijuana use may not transfer to another nonconforming marijuana use. ~~to the greatest extent possible.~~ All such transfers of a nonconforming use are subject to review and approval by the Code Enforcement Officer, the Planning Officer, and the City Engineer, who must find, in order to approve the transfer, that the new nonconforming use does not increase any adverse impact on adjacent properties.
- ~~CD.~~ If any nonconforming nonresidential use ceases or is discontinued for any reason for a period of 24 or more consecutive months, any subsequent use shall conform to the requirements of this Code in all respects. If any nonconforming residential use is discontinued (including when a residential structure is not occupied) for a period of seven years or more, the use may not be restored and its right to continue shall terminate. (For example, if one unit in a four-unit dwelling ceased to be occupied for a period of seven years or more and the zoning district only allowed for three units, the building would have to revert to a three-unit building instead of a four-unit.)
- ~~DE.~~ Notwithstanding the above requirement, if a structure housing a nonconforming use is accidentally destroyed by fire or natural catastrophe, the structure may be rebuilt on the existing footprint, ~~or~~ and the residential nonconforming uses may be enlarged subject to the provisions listed above in § 165-16A. Reconstruction must commence within two years of the destruction for nonresidential uses, and seven years for residential uses, or else the structure will no longer be considered legally nonconforming and must conform to all regulations, including use, of the applicable District.
- ~~EF.~~ ~~Notwithstanding the above requirements,~~ a A nonconforming residential use may be modified, enlarged, ~~and extended~~ in all districts subject to the conditions set forth in this section. Such changes include accessory dwelling units only where allowed by district.
- ~~F.~~ ~~For purposes of determining nonconformities, marijuana stores as defined in § 165-13, including medical marijuana caregiver stores, medical marijuana dispensaries, retail marijuana stores, or any combination thereof, are considered the same use.~~

Additions are underlined; deletions are ~~struck through~~.



UNFINISHED  
BUSINESS



## **CITY COUNCIL ACTION**

---

Council Meeting Date: April 8, 2024

Item No: 24-118

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: N/A

### **Title, Ordinance**

---

Amending the Code of the City of Bangor, by Updating the Expiration Process for Short-Term Rental Licenses and Adding Required Details for Short-Term Rental License Applications.

### **Summary**

---

The proposed changes would update the City's Code of Ordinances to change the expiration date for all short-term rental licenses from December 31<sup>st</sup> to May 31<sup>st</sup>. Currently, the Code sets the expiration date for non-hosted rentals to December 31<sup>st</sup> and for hosted rentals to a year from when the license was issued. Updating the expiration date for all licenses to one date will provide consistency and clarity for applicants. Additionally, setting the date to May 31<sup>st</sup> will allow time to calculate the new annual city-wide cap on non-hosted rentals based on April 1<sup>st</sup> tax data.

The ordinance update also changes the process for expiration so that any license that expires without renewal is treated as a new license, and it adds additional details necessary for license applications, such as the number of bedrooms located within a short-term rental unit.

### **Committee Action**

---

Committee: Planning Board

Meeting Date: April 16, 2024

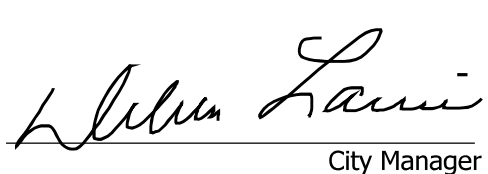
Action:

For:

Against:

### **Staff Comments & Approvals**

---

  
City Manager

  
City Solicitor

  
Finance Director

**Introduced for:** First Reading and Referral



## CITY COUNCIL ORDINANCE

---

Date: April 8, 2024

Assigned to Councilor: Schaefer

**ORDINANCE**, Amending the Code of the City of Bangor by Updating the Expiration Process for Short-Term Rental Licenses and Adding Required Details for Short-Term Rental License Applications.

**WHEREAS**, the proposed amendments would update the City's Code of Ordinances to change the expiration date for all short-term rental licenses from December 31<sup>st</sup> to May 31<sup>st</sup>, change the process for expired licenses, and require additional details for license applications;

**WHEREAS**, currently, the Code sets the expiration date for non-hosted rentals to December 31<sup>st</sup> and for hosted rentals to a year from when the license was issued;

**WHEREAS**, updating the expiration date for all licenses to one date will provide consistency and clarity for applicants and setting the date to May 31<sup>st</sup> will allow time to calculate the new annual city-wide cap on non-hosted rentals based on April 1<sup>st</sup> tax data;

**WHEREAS**, additional details about short-term rental units are needed for issuing licenses;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT**

The Code of the City of Bangor is amended as follows:

### § 254-4 Licensing.

...  
B. Licensing procedure. All administrative power and authority vested in the City Council to grant or deny a short-term rental license required by this chapter shall be delegated to the reviewing authority.

- (1) Application. The owner or operator of a proposed short-term rental shall file a license application with the reviewing authority on forms provided by the office of the reviewing authority. The application shall include, at minimum:

...

- (b) Contact information. The name, address, e-mail address, and phone number of the applicant, and, if different than the applicant, the contact information of the owner of the building in which the short-term rental unit is proposed to be located, along with written permission from said owner to operate the short-term rental unit. If the owner or operator is a legal entity other than a natural person, the name of all natural persons who have an ownership interest in the legal entity ~~that is listed as the record owner of the property~~ and the contact information of at least one of the named individuals.

- (c) Property location and short-term rental details

[1] The location, including the zoning district, ~~and~~ street address, and property map

and lot number, of the building where the short-term rental unit is proposed to be located.

- [2] If the building containing the short-term rental unit contains 2 or more dwelling units, the number of proposed short-term rental units within the building and the total number of dwelling units within the building.

...

- [5] ~~For non-hosted short-term rentals, the~~ The name, phone number, and e-mail address of a natural person who is available 24 hours a day, seven days a week, to respond within 60 minutes to any on-site emergency at the premises where the short-term rental unit is located during any period when the short-term rental unit is occupied.

...

- [7] For any short-term rental where the operator is a lessee of any part of the property where the rental is located, a lease agreement or other written authorization signed by the landlord must be provided that shows that the dwelling where the short-term rental unit is located is allowed by the owner to be used as a short-term rental.

- [8] The number of bedrooms within the short-term rental unit.

- [9] If the building where the short-term rental unit is located contains any other uses besides residential, a list of the types of uses contained in the building (e.g. restaurant, retail).

...

(4) Limitations on certain short-term rentals.

- (a) Cap on total number of non-hosted short-term rentals. The number of units licensed for non-hosted short-term rentals shall be limited to 1% of the total number of dwelling units existing in the City of Bangor as of ~~January~~ April 1 of each year, as determined by the City Assessor, in the City Assessor's sole discretion.

- [1] The reviewing authority shall review all complete license applications for non-hosted short-term rentals on a first-come, first-serve basis and shall issue licenses for those applications that comply with the requirements of this chapter until the maximum number of short-term rental units for the ~~calendar~~ year from May 31 to May 31 of the next year are licensed.

...

...

- (c) Limitation on number of short-term rental units per person. A person may not hold a license to operate more than five short-term rental units in the City in any ~~calendar~~ year from May 31 to May 31 of the next year. For the purposes of this provision, a "person" includes any entity or entities under the same ownership or under unified management or control, as defined in § 254-4B, above.

...

C. License expiration; renewal; transferability.

- (1) Expiration. All ~~non-hosted short-term rental licenses shall expire on December~~ May 31 and ~~all other short-term rental licenses required by this chapter shall expire one year from the date when the license number was issued by the reviewing authority,~~ unless revoked or suspended prior to

expiration in accordance with § 254-6, or unless renewed prior to expiration according to the provisions of 254-4C(2) below. Any license holder who fails to obtain a renewal license prior to the expiration of the license must file a new license application in accordance with the procedure set forth in § 254-4B, and may not operate the short-term rental until the reviewing authority issues the new short-term rental license. The new license application shall be subject to any applicable limitations set forth in § 254-4B(4).

- (2) Renewal. Each license holder shall annually submit a license renewal application with the reviewing authority at least 30 days before the expiration of the prior year's license on forms provided by the office of the reviewing authority.

...

- (d) Renewal license. Upon a determination by the reviewing authority that the short-term rental has passed inspection, as applicable, and otherwise complies with the requirements of this chapter, the reviewing authority shall issue a renewal of the short-term rental license to the license holder. A license renewal, when granted, shall be valid immediately following the issuance of a renewal. ~~A license holder who fails to obtain a renewal license prior to the expiration of the license must cease operating the short-term rental until a renewal new license is issued.~~

...

...

- E. Posting required. Upon the issuance of a short-term rental license number, the license holder shall post and maintain at each short-term rental unit, in plain sight to occupants, a notice containing the following information:

...

- (4) ~~For non-hosted short-term rentals, t~~The name, phone number, and e-mail address of a natural person who is available 24 hours a day, seven days a week, to respond within 60 minutes to any on-site emergency at the premises where the short-term rental unit is located during any period when the short-term rental unit is occupied.

...

### **§ 254-6 Investigations; violations; license suspension or revocation.**

- A. Violations. Violations of this chapter include, but are not limited to, the following:

...

- (3) Failure of an owner or operator of a ~~non-hosted~~ short-term rental to have available, 24 hours a day, seven days a week, a person to respond to on-site emergencies at the short-term rental.

Additions underlined, deletions ~~struck through~~.



# COMMUNITY & ECONOMIC DEVELOPMENT

## CITY OF BANGOR

PLANNING DIVISION

### Memorandum

**To:** Honorable Bangor City Council  
Debbie Laurie, City Manager

**From:** Anja Collette, Planning Officer

**Date:** April 17, 2024

**CC:** Courtney O'Donnell, Assistant City Manager  
David Szewczyk, City Solicitor  
Anne Krieg AICP – Director of Community & Economic Development

**Re:** Planning Board Recommendation April 16, 2024  
**Amending the Code of the City of Bangor, by Updating the Expiration Process for Short-Term Rental Licenses and Adding Required Details for Short-Term Rental License Applications**

---

Please accept this memorandum as the recommendation from the Planning Board for the noted item. The Planning Board considered this item in a noticed public hearing on April 16, 2024.

The meeting was conducted in the Council Chambers at City Hall and on Zoom. Members in attendance in the Chambers were Chair Reese Perkins, Vice Chair Ted Brush, Members Don Meagher, Josh Saucier, Trish Hayes, and Mike Bazinet, and Alternate Member Janet Jonas.

Planning Officer Collette reviewed the proposed changes to the short-term rental ordinance.

From the staff memo:

- A. The proposed changes would update the City's Code of Ordinances to change the expiration date for all short-term rental licenses from December 31<sup>st</sup> to May 31<sup>st</sup>. Currently, the Code sets the expiration date for non-hosted rentals to December 31<sup>st</sup> and for hosted rentals to a year from when the license was issued. Updating the expiration date for all licenses to one date will provide consistency and clarity for applicants. Additionally, setting the date to May 31<sup>st</sup> will allow time to calculate the new annual city-wide cap on non-hosted rentals based on April 1<sup>st</sup> tax data.
- B. The ordinance update also changes the process for expiration so that any license that expires without renewal is treated as a new license, and it adds additional details necessary for license applications, such as the number of bedrooms located within a short-term rental unit. It also requires a 24-hour emergency contact for all short-term rentals rather than just non-hosted rentals.

Member Bazinet asked for clarification on the city-wide cap, which Planning Officer Collette provided. Chair Perkins expressed some concern on having all of the licenses being renewed on one date versus being staggered, as far as creating congestion in the licensing process. Collette stated that

CITY OF BANGOR PLANNING DIVISION  
PLANNING BOARD RECOMMENDATION TO CITY COUNCIL 4.16.2024  
**City of Bangor Code Amendment – Short-Term Rental Licensing Requirements**

only requiring inspections every 3 years should help with that and that the monitoring so far indicated that there would not be an inordinately large number of rentals. Collette also stated that the software also places a limitation on this as it requires one date to be chosen for expiration.

Chair Perkins also asked for clarification on the terminology of “natural person”. Collette stated the ordinance differentiates between legal entities and actual people, the purpose being to prevent LLC’s and similar entities from evading some of the regulations.

Member Bazinet asked if there were concerns with the licensing platform crashing if everyone goes to apply at once. Collette stated that she did not anticipate this being a concern given the estimated number of rentals currently operating in the City.

There were no public comments.

Vice Chair Brush moved to recommend to City Council that the proposed amendments ought to pass. Member Bazinet seconded the motion. The motion passed 7:0 with all members voting in favor.

The result of the vote is that a majority of Planning Board members voted to recommend that the proposed amendments ought to pass.

Anja Collette





## **CITY COUNCIL ACTION**

---

Council Meeting Date: April 8, 2024

Item No: 24-119

Responsible Dept: Planning

Action Requested: Ordinance

Map/Lot: R24-017

### **Title, Ordinance**

---

Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 1017 Union Street from Shopping and Personal Service District (S&PS) to Government and Institutional Service District (G&ISD)

### **Summary**

---

This ordinance would amend the Land Development Code, District Map to re-zone the property at Map-Lot R24-017, located at 1017 Union Street, from Shopping and Personal Service District (S&PS) to Government and Institutional Service (G&ISD). The total area requested to be changed is approximately 17.45 acres. The applicant is Encompass Health Maine Real Estate, LLC and the owner of record is Union Street Associates, LLC.

The zoning around the property is primarily S&PS to the east, west, and south, and High Density Residential (HDR) and Low Density Residential (LDR) to the north. There are also multiple nearby parcels in the Government and Institutional Service District (G&ISD). This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this property in the Neighborhood Residential area, which consists of "medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses". The Planning Division finds this proposed change to be in alignment with the Comprehensive Plan.

### **Committee Action**

---

Committee: Planning Board

Meeting Date: April 16, 2024

Action:

For:

Against:

### **Staff Comments & Approvals**

---

City Manager

City Solicitor

Finance Director

**Introduced for:** First Reading and Referral



## CITY COUNCIL ORDINANCE

---

Date: April 8, 2024

Assigned to Councilor: Fournier

**ORDINANCE**, Amending Chapter 165, Land Development Code, District Map to Re-zone a Property Located at 1017 Union Street from Shopping and Personal Service District (S&PS) to Government and Institutional Service District (G&ISD).

**WHEREAS**, the zoning around the property is primarily S&PS to the east, west, and south, and HDR and LDR to the north. There are also multiple nearby parcels in the G&ISD zone;

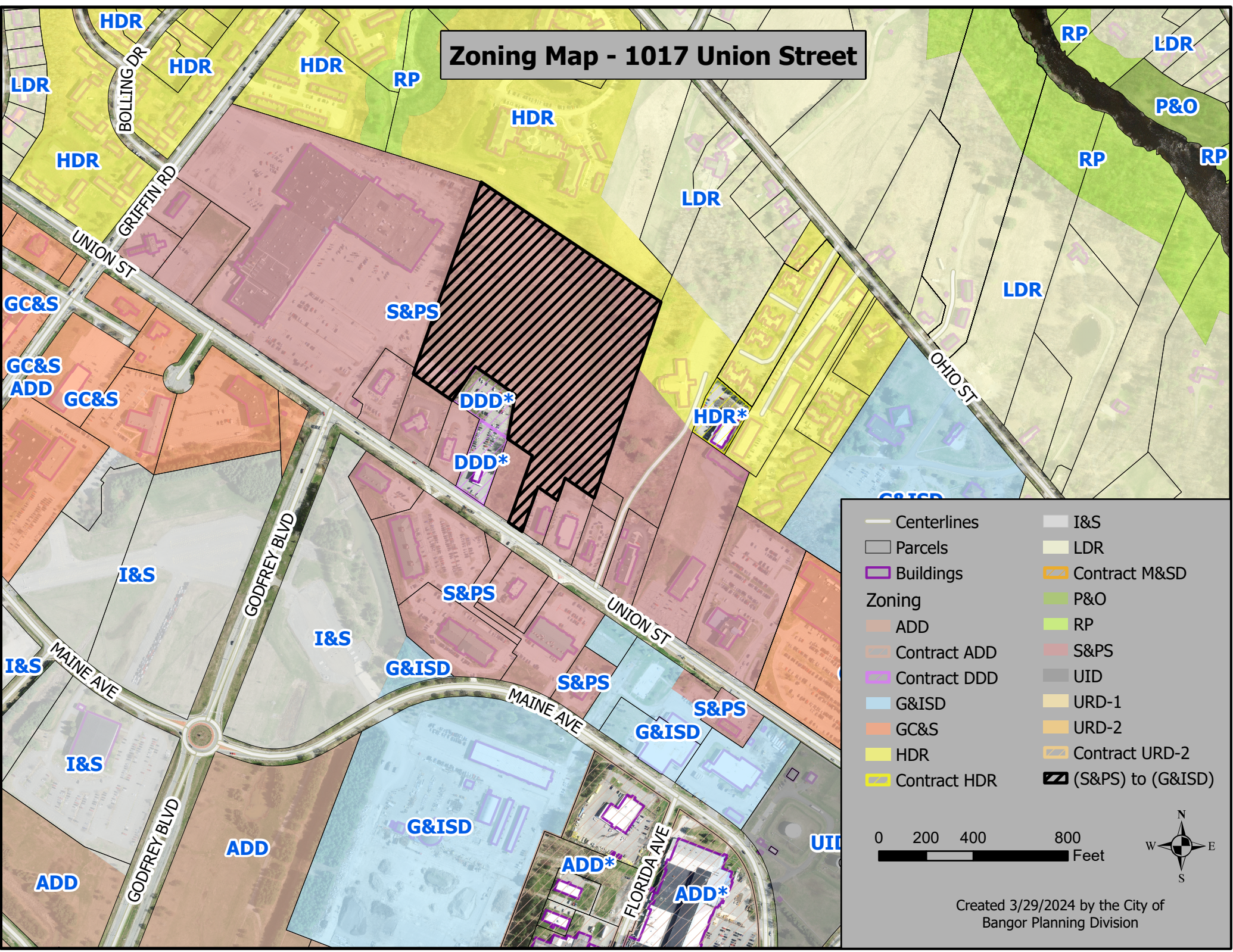
**WHEREAS**, the land uses in the area are primarily commercial, institutional, and high-density residential;

**WHEREAS**, this area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map shows this property in the Neighborhood Residential area, which consists of "medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses";

### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT**

Chapter 165 of the Code of the City of Bangor, District Map, is amended to reclassify the property at Map-Lot R24-017, located at 1017 Union Street, from Shopping and Personal Service District (S&PS) to Government and Institutional Service District (G&ISD). The total area requested to be changed is approximately 17.45 acres and is shown in the attached exhibit.

# Zoning Map - 1017 Union Street



— Centerlines	■ I&S
□ Parcels	■ LDR
▭ Buildings	▨ Contract M&SD
<b>Zoning</b>	■ P&O
■ ADD	■ RP
▨ Contract ADD	■ S&PS
▨ Contract DDD	■ UID
■ G&ISD	■ URD-1
■ GC&S	■ URD-2
■ HDR	▨ Contract URD-2
▨ Contract HDR	▨ (S&PS) to (G&ISD)

0 200 400 800 Feet

Created 3/29/2024 by the City of Bangor Planning Division



# COMMUNITY & ECONOMIC DEVELOPMENT

## CITY OF BANGOR

PLANNING DIVISION

### Memorandum

**To:** Honorable Bangor City Council  
Debbie Laurie, City Manager

**From:** Anja Collette, Planning Officer

**Date:** April 17, 2024

**CC:** Courtney O'Donnell, Assistant City Manager  
David Szewczyk, City Solicitor  
Anne Krieg AICP – Director of Community & Economic Development

**Re:** Planning Board Recommendation April 16, 2024  
**Zone Change – Map-Lot R24-017 – Shopping and Personal Service District (S&PS) to Government and Institutional Service District (G&ISD)**

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Please accept this memorandum as the recommendation from the Planning Board for the noted item. The Planning Board considered this item in a noticed public hearing on April 16, 2024.

The meeting was conducted in the Council Chambers at City Hall and on Zoom. Members in attendance in the Chambers were Chair Reese Perkins, Vice Chair Ted Brush, Members Don Meagher, Josh Saucier, Trish Hayes, and Mike Bazinet, and Alternate Member Janet Jonas.

The representative for the applicant, Jim Kiser, presented to the Board and explained that the purpose of the zone change request was to place a physical rehabilitation hospital on the property.

From the staff memo:

- A. The applicant is seeking a zone change for the property located on 1017 Union Street from Shopping and Personal Service District (S&PS) to Government and Institutional Service District (G&ISD). The G&ISD zone is more institutional in nature than S&PS and allows uses such as hospitals, nursing homes, government buildings, and places of worship.
- B. The zoning around the property is primarily S&PS to the east, west, and south, and High Density Residential (HDR) and Low Density Residential (LDR) to the north. There are also multiple nearby parcels in the Government and Institutional Service District (G&ISD).
- C. This area is within the growth boundary shown in the 2022 Comprehensive Plan and the future land use map in the Plan shows this property in the Neighborhood Residential area, which consists of “medium-density residential development with limited commercial and institutional uses that are complementary to the surrounding residential land uses”. The Planning Division finds this proposed change to allow institutional uses to be in alignment with the Comprehensive Plan.

CITY OF BANGOR PLANNING DIVISION  
PLANNING BOARD RECOMMENDATION TO CITY COUNCIL 4.16.2024  
**1017 Union Street – Map-Lot R24-017**

Chair Perkins asked for clarification about the owner being different from the applicant. Kiser and Planning Officer Collette stated that it's a typical process with commercial development for a potential buyer to apply for a zone change first before completing the sale. Planning Officer Collette also stated that the purchase and sale documents that were submitted stated that the applicant is able to apply for the zone change.

Chair Perkins also asked for clarification on the classification of the use as a hospital and the need for this zone. Planning Officer Collette stated that this use would be on the scale of a hospital and the only zone that would allow for it would be G&ISD.

Chair Perkins noted the increase in maximum height from 40 feet in the S&PS zone to 80 feet in the G&ISD zone. Kiser noted that the proposed building would only be one story.

Member Saucier spoke in support of the zone change and the proposed use of the property. Saucier stated he felt that this was not very different from the surroundings and that he felt it would be a good use of the property. He also felt that the height difference would not be an issue.

There were no public comments.

Member Saucier moved to recommend to City Council that the proposed change ought to pass. Vice Chair Brush seconded the motion. The motion passed 7:0 with all members voting in favor.

The result of the vote is that a majority of Planning Board members voted to recommend that the proposed change ought to pass.

Anja Collette



**CITY COUNCIL ACTION**

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Council Meeting Date: April 8, 2024

Item No: 24-120

Responsible Dept: Legal

Action Requested: Ordinance

Map/Lot: N/A

**Title, Ordinance**

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Amending Chapter 23, Boards, Committees and Commissions, Section 23-3(E) of the Code of Ordinances, To Make the Appeal Process to the Board of Appeals More Efficient.

**Summary**

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This ordinance amendment, if passed, would revise the City’s Board of Appeals ordinance to make the appeals process more efficient.

Under the current ordinance, the Board of Appeals is required to hold a public hearing within 60 days of receiving an application for appeal, and there is no provision to allow a routine continuance from that deadline in instances where the applicant requests one, except to convene the entire Board. The proposed amendment would give the Chair of the Board of Appeals the authority to grant a routine continuance to an applicant requesting one without convening the Board to do so.

The proposed amendment would also clarify that the 60 days starts running from the date the written appeal and applicable fee are received.

This ordinance amendment was reviewed and recommended for passage by the Government Operations Committee on April 1, 2024.

**Committee Action**

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Committee: Government Operations

Meeting Date: April 1, 2024

Action:

For:

Against:

**Staff Comments & Approvals**

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City Manager

  
City Solicitor

  
Finance Director

**Introduced for:** First Reading



## CITY COUNCIL ORDINANCE

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Date: April 8, 2024

Assigned to Councilor: Yacoubagha

**ORDINANCE**, Amending Chapter 23, Boards, Committees and Commissions, Section 23-3(E) of the Code of Ordinances, To Make the Appeal Process to the Board of Appeals More Efficient

**WHEREAS**, at present, the entire Board of Appeals must convene to grant a routine continuance requested by an applicant;

**WHEREAS**, the Chair of the Board of Appeals should have the authority to grant a routine continuance if requested by an applicant in order to make the appeals process more efficient;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT**

Chapter 23 of the Code of the City of Bangor is amended as follows:

### § 23-3 Appeals and Variances.

Administrative appeals from any order, requirement, decision, determination, or interpretation of the Code Enforcement Officer, or any other officer or entity specified by an ordinance, and variance appeals from the laws and ordinances of the City of Bangor, where expressly permitted by an ordinance, shall be made pursuant to the following procedures:

...

- E. The Code Enforcement Officer shall immediately refer the appeal, together with all materials relative thereto, to the Chair of the Board for consideration by the Board as provided herein. Before taking any action on the appeal, the Board of Appeals shall hold a public hearing within 60 days of the ~~date of the application~~ receipt of the application and required fee. The Chair of the Board has the discretion to grant a continuance to an applicant who requests one, permitting the public hearing to be held beyond 60 days of the date of the application. By requesting such a continuance, an applicant consents to the public hearing being held beyond 60 days from the date the application and required fee are received. The Board shall notify, by United States Mail, the applicant, the owners of all abutting property and owners of properties within 100 feet of the exterior boundaries of the property in question, at least 10 days in advance of the hearing, of the nature of the appeal and the time and place of the public hearing, in accordance with the following:

...

Additions are underlined, deletions ~~struck through~~.



NEW BUSINESS





**CITY COUNCIL ACTION**

04/22/2024 24-132

Council Meeting Date: 04/22/2024

Item No: 24-132

Responsible Dept: City Manager

Requested Action: Order



Map/Lot: N/A

**Title, Order**

Adopting the Penobscot Climate Action Plan

**Summary**

Approval of this Order would adopt the Penobscot Climate Action Plan to serve as a guide for reducing the City's greenhouse gas emissions and increasing the City's resilience to impacts from climate change. This plan will become an addendum to the City's Comprehensive Plan.

In February of 2021, City of Bangor adopted a resolve committing the City to adopting a climate action plan that would establish a baseline inventory of city-wide greenhouse gas emissions and would assist Maine in reducing greenhouse gas emissions by 45% by 2030 and 80% by 2050, and achieving carbon neutrality by 2045.

The City embarked on a climate action planning process in the fall of 2021 with staff from BACTS (Bangor Area Comprehensive Transportation System), the Town of Orono, and the University of Maine. The process involved over two years of meetings with various stakeholders, working groups, and officials from municipalities in the BACTS region, as well as public outreach via workshops, pop-up events, and surveys. The resulting plan includes a vulnerability assessment and greenhouse gas inventory for the BACTS region and a list of strategies and toolkits to both increase the region's resilience and decrease the region's greenhouse gas emissions in line with the goals stated above.

On April 1, 2024, the Government Operations Committee reviewed and recommended this item for approval.

**Committee Action**

Committee: Government Operations Committee

Action: Recommend for passage

Meeting Date: 04/01/2024

For: 5

Against: 0

**Staff Comments & Approvals**

City Manager

City Solicitor

Finance Director

**Introduced for:** New Business



Date: 04/22/2024

Item No: 24-132

Assigned to Councilor: Fish

### Adopting the Penobscot Climate Action Plan

Whereas, in February of 2021, City of Bangor adopted a resolve committing the City to adopting a climate action plan that would establish a baseline inventory of city-wide greenhouse gas emissions and would assist Maine in reducing greenhouse gas emissions by 45% by 2030 and 80% by 2050, and achieve carbon neutrality by 2045; and

Whereas, the City embarked on a climate action planning process in the fall of 2021 with staff from BACTS (Bangor Area Comprehensive Transportation System), the Town of Orono, and the University of Maine; and

Whereas, the process involved over 2 years of meetings with various stakeholders, working groups, and officials from municipalities in the BACTS region, as well as public outreach via workshops, pop-up events, and surveys; and

Whereas, the resulting plan includes a vulnerability assessment and greenhouse gas inventory for the BACTS region and a list of strategies and toolkits to both increase the region's resilience and decrease the region's greenhouse gas emissions in line with the goals stated above; and

Whereas, at its regularly scheduled meeting of April 1, 2024, the City of Bangor Government Operations Committee listened to a presentation on the results of the plan and voted to approve the plan.

Whereas, the City wishes to continue participation in the regional effort to implement this plan, a representative from the Planning Division shall be the City's representative.

Now, Therefore, Be it Ordered by the City Council of the City of Bangor that, the Penobscot Climate Action Plan, shown in Exhibit A, attached, is hereby adopted and added to the 2022 Comprehensive Plan as an addendum.





## CITY OF BANGOR ORDER

04/22/2024 24-133

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Date: 04/22/2024

Item No: 24-133

Assigned to Councilor: Tremble

Authorizing Transfer of \$4,500,000 from Unassigned Fund Balance to Various Assigned Fund Balances

WHEREAS, The Charter requires that the City Council shall target an unassigned fund balance of no more than 16.66% of the General Fund operating budget; and

WHEREAS, The unassigned fund balance at the end of the prior fiscal year was approximately 16.84%; and

WHEREAS, The annual funding of the majority of the City's capital replacement reserves is not included in the annual adopted budget; and

WHEREAS, Ensuring adequate funding is available to fund near term capital needs, minimizes the impact on the tax rate; and

WHEREAS, The transfer of \$4,500,000 from the unassigned fund balance will result in the balance being 13.03% of the prior year operating budget, well within the Charter requirements;

Now Therefore Be it Ordered by the City Council of the City of Bangor that, the Finance Director is hereby authorized to transfer \$4,500,000 from the unassigned fund balance for the following purposes; \$1,925,000 to the Improvement Reserve, \$475,000 to the Fire Equipment Reserve, \$1,650,000 to the Pooled Equipment Reserve, \$150,000 to the Energy Efficiency Reserve and \$300,000 to the Bus Equipment Reserve.