

INFRASTRUCTURE COMMITTEE
Tuesday, November 25, 2014 at 5:15 p.m.
City Hall Council Chambers

Agenda

1. **Discussion: Energy Audits**

2. **MDOT Execute Agreement – WIN 018577.00, Improvement to the Intersection of Harlow & Cumberland**
(Copy of Agreement, Council Order, Council Action Attached)

3. **MDOT Execute Agreement – WIN 018578.00, Hammond Street Resurfacing**
(Copy of Agreement, Council Order, Council Action Attached)

4. **MDOT Execute Agreement – WIN 018579.00, Improvements to the Intersection of Griffin/Burleigh/Broadway**
(Copy of Agreement, Council Order, Council Action Attached)

5. **MDOT Execute Agreement – WIN 020401.00, Preliminary Engineering for Resurfacing Portion of Broadway**
(Copy of Agreement, Council Order, Council Action Attached)

6. **MDOT Execute Agreement – WIN 018597.00, The Bangor Exit 186 Intersection Study**
(Copy of Agreement, Council Order, Council Action Attached)

7. **Discontinuance: First Street Extension**
(Memo Provided By Assistant City Solicitor, and Proposed Discontinuance Location Map, Council Order & Council Action Attached)

INFRASTRUCTURE COMMITTEE – ENERGY AUDIT DISCUSSION

TO: INFRASTRUCTURE COMMITTEE
FROM: JOSH PLOURDE
SUBJECT: ENERGY AUDIT DISCUSSION
DATE: NOVEMBER 25, 2014
CC: DEB CYR, FINANCE DIRECTOR; CATHY CONLOW, CITY MANAGER

The purpose of this evening's discussion will be to determine if there is consensus to direct City staff to craft and issue a Request for Proposals (RFP) for services to conduct an energy audit on City owned properties. An energy audit was previously completed in 2006/2007, but significant technological advances have taken place and prices for efficiency upgrades have dropped since that time. Deb Cyr will be present to provide background information on the prior energy audit that was conducted in 2007, as well as to shed light on how the RFP could be approached.

Background

Energy audits are a professional service to determine where and how energy is used within a facility. The audit itself does not specifically fix areas of inefficiency, but rather, identifies the areas and proposes the most 'bang for buck' solutions to reduce energy consumption and cut costs.

Costs associated with utilities represent a significant portion of the budget. Utilities are arguably the only portion of the budget where technology readily exists to reduce costs without reducing services.

What will this cost?

If consensus exists, City staff will establish a RFP, which does not cost anything to issue. As the RFP is non-binding from the City's perspective, the Council will have the option whether to formalize any agreements proposed in responses.

Responses to the RFP will include cost-related information at which point the Council can decide whether to take action.

Similarly, once the energy audit is conducted and the final report issued, the Council will then have the opportunity to decide whether or not to take action on energy efficiency-related recommendations provided.

What will the energy audit suggest for solutions?

It's likely that the Wastewater Treatment Plant and the Airport present the greatest areas for improvement in the realm of reducing energy consumption. Generally speaking, solutions involve upgrades to lighting, heating, or cooling systems. Due to recent advances, many of these upgrades can be made with significant cost savings seen over a 5- to 10-year period. Once an energy audit is conducted, the City will be eligible to take advantage of any incentives available through Efficiency Maine's business program, which might help drive which energy solutions make the most sense for Bangor.

What action needs to be taken today?

This committee must determine if consensus exists to direct staff to draft the RFP. Deb Cyr will be present to answer questions about what steps will be taken if the consensus exists.

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN 018577.00 Improvements to the Intersection of Harlow and Cumberland

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design and construction work to install traffic detection equipment and pedestrian countdown signals at the intersection of Harlow Street and Cumberland Street.

The Maine Department of Transportation has approved federal and state funds in an amount not to exceed \$69,250.00 which includes a Federal share of \$55,400.00 or 80% of construction costs, State share of \$6,925.00 or 10% of construction costs, and a City share of funding of \$6,925.00 or 10% of construction costs. As part of that project, the City would need to enter into a local project agreement with the Maine Department of Transportation which have been reviewed and recommended for approval by the Infrastructure Committee at its November 25, 2014 meeting.

John Theriault, P.E.
Department Head

Manager's Comments:

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for
 Passage CONSENT
 First Reading
 Referral

Page __ of __

DECEMBER 8, 2014



Assigned to Councilor

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Agreement for Maine Department of Transportation Local Project – WIN #018577.00, Improvements to Intersection of Harlow and Cumberland

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Improvements to Intersection of Harlow and Cumberland.

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
AMS ID #:	_____
CSN:	_____
PROGRAM:	<i>Multimodal (OUC 57000)</i>

MAINE DEPARTMENT OF TRANSPORTATION
Locally Administered Project Agreement
 With the
Municipality of Bangor
 Regarding
Improvements to the Intersection of Harlow and Cumberland

Total Amount: <u>\$69,250.00</u>	WIN: <u>018577.00</u>
Federal Share: <u>\$55,400.00 (80%)</u>	Federal Project #: _____
State Share: <u>\$6,925.00 (10%)</u>	Scope: <u>Design and construction</u>
Municipal Share: <u>\$6,925.00 (10%)</u>	Vendor Customer #: <u>VC1000007010</u>
Effective Date: _____	Municipality's DUNS® Number: <u>07-173-9692</u>
Expiration Date: _____	CFDA #20.205: <u>Highway Planning & Construction</u>

This Agreement for local administration of a federal-aid project is between the Maine Department of Transportation, an agency of the State of Maine headquartered at 24 Child Street in Augusta, Maine ("MaineDOT"), and the Municipality of Bangor, a municipal corporation and body politic with its principal offices at 73 Harlow Street in Bangor, Maine ("the Municipality.") **MaineDOT** and the **Municipality** are collectively referred to as "the Parties."

- The following attachments are incorporated into this Agreement:
 - Appendix A: Federal Funding Accountability and Transparency Act Form (*signature required*);
 - Appendix B: Federal Highway Administration Civil Rights Assurance (*signature required*);
 - Appendix C: Requirements for operation and maintenance of traffic signals.

WHEREAS, the scope of work in Article 1.A was programmed for the **MaineDOT** capital program by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its offices at 12 Acme Road, Suite 102, in Brewer, Maine ("**BACTS**"); and

WHEREAS, the **Municipality** has raised local matching funds sufficient to cover its share of the estimated cost of design and construction work as described in Article 3, "Financial Provisions."

NOW, in consideration of the foregoing, **MaineDOT** and the **Municipality** agree as follows:

ARTICLE 1. PROJECT OVERVIEW

- A. SCOPE OF WORK. Design and construction work to install traffic detection equipment and pedestrian countdown signals at the intersection of Harlow Street and Cumberland Street, to be performed by or for the **Municipality** and accepted by **MaineDOT** ("the **Project**." Any substantial change to this scope of work shall require written approval from **BACTS** and **MaineDOT** to be eligible for federal and state funding.
- B. FUNDING. The estimated cost of the **Project** is sixty-nine thousand two hundred fifty dollars (**\$69,250**) to be shared at the rates and terms described in Article 3.

- C. **ROLE OF MUNICIPALITY.** The **Municipality** shall take the lead in developing the **Project** and assign a full-time municipal employee with certification from **MaineDOT** to be responsible for the **Project**. If no employee is so certified, the **Municipality** shall send a representative to the next available certification training. At all times, this person shall administer the **Project** in accordance with the latest edition of **MaineDOT's** "Local Project Administration Manual."
- D. **ROLE OF MAINEDOT.** A Project Manager will be assigned to act on behalf of **MaineDOT**. This person or designee will have authority to approve or deny reimbursement requests; review and require revision of plans and specifications; inspect, reject and stop work; and take all other action necessary to ensure proper performance of this Agreement.

ARTICLE 2. PROJECT DEVELOPMENT

- A. **AUTHORIZATION.** The **Municipality** shall receive Authorization to Proceed from **MaineDOT** before starting work or executing a contract for services under this Agreement. All municipal costs incurred before authorization is given, or before a contract for services is executed, shall be ineligible for reimbursement. Ineligible costs shall not be credited toward the local match.
- B. **KICKOFF.** Before starting work, the **Municipality** shall review with **MaineDOT's** Project Manager the scope of work, estimated cost, schedule, and legal requirements for the **Project**. If necessary, the **Municipality** shall provide an updated schedule and cost estimate within a reasonable timeframe.
- C. **PROGRESS REPORTS.** The **Municipality** shall provide **MaineDOT** with monthly progress reports for the duration of the **Project** listing tasks completed, any changes in staffing, and any issues that could affect the schedule.
- D. **CONSULTANT SERVICES.** The **Municipality** may contract for consultant engineering services as necessary to develop and oversee the **Project**. In doing so, the **Municipality** shall:
1. Use qualifications-based selection and develop an independent government estimate of the price of the services, pursuant to federal regulation 23 CFR, Part 172.
 2. Obtain the **MaineDOT** Project Manager's written approval before awarding any contract.
 3. Ensure that all contracts are fully executed before incurring any costs against them.
 4. Ensure that "Consultant General Conditions for Local Public Agencies" govern all work, including insertion of Form FHWA-1273 and Civil Rights Assurances into every contract.
 5. Obtain **MaineDOT's** written approval before modifying any contract. **MaineDOT** reserves the right not to reimburse the **Municipality** for work covered by a modification executed without prior approval or for work performed before the effective date of a modification.
- E. **DESIGN WORK.** The **Municipality** or its contracted consultant shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with the latest versions of **MaineDOT's** *Highway Design Guide* and *Standard Specifications*, as follows:
1. The **Municipality** shall submit the preliminary (50-60%) and final (95-100%) plans and specifications to **MaineDOT** for review and comment.
 2. The **Municipality** shall address to **MaineDOT's** satisfaction any changes requested or concerns expressed before requesting construction authorization from **MaineDOT**.
 3. Advertising for construction bids or proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal and state funding.

- F. **QUALITY CONTROL.** The **Municipality** or its contracted consultant shall be responsible for the quality of the design plans, specifications and estimates for the **Project** using a documented quality-control process. Acceptance of the final Plans, Specifications and Estimate (PS&E) package by **MaineDOT** shall not relieve the **Municipality** or its consultant of responsibility for the quality of those engineering documents.
- G. **PUBLIC PARTICIPATION.** The **Municipality** shall provide the general public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be submitted to **MaineDOT** with the final PS&E package.
- H. **ENVIRONMENTAL PROCESS.** The **Municipality** or its contracted consultant shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- I. **PERMITS.** The **Municipality** or its contracted consultant shall obtain all required approvals, permits and licenses. Copies of all such documents an environmental certification (Letter 12) shall be submitted to **MaineDOT** with the final PS&E package.
- J. **UTILITIES.** The **Municipality** or its contracted consultant shall coordinate the **Project** with all utilities and submit the related documentation to **MaineDOT** with a utility certification (Letter 13) with the final PS&E package. Such work shall be done in accordance with **MaineDOT**'s "Utility Accommodation Policy."
- K. **RIGHT OF WAY.** If applicable, acquisition of right of way shall be handled as follows:
1. **MaineDOT** will acquire all rights to which the State of Maine ultimately will hold title. The **Parties** will determine at Project Kickoff whether **MaineDOT** or the **Municipality** will be responsible for preparing right-of-way plans, in accordance with **MaineDOT**'s standards. If **MaineDOT** will acquire rights, **MaineDOT** will be responsible for title examinations, appraisals, appraisal reviews, negotiations, acquisition, and right-of-way certification.
 2. The **Municipality** shall carry out the right-of-way process if the **Project** is not on an existing transportation facility that falls under the jurisdiction of the State of Maine. The **Municipality** shall follow the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act") and the **MaineDOT** "Right of Way Manual." Upon completion of acquisitions, the **Municipality** shall provide the following:
 - a) A right-of-way map or similar plan detailing all right-of-way acquired for, donated to or dedicated to the **Project**; and
 - b) A written certification (Letter 10) that all such rights have been acquired in conformity with the "Uniform Act" before requesting authorization to advertise for construction bids.
- L. **FORCE ACCOUNT.** If the **Municipality** intends to construct the **Project** with its municipal work force or to furnish materials for the **Project**, the **Municipality** shall obtain **MaineDOT**'s written authorization before proceeding. If so authorized to use a "force account" process, the **Municipality** shall comply with the applicable regulations – 23 CFR, Parts 635.201 to 635.205.
- M. **SOLICITATION OF BIDS.** Competitive bidding shall be used to procure a contractor unless a "force account" process is authorized. The **Municipality** shall solicit for bids upon **MaineDOT**'s written authorization in accordance with the final, approved plans and specifications as follows:

1. The **Municipality** shall follow the procedures in **MaineDOT**'s "Standard Specifications" and adhere to all applicable federal requirements, unless otherwise authorized by **MaineDOT**.
 2. The **Municipality** and **MaineDOT** shall have the right to accept or reject any bid submitted.
 3. The **Municipality** shall not award a contract without **MaineDOT**'s written approval.
- N. **CONTRACT AWARD.** Upon **MaineDOT**'s written approval, the **Municipality** shall award a construction contract to the lowest responsive, responsible bidder as follows:
1. The **Municipality** shall administer the contract for the duration of the **Project**.
 2. Form FHWA-1273 shall be physically incorporated into the contract.
 3. The contract shall specify that the **Project** comply with the latest version of **MaineDOT**'s "Standard Specifications" and applicable special provisions.
- O. **CONSTRUCTION.** The **Municipality** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in or affected by the construction process. During the work, the **Municipality** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**'s satisfaction in accordance with the plans, specifications and provisions of the contract, as follows:
1. The **Municipality** shall use procedures acceptable to **MaineDOT** to document the quantity and quality of all construction-related work. The **Municipality** shall retain all documentation as provided under Article 4.
 2. The **Municipality** or its contracted consultant shall be responsible for coordinating all materials testing necessary to meet the Minimum Testing Requirements for the **Project**, in compliance with 23 CFR, Part 637, "Quality Assurance Procedures for Construction." Test results shall be provided to **MaineDOT** upon request.
 3. Any contract modification shall be submitted to **MaineDOT** for review and comment before it is executed. *MaineDOT reserves the right not to reimburse the **Municipality** for work associated with a contract modification executed without **MaineDOT**'s prior review.*
 4. Vehicular traffic in work zones shall be controlled in accordance with Part VI of the federal Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).
 5. If applicable, the **Municipality** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
 6. Upon completion, the **Municipality** shall provide compliance certification that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the approved plans, specifications and provisions of the contract.
- P. **MAINEDOT OVERSIGHT.** **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and may withhold reimbursement to the **Municipality** for any such work or materials.
- Q. **MAINTENANCE.** Upon completion, the **Municipality** shall operate and maintain the improvements under the terms of Appendix C, "Operation and Maintenance of Traffic Signals."

ARTICLE 3. FINANCIAL PROVISIONS

- A. **MAINEDOT SHARE.** **MaineDOT**, using federal and state resources programmed by **BACTS**, will reimburse the **Municipality** for ninety percent (**90%**) of **Project** expenditures deemed eligible for such funding, not to exceed sixty-two thousand three hundred twenty-five dollars (**\$62,325.**)
- B. **LOCAL SHARE.** The **Municipality** shall share in all **Project** expenditures deemed eligible for federal and state funding at the rate of ten percent (**10%**), or an estimated six thousand nine hundred twenty-five dollars (**\$6,925.**) The **Municipality** shall be fully responsible for all costs deemed ineligible for federal-aid funding and all costs exceeding the maximum reimbursement under Article 3.A, unless **MaineDOT** approves otherwise in writing.
- C. **MAINEDOT COSTS.** All costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be paid for out of the **Project**, including but not limited to design reviews, environmental work, utility support, right-of-way support, and construction engineering. The **Municipality** shall share in these costs commensurate with its overall portion of the **Project** identified in Article 3.B. **MaineDOT** will reconcile these costs upon completion of the **Project** and shall deduct the **Municipality's** share of them from the **Municipality's** final billing.
- D. **REIMBURSEMENT.** The **Municipality** may request reimbursement from **MaineDOT** periodically for **MaineDOT's** share of **Project** expenditures incurred that are deemed eligible for federal-aid funding, up to the maximum in Article 3.A. Invoices shall be submitted to **MaineDOT** no more than monthly, subject to these conditions:
1. Invoices shall be submitted on the **Municipality's** letterhead and reference WIN 018577.00.
 2. Each invoice shall be accompanied by a progress report in accordance with Article 2.C.
 3. Each invoice shall contain an itemized account of expenditures incurred during the period covered by the invoice, consistent with the approved budget for the **Project**. Backup documentation and proof of payment made shall accompany each invoice.
 4. Each invoice shall have an accumulative total and a breakdown of **MaineDOT's** and the **Municipality's** shares of **Project** costs.
 5. Each invoice shall include a certification from the **Municipality** that all amounts claimed are correct, due and not claimed previously.
 6. No invoice shall be submitted for less than one thousand dollars (\$1,000) unless such invoice is the final invoice being submitted for reimbursement.
 7. Payment of the final invoice shall be subject to a final inspection of the completed **Project** to determine the acceptability of the work.
 8. **MaineDOT** may withhold **Project** reimbursements owed to the **Municipality** to recover previous amounts paid for actions or activities that subsequently are deemed to have been ineligible for federal-aid funding.
- E. **REPAYMENT.** If the **Municipality** withdraws its public or financial support for the **Project**, leading **MaineDOT** to cancel the **Project** and terminate this Agreement, **MaineDOT** reserves the right to require the **Municipality** to refund all reimbursements made and to repay **MaineDOT** fully for all **Project** costs incurred. All federal and state funds returned to **MaineDOT** by the **Municipality**, as well as all federal and state funds remaining in the **Project**, shall be made available to **BACTS** for reprogramming once the **Project** is closed out.

- F. **REMAINING FUNDS.** Any federal and state funds remaining in the **Project** upon payment of the final invoice shall be made available to **BACTS** once the **Project** is closed out.

ARTICLE 4. PROJECT RECORDS AND AUDIT

- A. **Ownership.** **Project** records shall consist of all plans, specifications, contracts, reports, notes, or other tangible work arising from this Agreement, prepared either by or for the **Municipality**. All such records shall be considered the property of **MaineDOT** and turned over to **MaineDOT** upon request after the completion or termination of the **Project**. The **Municipality** shall be allowed an interest commensurate with its share of **Project** costs.
- B. **Retention.** The **Municipality** shall retain all printed and electronic records associated with the **Project** for a minimum of **four (4) years** from the date of **MaineDOT**'s acceptance of the **Municipality**'s final invoice. If any litigation, claim, negotiation, audit or other action involving such records has begun before the expiration of this four (4) year period, all records shall be retained at least until all action and resolution of all issues arising from it are complete.
- C. **Access.** The **Municipality** shall keep **Project** records in such form as may be easily audited. The **Municipality** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** documents at reasonable times. Copies of requested records shall be furnished at no cost.
- D. **Audit.** Audits shall meet the "Generally Accepted Government Auditing Standards." The **Municipality** shall assure that all applicable audit requirements are met in accordance with federal Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations."

ARTICLE 5. GENERAL PROVISIONS

- A. **Governing Law.** This Agreement is made and shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement will be subject to applicable federal laws and regulations, including but not limited to Title 23 in the United States Code (USC) for statutory law and Title 23 in the Code of Federal Regulations (CFR) for administrative law, as well as 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. **Indemnification.** To the extent permitted by law, the **Municipality** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **Municipality**, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- C. **Confidentiality.** Information pertaining to right-of-way negotiations, property appraisals and engineering estimates of construction costs shall be kept confidential in accordance with the provisions of Maine law (23 MRSA, Section 63.)
- D. **Independent Capacity.** The **Municipality**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.

- E. Set-Off. **MaineDOT** shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, without being limited to, the State of Maine's option to withhold for purposes of set-off any payment due to the **Municipality** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract for a term commencing before the effective date of this Agreement. **MaineDOT** shall exercise its set-off rights in accordance with standard state practices including – in case of set-off pursuant to an audit – the finalization of the audit by **MaineDOT** or the State Controller.
- F. Flow Down. Contracts between the **Municipality** and all consultants, contractors or other third parties shall contain or incorporate by reference all applicable provisions of this Agreement.
- G. No Assignment Without Approval. The **Municipality** shall not assign this Agreement to a third party or dispose of this Agreement without specific written consent from **MaineDOT**. In no case shall such action release the **Municipality** from liability under this Agreement.
- H. Binding Effect. The **Municipality** and **MaineDOT** shall be bound by the terms of this Agreement. This provision shall apply to the executors of this Agreement, their successors, administrators and legal representatives.

ARTICLE 6. TERMINATION

- A. FOR CAUSE. **MaineDOT** may terminate this Agreement for cause due to one or more events of default identified in 6.B below. The **Municipality** will have a Cure Period of fourteen (14) calendar days after receiving a Notice of Default. If the **Municipality** fails to make a good-faith effort to correct all defaults within the Cure Period, **MaineDOT** may terminate this Agreement upon written Notice of Termination for Cause, with the following conditions:
 - 1. The **Municipality** and all consultants and contractors working on the **Project** shall cease work immediately – except for work required to protect public health and safety – and turn over to **MaineDOT** all **Project** records within thirty (30) days of the termination date.
 - 2. If termination is the result of the **Municipality's** failure to correct any occurrence of default, **MaineDOT** reserves the right to recover from the **Municipality** all reimbursements made in accordance with Article 3, "Financial Provisions."
 - 3. All federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **Municipality**, shall be made available to **BACTS** for reprogramming in accordance with Article 3.E once the **Project** is closed out.
- B. GROUNDS FOR DEFAULT. The **Municipality** shall be in default if the **Municipality**:
 - 1. Fails to make satisfactory progress in developing the **Project** within twelve (12) months of the effective date of this Agreement.
 - 2. Withdraws from the **Project**, fails to raise required matching funds, or takes any other action that leads to cancelation of the **Project** or loss of eligibility of the **Project** for federal funding.
 - 3. Uses **Project** funds for a purpose other than what is authorized by this Agreement.
 - 4. Misrepresents or falsifies of any claim for reimbursement.
 - 5. Fails to meet standards of performance outlined in this Agreement.
 - 6. Breaches any material provision of this Agreement.

- C. FOR CONVENIENCE. This Agreement may be terminated for convenience by the **Parties**. Terminations for convenience are those undertaken for reasons not specifically defined as “default.” **MaineDOT** shall notify the **Municipality** through a written Notice of Termination for Convenience, with the following conditions:
1. If termination is for any reason other than failure by the **Municipality** to correct any occurrence of default, the **Municipality** shall be reimbursed for federally eligible work or service accomplished under this Agreement until the effective date of termination. The **Municipality’s** share of costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be deducted from amounts due to the **Municipality**.
 2. All **Project** records shall be turned over to **MaineDOT** within thirty (30) days of the date of the Notice of Termination for Convenience.
 3. All remaining funds in the **Project** shall be made available to **BACTS** for reprogramming once the **Project** is closed out.

ARTICLE 7. EXPIRATION

- A. All provisions of this Agreement – except for Article 2.Q (maintenance), Article 4.B (records), Article 5.B (indemnification) and 5.C (confidentiality) – shall expire upon satisfactory completion of the terms of this Agreement or **four (4) years** from the final day of the month in which the undersigned **MaineDOT** representative executed this Agreement, whichever occurs first.
- B. The provisions of Article 5.B and Article 5.C shall remain in full effect until terminated in writing by the **Parties** or negated by law.

ARTICLE 8. DEBARMENT

- A. By signing this Agreement, the **Municipality** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency. If the **Municipality** is unable to certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **Municipality** shall notify **MaineDOT** promptly if it or any of its officers, agents and employees associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency.
- B. The **Municipality** agrees that it shall not hire a consultant or contractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state agency.

ARTICLE 9. AGREEMENT APPROVAL

Municipal Authorization: The undersigned municipal representative assures that the **Municipality’s** official legislative body has approved the **Project** and the **Municipality’s** entry into this Agreement, has appropriated or authorized the use of any necessary funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, **MaineDOT** and the **Municipality** have executed this Agreement in duplicate originals effective on the date last signed.

Municipality of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
William A. Pulver, P.E., Director,
Bureau of Project Development

Date: _____

Date: _____

I certify that foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my sole control.

ADDITIONAL MUNICIPAL SIGNATURES ARE REQUIRED ON APPENDIX A and B →

**APPENDIX A TO A LOCALLY ADMINISTERED PROJECT AGREEMENT:
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

The **Municipality of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act (“FFATA”) of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the Project exceeds \$25,000, an authorized representative from the **Municipality** shall sign this document under (B) below and return it with the Project Agreement. Additionally, the **Municipality** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five executives if:

- More than 80% of the City’s annual gross revenues are from the Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal Name and DUNS® Number on file with the Central Contractor Registration (CCR):

Municipality of Bangor, Maine

07-173.9692

Sign and Print Legal CCR Name

DUNS® Number

Authorized Representative: _____
Catherine M. Conlow, City Manager

**Appendix B to a Locally Administered Project Agreement:
Federal Highway Administration Civil Rights Assurance**

The **Municipality** HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance, it will ensure that:

1. No person on the basis of race, color, national origin, sex, age or disability will be subjected to discrimination in the level and quality of transportation services and transportation-related benefits.
2. The **Municipality** will compile, maintain, and submit in a timely manner Title VI information requested by the Maine Department of Transportation pursuant to 49 CFR Part 21.9.
3. The Maine **Municipality** will make it known to the public that those people or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transportation-related benefits may file a complaint with the Federal Highway Administration and/or the U.S. Department of Transportation.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

Authorized signatory

Date

APPENDIX C TO A LOCALLY ADMINISTERED PROJECT AGREEMENT: OPERATION & MAINTANCE OF TRAFFIC SIGNALS

- A. The **Municipality** 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 **Municipality** 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 **Municipality** 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 **Municipality** 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**.

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN 018578.00 Hammond Street Resurfacing

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for mill-and-fill treatment with drainage work and granite curb replacement on part of Hammond Street, beginning at Union Street and extending easterly 0.12 of a mile to Ohio St.

The Maine Department of Transportation has approved federal and state funds in an amount not to exceed \$256,796.00 which includes a Federal share of \$205,436.80 or 80% of construction costs and a State share of funding of \$25,679.60 or 10% of construction costs or \$25,679.60 or 10% of construction costs. As part of that project, the City would need to enter into a local project agreement with the Maine Department of Transportation which have been reviewed and recommended for approval by the Infrastructure Committee at its November 25, 2014 meeting.

John Theriault, P.E.
Department Head

Manager's Comments:

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for
 Passage CONSENT
 First Reading
 Referral

DECEMBER 8, 2014



Assigned to Councilor

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Agreement for Maine Department of Transportation Local Project – WIN #018578.00, Hammond Street Resurfacing

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Hammond Street Resurfacing.

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
AMS ID #:	_____
CSN:	_____
PROGRAM:	<i>Multimodal (OUC 57000)</i>

MAINE DEPARTMENT OF TRANSPORTATION
Locally Administered Project Agreement
 With the
Municipality of Bangor
 Regarding
Hammond Street Resurfacing

<i>(MaineDOT Use Only)</i>	
Total Amount: <u>\$256,796.00</u>	WIN: <u>018578.00</u>
Federal Share: <u>\$205,436.80</u>	Federal Project #: _____
State Share: <u>\$25,679.60</u>	Scope: <u>Design and construction</u>
Municipal Share: <u>\$25,679.60</u>	Vendor Customer #: <u>VC1000007010</u>
Effective Date: _____	Municipality's DUNS® Number: <u>07-173-9692</u>
Expiration Date: _____	CFDA #20.205: <u>Highway Planning & Construction</u>

This Agreement for local administration of a federal-aid project is between the Maine Department of Transportation, an agency of the State of Maine headquartered at 24 Child Street in Augusta, Maine (“**MaineDOT**”), and the Municipality of Bangor, a municipal corporation and body politic with its principal offices at 73 Harlow Street in Bangor, Maine (“**the Municipality.**”) **MaineDOT** and the **Municipality** are collectively referred to as “**the Parties.**”

- The following attachments are incorporated into this Agreement:
 - Appendix A: Federal Funding Accountability and Transparency Act Form (*signature required*);
 - Appendix B: Federal Highway Administration Civil Rights Assurance (*signature required*.)

WHEREAS, the scope of work in Article 1.A was programmed for the **MaineDOT** capital program by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its offices at 12 Acme Road, Suite 102, in Brewer, Maine (“**BACTS**”); and

WHEREAS, the **Municipality** has raised matching funds sufficient to cover its share of the current estimated cost of design, construction and construction oversight work as described in Article 3, “Financial Provisions.”

NOW, in consideration of the foregoing, **MaineDOT** and the **Municipality** agree as follows:

ARTICLE 1. PROJECT OVERVIEW

- A. **SCOPE OF WORK.** Mill-and-fill treatment with drainage work and granite curb replacement on part of Hammond Street, beginning at Union Street and extending easterly 0.12 of a mile to Ohio Street (“**the Project.**”) The work shall be performed by or for the **Municipality** and accepted by **MaineDOT** Any substantial change to this scope of work shall require written approval from **BACTS** and **MaineDOT** to be eligible for federal and state funding.
- B. **FUNDING.** The estimated cost of the **Project** is two hundred fifty-six thousand seven hundred ninety-six dollars (**\$256,796**) to be shared at the rates and terms described in Article 3.

- C. **ROLE OF MUNICIPALITY.** The **Municipality** shall take the lead in developing the **Project** and assign a full-time municipal employee with certification from **MaineDOT** to be responsible for the **Project**. If no employee is so certified, the **Municipality** shall send a representative to the next available certification training. At all times, this person shall administer the **Project** in accordance with the latest edition of **MaineDOT's** "Local Project Administration Manual."
- D. **ROLE OF MAINEDOT.** A Project Manager will be assigned to act on behalf of **MaineDOT**. This person or designee will have authority to approve or deny reimbursement requests; review and require revision of plans and specifications; inspect, reject and stop work; and take all other action necessary to ensure proper performance of this Agreement.

ARTICLE 2. PROJECT DEVELOPMENT

- A. **AUTHORIZATION.** The **Municipality** shall receive Authorization to Proceed from **MaineDOT** before starting work or executing a contract for services under this Agreement. All municipal costs incurred before authorization is given, or before a contract for services is executed, shall be ineligible for reimbursement. Ineligible costs shall not be credited toward the local match.
- B. **KICKOFF.** Before starting work, the **Municipality** shall review with **MaineDOT's** Project Manager the scope of work, estimated cost, schedule, and legal requirements for the **Project**. If necessary, the **Municipality** shall provide an updated schedule and cost estimate within a reasonable timeframe.
- C. **PROGRESS REPORTS.** The **Municipality** shall provide **MaineDOT** with monthly progress reports for the duration of the **Project** listing tasks completed, any changes in staffing, and any issues that could affect the schedule.
- D. **CONSULTANT SERVICES.** The **Municipality** may contract for consultant engineering services as necessary to develop and oversee the **Project**. In doing so, the **Municipality** shall:
1. Use qualifications-based selection and develop an independent government estimate of the price of the services, pursuant to federal regulation 23 CFR, Part 172.
 2. Obtain the **MaineDOT** Project Manager's written approval before awarding any contract.
 3. Ensure that all contracts are fully executed before incurring any costs against them.
 4. Ensure that "Consultant General Conditions for Local Public Agencies" govern all work, including insertion of Form FHWA-1273 and Civil Rights Assurances into every contract.
 5. Obtain **MaineDOT's** written approval before modifying any contract. **MaineDOT** reserves the right not to reimburse the **Municipality** for work covered by a modification executed without prior approval or for work performed before the effective date of a modification.
- E. **DESIGN WORK.** The **Municipality** or its contracted consultant shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with the latest versions of **MaineDOT's** *Highway Design Guide* and *Standard Specifications*, as follows:
1. The **Municipality** shall submit the preliminary (50-60%) and final (95-100%) plans and specifications to **MaineDOT** for review and comment.
 2. The **Municipality** shall address to **MaineDOT's** satisfaction any changes requested or concerns expressed before requesting construction authorization from **MaineDOT**.
 3. Advertising for construction bids or proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal and state funding.

- F. **QUALITY CONTROL.** The **Municipality** or its contracted consultant shall be responsible for the quality of the design plans, specifications and estimates for the **Project** using a documented quality-control process. Acceptance of the final Plans, Specifications and Estimate (PS&E) package by **MaineDOT** shall not relieve the **Municipality** or its consultant of responsibility for the quality of those engineering documents.
- G. **PUBLIC PARTICIPATION.** The **Municipality** shall provide the general public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be submitted to **MaineDOT** with the final PS&E package.
- H. **ENVIRONMENTAL PROCESS.** The **Municipality** or its contracted consultant shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- I. **PERMITS.** The **Municipality** or its contracted consultant shall obtain all required approvals, permits and licenses. Copies of all such documents an environmental certification (Letter 12) shall be submitted to **MaineDOT** with the final PS&E package.
- J. **UTILITIES.** The **Municipality** or its contracted consultant shall coordinate the **Project** with all utilities and submit the related documentation to **MaineDOT** with a utility certification (Letter 13) with the final PS&E package. Such work shall be done in accordance with **MaineDOT**'s "Utility Accommodation Policy."
- K. **RIGHT OF WAY.** If applicable, acquisition of right of way shall be handled as follows:
1. **MaineDOT** will acquire all rights to which the State of Maine ultimately will hold title. The **Parties** will determine at Project Kickoff whether **MaineDOT** or the **Municipality** will be responsible for preparing right-of-way plans, in accordance with **MaineDOT**'s standards. If **MaineDOT** will acquire rights, **MaineDOT** will be responsible for title examinations, appraisals, appraisal reviews, negotiations, acquisition, and right-of-way certification.
 2. The **Municipality** shall carry out the right-of-way process if the **Project** is not on an existing transportation facility that falls under the jurisdiction of the State of Maine. The **Municipality** shall follow the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act") and the **MaineDOT** "Right of Way Manual." Upon completion of acquisitions, the **Municipality** shall provide the following:
 - a) A right-of-way map or similar plan detailing all right-of-way acquired for, donated to or dedicated to the **Project**; and
 - b) A written certification (Letter 10) that all such rights have been acquired in conformity with the "Uniform Act" before requesting authorization to advertise for construction bids.
- L. **FORCE ACCOUNT.** If the **Municipality** intends to construct the **Project** with its municipal work force or to furnish materials for the **Project**, the **Municipality** shall obtain **MaineDOT**'s written authorization before proceeding. If so authorized to use a "force account" process, the **Municipality** shall comply with the applicable regulations – 23 CFR, Parts 635.201 to 635.205.
- M. **SOLICITATION OF BIDS.** Competitive bidding shall be used to procure a contractor unless a "force account" process is authorized. The **Municipality** shall solicit for bids upon **MaineDOT**'s written authorization in accordance with the final, approved plans and specifications as follows:

1. The **Municipality** shall follow the procedures in **MaineDOT**'s "Standard Specifications" and adhere to all applicable federal requirements, unless otherwise authorized by **MaineDOT**.
 2. The **Municipality** and **MaineDOT** shall have the right to accept or reject any bid submitted.
 3. The **Municipality** shall not award a contract without **MaineDOT**'s written approval.
- N. CONTRACT AWARD. Upon **MaineDOT**'s written approval, the **Municipality** shall award a construction contract to the lowest responsive, responsible bidder as follows:
1. The **Municipality** shall administer the contract for the duration of the **Project**.
 2. Form FHWA-1273 shall be physically incorporated into the contract.
 3. The contract shall specify that the **Project** comply with the latest version of **MaineDOT**'s "Standard Specifications" and applicable special provisions.
- O. CONSTRUCTION. The **Municipality** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in or affected by the construction process. During the work, the **Municipality** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**'s satisfaction in accordance with the plans, specifications and provisions of the contract, as follows:
1. The **Municipality** shall use procedures acceptable to **MaineDOT** to document the quantity and quality of all construction-related work. The **Municipality** shall retain all documentation as provided under Article 4.
 2. The **Municipality** or its contracted consultant shall be responsible for coordinating all materials testing necessary to meet the Minimum Testing Requirements for the **Project**, in compliance with 23 CFR, Part 637, "Quality Assurance Procedures for Construction." Test results shall be provided to **MaineDOT** upon request.
 3. Any contract modification shall be submitted to **MaineDOT** for review and comment before it is executed. *MaineDOT reserves the right not to reimburse the **Municipality** for work associated with a contract modification executed without **MaineDOT**'s prior review.*
 4. Vehicular traffic in work zones shall be controlled in accordance with Part VI of the federal Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).
 5. If applicable, the **Municipality** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
 6. Upon completion, the **Municipality** shall provide compliance certification that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the approved plans, specifications and provisions of the contract.
- P. MAINEDOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and may withhold reimbursement to the **Municipality** for any such work or materials.

ARTICLE 3. FINANCIAL PROVISIONS

- A. MAINEDOT SHARE. **MaineDOT**, using federal and state resources programmed by **BACTS**, will reimburse the **Municipality** for ninety percent (**90%**) of **Project** expenditures deemed eligible for such funding, not to exceed two hundred thirty-one thousand one hundred sixteen dollars and forty cents (**\$231,116.40.**)

- B. LOCAL SHARE. The **Municipality** shall share in all **Project** expenditures deemed eligible for federal and state funding at the rate of ten percent (**10%**), or an estimated twenty-five thousand six hundred seventy-nine dollars and sixty cents (**\$25,679.60.**) The **Municipality** shall be fully responsible for all costs deemed ineligible for federal-aid funding and all costs exceeding the maximum reimbursement under Article 3.A, unless **MaineDOT** approves otherwise in writing.
- C. MAINEDOT COSTS. All costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be paid for out of the **Project**, including but not limited to design reviews, environmental work, utility support, right-of-way support, and construction engineering. The **Municipality** shall share in these costs commensurate with its overall portion of the **Project** identified in Article 3.B. **MaineDOT** will reconcile these costs upon completion of the **Project** and shall deduct the **Municipality's** share of them from the **Municipality's** final billing.
- D. REIMBURSEMENT. The **Municipality** may request reimbursement from **MaineDOT** periodically for **MaineDOT's** share of **Project** expenditures deemed eligible for federal-aid funding, up to the maximum in Article 3.A. Invoices shall be submitted to **MaineDOT** no more than monthly, subject to these conditions:
1. Invoices shall be submitted on the **Municipality's** letterhead and reference WIN 18578.00.
 2. Each invoice shall be accompanied by a progress report in accordance with Article 2.C.
 3. Each invoice shall contain an itemized account of expenditures incurred during the period covered by the invoice, consistent with the approved budget for the **Project**. Backup documentation and proof of payment made shall accompany each invoice.
 4. Each invoice shall have an accumulative total and a breakdown of **MaineDOT's** and the **Municipality's** shares of **Project** costs.
 5. Each invoice shall include a certification from the **Municipality** that all amounts claimed are correct, due and not claimed previously.
 6. No invoice shall be submitted for less than one thousand dollars (\$1,000) unless such invoice is the final invoice being submitted for reimbursement.
 7. Payment of the final invoice shall be subject to a final inspection of the completed **Project** to determine the acceptability of the work.
 8. **MaineDOT** may withhold **Project** reimbursements owed to the **Municipality** to recover previous amounts paid for actions or activities that subsequently are deemed to have been ineligible for federal-aid funding.
- E. REPAYMENT. If the **Municipality** withdraws its public or financial support for the **Project**, leading **MaineDOT** to cancel the **Project** and terminate this Agreement, **MaineDOT** reserves the right to require the **Municipality** to refund all reimbursements made and to repay **MaineDOT** fully for all **Project** costs incurred. All federal and state funds returned to **MaineDOT** by the **Municipality**, as well as all federal and state funds remaining in the **Project**, shall be made available to **BACTS** for reprogramming once the **Project** is closed out.
- F. REMAINING FUNDS. Any federal and state funds remaining in the **Project** upon payment of the final invoice shall be made available to **BACTS** once the **Project** is closed out.

ARTICLE 4. PROJECT RECORDS AND AUDIT

- A. Ownership. **Project** records shall consist of all plans, specifications, contracts, reports, notes, or other tangible work arising from this Agreement, prepared either by or for the **Municipality**. All such records shall be considered the property of **MaineDOT** and turned over to **MaineDOT** upon request after the completion or termination of the **Project**. The **Municipality** shall be allowed an interest commensurate with its share of **Project** costs.
- B. Retention. The **Municipality** shall retain all printed and electronic records associated with the **Project** for a minimum of **four (4) years** from the date of **MaineDOT**'s acceptance of the **Municipality**'s final invoice. If any litigation, claim, negotiation, audit or other action involving such records has begun before the expiration of this four (4) year period, all records shall be retained at least until all action and resolution of all issues arising from it are complete.
- C. Access. The **Municipality** shall keep **Project** records in such form as may be easily audited. The **Municipality** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** documents at reasonable times. Copies of requested records shall be furnished at no cost.
- D. Audit. Audits shall meet the "Generally Accepted Government Auditing Standards." The **Municipality** shall assure that all applicable audit requirements are met in accordance with federal Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations."

ARTICLE 5. GENERAL PROVISIONS

- A. Governing Law. This Agreement is made and shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement will be subject to applicable federal laws and regulations, including but not limited to Title 23 in the United States Code (USC) for statutory law and Title 23 in the Code of Federal Regulations (CFR) for administrative law, as well as 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. Indemnification. To the extent permitted by law, the **Municipality** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **Municipality**, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- C. Confidentiality. Information pertaining to right-of-way negotiations, property appraisals and engineering estimates of construction costs shall be kept confidential in accordance with the provisions of Maine law (23 MRSA, Section 63.)
- D. Independent Capacity. The **Municipality**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- E. Flow Down. Contracts between the **Municipality** and all consultants, contractors or other third parties shall contain or incorporate by reference all applicable provisions of this Agreement.

- F. Set-Off. **MaineDOT** shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, without being limited to, the State of Maine's option to withhold for purposes of set-off any payment due to the **Municipality** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract for a term commencing before the effective date of this Agreement. **MaineDOT** shall exercise its set-off rights in accordance with standard state practices including – in case of set-off pursuant to an audit – the finalization of the audit by **MaineDOT** or the State Controller.
- G. No Assignment Without Approval. The **Municipality** shall not assign this Agreement to a third party or dispose of this Agreement without specific written consent from **MaineDOT**. In no case shall such action release the **Municipality** from liability under this Agreement.
- H. Binding Effect. The **Municipality** and **MaineDOT** shall be bound by the terms of this Agreement. This provision shall apply to the executors of this Agreement, their successors, administrators and legal representatives.

ARTICLE 6. TERMINATION

- A. FOR CAUSE. **MaineDOT** may terminate this Agreement for cause due to one or more events of default identified below. The **Municipality** will have a Cure Period of fourteen (14) calendar days after receiving a Notice of Default. If the **Municipality** fails to make a good-faith effort to correct all defaults within the Cure Period, **MaineDOT** may terminate this Agreement upon written Notice of Termination for Cause, with the following conditions:
1. The **Municipality** and all consultants and contractors working on the **Project** shall cease work immediately – except for work required to protect public health and safety – and turn over to **MaineDOT** all **Project** records within thirty (30) days of the termination date.
 2. If termination is the result of the **Municipality**'s failure to correct any occurrence of default, **MaineDOT** reserves the right to recover from the **Municipality** all reimbursements made in accordance with Article 3, "Financial Provisions."
 3. All federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **Municipality**, shall be made available to **BACTS** for reprogramming in accordance with Article 3.E once the **Project** is closed out.
- B. GROUNDS FOR DEFAULT. The **Municipality** shall be in default if the **Municipality**:
1. Fails to make satisfactory progress in developing the **Project** within twelve (12) months of the effective date of this Agreement.
 2. Withdraws from the **Project**, fails to raise required matching funds, or takes any other action that leads to cancelation of the **Project** or loss of eligibility of the **Project** for federal funding.
 3. Uses **Project** funds for a purpose other than what is authorized by this Agreement.
 4. Misrepresents or falsifies of any claim for reimbursement.
 5. Fails to meet standards of performance outlined in this Agreement.
 6. Breaches any material provision of this Agreement.

- C. FOR CONVENIENCE. This Agreement may be terminated for convenience by the **Parties**. Terminations for convenience are those undertaken for reasons not specifically defined as “default.” **MaineDOT** shall notify the **Municipality** through a written Notice of Termination for Convenience, with the following conditions:
1. If termination is for any reason other than failure by the **Municipality** to correct any occurrence of default, the **Municipality** shall be reimbursed for federally eligible work or service accomplished under this Agreement until the effective date of termination. The **Municipality’s** share of costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be deducted from amounts due to the **Municipality**.
 2. All **Project** records shall be turned over to **MaineDOT** within thirty (30) days of the date of the Notice of Termination for Convenience.
 3. All remaining funds in the **Project** shall be made available to **BACTS** for reprogramming once the **Project** is closed out.

ARTICLE 7. EXPIRATION

- A. All provisions of this Agreement – except for Article 4.B (records), Article 5.B (indemnification) and 5.C (confidentiality) – shall expire upon satisfactory completion of the terms of this Agreement or **four (4) years** from the final day of the month in which the undersigned **MaineDOT** representative executed this Agreement, whichever occurs first.
- B. The provisions of Article 5.B and Article 5.C shall remain in full effect until terminated in writing by the **Parties** or negated by law.

ARTICLE 8. DEBARMENT

- A. By signing this Agreement, the **Municipality** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency. If the **Municipality** is unable to certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **Municipality** shall notify **MaineDOT** promptly if it or any of its officers, agents and employees associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency.
- B. The **Municipality** agrees that it shall not hire a consultant or contractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state agency.

ARTICLE 9. AGREEMENT APPROVAL

Municipal Authorization: The undersigned municipal representative assures that the **Municipality’s** official legislative body has approved the **Project** and the **Municipality’s** entry into this Agreement, has appropriated or authorized the use of any necessary funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, **MaineDOT** and the **Municipality** have executed this Agreement in duplicate originals effective on the date last signed.

Municipality of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
William A. Pulver, P.E., Director,
Bureau of Project Development

Date: _____

Date: _____

I certify that foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my sole control.

ADDITIONAL MUNICIPAL SIGNATURES ARE REQUIRED ON APPENDIX A and B →

**APPENDIX A TO A LOCALLY ADMINISTERED PROJECT AGREEMENT:
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

The **Municipality of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act (“FFATA”) of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the Project exceeds \$25,000, an authorized representative from the **Municipality** shall sign this document under (B) below and return it with the Project Agreement. Additionally, the **Municipality** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five executives if:

- More than 80% of the City’s annual gross revenues are from the Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal Name and DUNS[®] Number on file with the Central Contractor Registration (CCR):

Municipality of Bangor, Maine
Sign and Print Legal CCR Name

07-173.9692
DUNS[®] Number

Authorized Representative: _____
Catherine M. Conlow, City Manager

**Appendix B to a Locally Administered Project Agreement:
Federal Highway Administration Civil Rights Assurance**

The **Municipality** HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance, it will ensure that:

1. No person on the basis of race, color, national origin, sex, age or disability will be subjected to discrimination in the level and quality of transportation services and transportation-related benefits.
2. The **Municipality** will compile, maintain, and submit in a timely manner Title VI information requested by the Maine Department of Transportation pursuant to 49 CFR Part 21.9.
3. The Maine **Municipality** will make it known to the public that those people or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transportation-related benefits may file a complaint with the Federal Highway Administration and/or the U.S. Department of Transportation.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

Authorized signatory

Date

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN 018579.00, Improvements to the Intersection of Griffin/Burleigh/Broadway

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design and construction work to install video detection equipment and realign the traffic signal heads at the intersection of Griffin Road, Burleigh Road, and Broadway.

The Maine Department of Transportation has approved federal and state funds in an amount not to exceed \$34,450.00 which includes a Federal share of \$27,560.00 or 80% of construction costs and a State share of funding of \$3,445.00 or 10% of construction costs or \$3,445.00 or 10% of construction costs. As part of that project, the City would need to enter into a local project agreement with the Maine Department of Transportation which have been reviewed and recommended for approval by the Infrastructure Committee at its November 25, 2014 meeting.

John Theriault, P.E.

Department Head

Manager's Comments:

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for

Passage CONSENT
 First Reading
 Referral

Page __ of __

DECEMBER 8, 2014



Assigned to Councilor

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Agreement for Maine Department of Transportation Local Project – WIN #018579.00, Improvements to the Intersection of Griffin/Burleigh/Broadway

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Improvements to the Intersection of Griffin/Burleigh/Broadway.

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
AMS ID #:	_____
CSN:	_____
PROGRAM:	<i>Multimodal (OUC 57000)</i>

MAINE DEPARTMENT OF TRANSPORTATION
Locally Administered Project Agreement
 With the
Municipality of Bangor
 Regarding
Improvements to the Intersection of Griffin/Burleigh/Broadway

Total Amount: <u>\$34,450.00</u>	WIN: <u>018579.00</u>
Federal Share: <u>\$27,560.00 (80%)</u>	Federal Project #: _____
State Share: <u>\$3,445.00 (10%)</u>	Scope: <u>Design and construction</u>
Municipal Share: <u>\$3,445.00 (10%)</u>	Vendor Customer #: <u>VC1000007010</u>
Effective Date: _____	Municipality's DUNS® Number: <u>07-173-9692</u>
Expiration Date: _____	CFDA #20.205: <u>Highway Planning & Construction</u>

This Agreement for local administration of a federal-aid project is between the Maine Department of Transportation, an agency of the State of Maine headquartered at 24 Child Street in Augusta, Maine (“**MaineDOT**”), and the Municipality of Bangor, a municipal corporation and body politic with its principal offices at 73 Harlow Street in Bangor, Maine (“the **Municipality.**”) **MaineDOT** and the **Municipality** are collectively referred to as “the **Parties.**”

- The following attachments are incorporated into this Agreement:
 - Appendix A: Federal Funding Accountability and Transparency Act Form (*signature required*);
 - Appendix B: Federal Highway Administration Civil Rights Assurance (*signature required*);
 - Appendix C: Requirements for operation and maintenance of traffic signals.

WHEREAS, the scope of work in Article 1.A was programmed for the **MaineDOT** capital program by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its offices at 12 Acme Road, Suite 102, in Brewer, Maine (“**BACTS**”); and

WHEREAS, the **Municipality** has raised local matching funds sufficient to cover its share of the estimated cost of design and construction work as described in Article 3, “Financial Provisions.”

NOW, in consideration of the foregoing, **MaineDOT** and the **Municipality** agree as follows:

ARTICLE 1. PROJECT OVERVIEW

- A. **SCOPE OF WORK.** Design and construction work to install video detection equipment and realign the traffic signal heads at the intersection of Griffin Road, Burleigh Road and Broadway, to be performed by or for the **Municipality** and accepted by **MaineDOT** (“the **Project.**”) Any substantial change to this scope of work shall require written approval from **BACTS** and **MaineDOT** to be eligible for federal and state funding.
- B. **FUNDING.** The estimated cost of the **Project** is thirty-four thousand four hundred fifty dollars (**\$34,450**) to be shared at the rates and terms described in Article 3.

- C. **ROLE OF MUNICIPALITY.** The **Municipality** shall take the lead in developing the **Project** and assign a full-time municipal employee with certification from **MaineDOT** to be responsible for the **Project**. If no employee is so certified, the **Municipality** shall send a representative to the next available certification training. At all times, this person shall administer the **Project** in accordance with the latest edition of **MaineDOT's** "Local Project Administration Manual."
- D. **ROLE OF MAINEDOT.** A Project Manager will be assigned to act on behalf of **MaineDOT**. This person or designee will have authority to approve or deny reimbursement requests; review and require revision of plans and specifications; inspect, reject and stop work; and take all other action necessary to ensure proper performance of this Agreement.

ARTICLE 2. PROJECT DEVELOPMENT

- A. **AUTHORIZATION.** The **Municipality** shall receive Authorization to Proceed from **MaineDOT** before starting work or executing a contract for services under this Agreement. All municipal costs incurred before authorization is given, or before a contract for services is executed, shall be ineligible for reimbursement. Ineligible costs shall not be credited toward the local match.
- B. **KICKOFF.** Before starting work, the **Municipality** shall review with **MaineDOT's** Project Manager the scope of work, estimated cost, schedule, and legal requirements for the **Project**. If necessary, the **Municipality** shall provide an updated schedule and cost estimate within a reasonable timeframe.
- C. **PROGRESS REPORTS.** The **Municipality** shall provide **MaineDOT** with monthly progress reports for the duration of the **Project** listing tasks completed, any changes in staffing, and any issues that could affect the schedule.
- D. **CONSULTANT SERVICES.** The **Municipality** may contract for consultant engineering services as necessary to develop and oversee the **Project**. In doing so, the **Municipality** shall:
1. Use qualifications-based selection and develop an independent government estimate of the price of the services, pursuant to federal regulation 23 CFR, Part 172.
 2. Obtain the **MaineDOT** Project Manager's written approval before awarding any contract.
 3. Ensure that all contracts are fully executed before incurring any costs against them.
 4. Ensure that "Consultant General Conditions for Local Public Agencies" govern all work, including insertion of Form FHWA-1273 and Civil Rights Assurances into every contract.
 5. Obtain **MaineDOT's** written approval before modifying any contract. **MaineDOT** reserves the right not to reimburse the **Municipality** for work covered by a modification executed without prior approval or for work performed before the effective date of a modification.
- E. **DESIGN WORK.** The **Municipality** or its contracted consultant shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with the latest versions of **MaineDOT's** *Highway Design Guide* and *Standard Specifications*, as follows:
1. The **Municipality** shall submit the preliminary (50-60%) and final (95-100%) plans and specifications to **MaineDOT** for review and comment.
 2. The **Municipality** shall address to **MaineDOT's** satisfaction any changes requested or concerns expressed before requesting construction authorization from **MaineDOT**.
 3. Advertising for construction bids or proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal and state funding.

- F. **QUALITY CONTROL.** The **Municipality** or its contracted consultant shall be responsible for the quality of the design plans, specifications and estimates for the **Project** using a documented quality-control process. Acceptance of the final Plans, Specifications and Estimate (PS&E) package by **MaineDOT** shall not relieve the **Municipality** or its consultant of responsibility for the quality of those engineering documents.
- G. **PUBLIC PARTICIPATION.** The **Municipality** shall provide the general public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be submitted to **MaineDOT** with the final PS&E package.
- H. **ENVIRONMENTAL PROCESS.** The **Municipality** or its contracted consultant shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- I. **PERMITS.** The **Municipality** or its contracted consultant shall obtain all required approvals, permits and licenses. Copies of all such documents an environmental certification (Letter 12) shall be submitted to **MaineDOT** with the final PS&E package.
- J. **UTILITIES.** The **Municipality** or its contracted consultant shall coordinate the **Project** with all utilities and submit the related documentation to **MaineDOT** with a utility certification (Letter 13) with the final PS&E package. Such work shall be done in accordance with **MaineDOT**'s "Utility Accommodation Policy."
- K. **RIGHT OF WAY.** If applicable, acquisition of right of way shall be handled as follows:
1. **MaineDOT** will acquire all rights to which the State of Maine ultimately will hold title. The **Parties** will determine at Project Kickoff whether **MaineDOT** or the **Municipality** will be responsible for preparing right-of-way plans, in accordance with **MaineDOT**'s standards. If **MaineDOT** will acquire rights, **MaineDOT** will be responsible for title examinations, appraisals, appraisal reviews, negotiations, acquisition, and right-of-way certification.
 2. The **Municipality** shall carry out the right-of-way process if the **Project** is not on an existing transportation facility that falls under the jurisdiction of the State of Maine. The **Municipality** shall follow the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act") and the **MaineDOT** "Right of Way Manual." Upon completion of acquisitions, the **Municipality** shall provide the following:
 - a) A right-of-way map or similar plan detailing all right-of-way acquired for, donated to or dedicated to the **Project**; and
 - b) A written certification (Letter 10) that all such rights have been acquired in conformity with the "Uniform Act" before requesting authorization to advertise for construction bids.
- L. **FORCE ACCOUNT.** If the **Municipality** intends to construct the **Project** with its municipal work force or to furnish materials for the **Project**, the **Municipality** shall obtain **MaineDOT**'s written authorization before proceeding. If so authorized to use a "force account" process, the **Municipality** shall comply with the applicable regulations – 23 CFR, Parts 635.201 to 635.205.
- M. **SOLICITATION OF BIDS.** Competitive bidding shall be used to procure a contractor unless a "force account" process is authorized. The **Municipality** shall solicit for bids upon **MaineDOT**'s written authorization in accordance with the final, approved plans and specifications as follows:

1. The **Municipality** shall follow the procedures in **MaineDOT**'s "Standard Specifications" and adhere to all applicable federal requirements, unless otherwise authorized by **MaineDOT**.
 2. The **Municipality** and **MaineDOT** shall have the right to accept or reject any bid submitted.
 3. The **Municipality** shall not award a contract without **MaineDOT**'s written approval.
- N. **CONTRACT AWARD**. Upon **MaineDOT**'s written approval, the **Municipality** shall award a construction contract to the lowest responsive, responsible bidder as follows:
1. The **Municipality** shall administer the contract for the duration of the **Project**.
 2. Form FHWA-1273 shall be physically incorporated into the contract.
 3. The contract shall specify that the **Project** comply with the latest version of **MaineDOT**'s "Standard Specifications" and applicable special provisions.
- O. **CONSTRUCTION**. The **Municipality** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in or affected by the construction process. During the work, the **Municipality** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**'s satisfaction in accordance with the plans, specifications and provisions of the contract, as follows:
1. The **Municipality** shall use procedures acceptable to **MaineDOT** to document the quantity and quality of all construction-related work. The **Municipality** shall retain all documentation as provided under Article 4.
 2. The **Municipality** or its contracted consultant shall be responsible for coordinating all materials testing necessary to meet the Minimum Testing Requirements for the **Project**, in compliance with 23 CFR, Part 637, "Quality Assurance Procedures for Construction." Test results shall be provided to **MaineDOT** upon request.
 3. Any contract modification shall be submitted to **MaineDOT** for review and comment before it is executed. *MaineDOT reserves the right not to reimburse the **Municipality** for work associated with a contract modification executed without **MaineDOT**'s prior review.*
 4. Vehicular traffic in work zones shall be controlled in accordance with Part VI of the federal Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).
 5. If applicable, the **Municipality** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
 6. Upon completion, the **Municipality** shall provide compliance certification that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the approved plans, specifications and provisions of the contract.
- P. **MAINEDOT OVERSIGHT**. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and may withhold reimbursement to the **Municipality** for any such work or materials.
- Q. **MAINTENANCE**. Upon completion, the **Municipality** shall operate and maintain the improvements under the terms of Appendix C, "Operation and Maintenance of Traffic Signals."

ARTICLE 3. FINANCIAL PROVISIONS

- A. **MAINEDOT SHARE.** **MaineDOT**, using federal and state resources programmed by **BACTS**, will reimburse the **Municipality** for ninety percent (**90%**) of **Project** expenditures incurred that are deemed eligible for such funding, not to exceed thirty-one thousand five dollars (**\$31,005.**)
- B. **LOCAL SHARE.** The **Municipality** shall share in all **Project** expenditures deemed eligible for federal and state funding at the rate of ten percent (**10%**), or an estimated three thousand four hundred forty-five dollars (**\$3,445.**) The **Municipality** shall be fully responsible for all costs deemed ineligible for federal-aid funding and all costs exceeding the maximum reimbursement under Article 3.A, unless **MaineDOT** approves otherwise in writing.
- C. **MAINEDOT COSTS.** All costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be paid for out of the **Project**, including but not limited to design reviews, environmental work, utility support, right-of-way support, and construction engineering. The **Municipality** shall share in these costs commensurate with its overall portion of the **Project** identified in Article 3.B. **MaineDOT** will reconcile these costs upon completion of the **Project** and shall deduct the **Municipality's** share of them from the **Municipality's** final billing.
- D. **REIMBURSEMENT.** The **Municipality** may request reimbursement from **MaineDOT** periodically for **MaineDOT's** share of **Project** expenditures incurred that are deemed eligible for federal-aid funding, up to the maximum in Article 3.A. Invoices shall be submitted to **MaineDOT** no more than monthly, subject to these conditions:
1. Invoices shall be submitted on the **Municipality's** letterhead and reference WIN 018579.00.
 2. Each invoice shall be accompanied by a progress report in accordance with Article 2.C.
 3. Each invoice shall contain an itemized account of expenditures incurred during the period covered by the invoice, consistent with the approved budget for the **Project**. Backup documentation and proof of payment made shall accompany each invoice.
 4. Each invoice shall have an accumulative total and a breakdown of **MaineDOT's** and the **Municipality's** shares of **Project** costs.
 5. Each invoice shall include a certification from the **Municipality** that all amounts claimed are correct, due and not claimed previously.
 6. No invoice shall be submitted for less than one thousand dollars (\$1,000) unless such invoice is the final invoice being submitted for reimbursement.
 7. Payment of the final invoice shall be subject to a final inspection of the completed **Project** to determine the acceptability of the work.
 8. **MaineDOT** may withhold **Project** reimbursements owed to the **Municipality** to recover previous amounts paid for actions or activities that subsequently are deemed to have been ineligible for federal-aid funding.
- E. **REPAYMENT.** If the **Municipality** withdraws its public or financial support for the **Project**, leading **MaineDOT** to cancel the **Project** and terminate this Agreement, **MaineDOT** reserves the right to require the **Municipality** to refund all reimbursements made and to repay **MaineDOT** fully for all **Project** costs incurred. All federal and state funds returned to **MaineDOT** by the **Municipality**, as well as all federal and state funds remaining in the **Project**, shall be made available to **BACTS** for reprogramming once the **Project** is closed out.

- F. **REMAINING FUNDS.** Any federal and state funds remaining in the **Project** upon payment of the final invoice shall be made available to **BACTS** once the **Project** is closed out.

ARTICLE 4. PROJECT RECORDS AND AUDIT

- A. **Ownership.** **Project** records shall consist of all plans, specifications, contracts, reports, notes, or other tangible work arising from this Agreement, prepared either by or for the **Municipality**. All such records shall be considered the property of **MaineDOT** and turned over to **MaineDOT** upon request after the completion or termination of the **Project**. The **Municipality** shall be allowed an interest commensurate with its share of **Project** costs.
- B. **Retention.** The **Municipality** shall retain all printed and electronic records associated with the **Project** for a minimum of **four (4) years** from the date of **MaineDOT**'s acceptance of the **Municipality**'s final invoice. If any litigation, claim, negotiation, audit or other action involving such records has begun before the expiration of this four (4) year period, all records shall be retained at least until all action and resolution of all issues arising from it are complete.
- C. **Access.** The **Municipality** shall keep **Project** records in such form as may be easily audited. The **Municipality** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** documents at reasonable times. Copies of requested records shall be furnished at no cost.
- D. **Audit.** Audits shall meet the "Generally Accepted Government Auditing Standards." The **Municipality** shall assure that all applicable audit requirements are met in accordance with federal Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments and Non-Profit Organizations."

ARTICLE 5. GENERAL PROVISIONS

- A. **Governing Law.** This Agreement is made and shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement will be subject to applicable federal laws and regulations, including but not limited to Title 23 in the United States Code (USC) for statutory law and Title 23 in the Code of Federal Regulations (CFR) for administrative law, as well as 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. **Indemnification.** To the extent permitted by law, the **Municipality** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **Municipality**, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- C. **Confidentiality.** Information pertaining to right-of-way negotiations, property appraisals and engineering estimates of construction costs shall be kept confidential in accordance with the provisions of Maine law (23 MRSA, Section 63.)
- D. **Independent Capacity.** The **Municipality**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.

- E. Set-Off. **MaineDOT** shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, without being limited to, the State of Maine's option to withhold for purposes of set-off any payment due to the **Municipality** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract for a term commencing before the effective date of this Agreement. **MaineDOT** shall exercise its set-off rights in accordance with standard state practices including – in case of set-off pursuant to an audit – the finalization of the audit by **MaineDOT** or the State Controller.
- F. Flow Down. Contracts between the **Municipality** and all consultants, contractors or other third parties shall contain or incorporate by reference all applicable provisions of this Agreement.
- G. No Assignment Without Approval. The **Municipality** shall not assign this Agreement to a third party or dispose of this Agreement without specific written consent from **MaineDOT**. In no case shall such action release the **Municipality** from liability under this Agreement.
- H. Binding Effect. The **Municipality** and **MaineDOT** shall be bound by the terms of this Agreement. This provision shall apply to the executors of this Agreement, their successors, administrators and legal representatives.

ARTICLE 6. TERMINATION

- A. FOR CAUSE. **MaineDOT** may terminate this Agreement for cause due to one or more events of default identified below. The **Municipality** will have a Cure Period of fourteen (14) calendar days after receiving a Notice of Default. If the **Municipality** fails to make a good-faith effort to correct all defaults within the Cure Period, **MaineDOT** may terminate this Agreement upon written Notice of Termination for Cause, with the following conditions:
 - 1. The **Municipality** and all consultants and contractors working on the **Project** shall cease work immediately – except for work required to protect public health and safety – and turn over to **MaineDOT** all **Project** records within thirty (30) days of the termination date.
 - 2. If termination is the result of the **Municipality's** failure to correct any occurrence of default, **MaineDOT** reserves the right to recover from the **Municipality** all reimbursements made in accordance with Article 3, "Financial Provisions."
 - 3. All federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **Municipality**, shall be made available to **BACTS** for reprogramming in accordance with Article 3.E once the **Project** is closed out.
- B. GROUNDS FOR DEFAULT. The **Municipality** shall be in default if the **Municipality**:
 - 1. Fails to make satisfactory progress in developing the **Project** within twelve (12) months of the effective date of this Agreement.
 - 2. Withdraws from the **Project**, fails to raise required matching funds, or takes any other action that leads to cancelation of the **Project** or loss of eligibility of the **Project** for federal funding.
 - 3. Uses **Project** funds for a purpose other than what is authorized by this Agreement.
 - 4. Misrepresents or falsifies of any claim for reimbursement.
 - 5. Fails to meet standards of performance outlined in this Agreement.
 - 6. Breaches any material provision of this Agreement.

- C. FOR CONVENIENCE. This Agreement may be terminated for convenience by the **Parties**. Terminations for convenience are those undertaken for reasons not specifically defined as “default.” **MaineDOT** shall notify the **Municipality** through a written Notice of Termination for Convenience, with the following conditions:
1. If termination is for any reason other than failure by the **Municipality** to correct any occurrence of default, the **Municipality** shall be reimbursed for federally eligible work or service accomplished under this Agreement until the effective date of termination. The **Municipality’s** share of costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be deducted from amounts due to the **Municipality**.
 2. All **Project** records shall be turned over to **MaineDOT** within thirty (30) days of the date of the Notice of Termination for Convenience.
 3. All remaining funds in the **Project** shall be made available to **BACTS** for reprogramming once the **Project** is closed out.

ARTICLE 7. EXPIRATION

- A. All provisions of this Agreement – except for Article 2.Q (maintenance), Article 4.B (records), Article 5.B (indemnification) and 5.C (confidentiality) – shall expire upon satisfactory completion of the terms of this Agreement or **five (5) years** from the final day of the month in which the undersigned **MaineDOT** representative executed this Agreement, whichever occurs first.
- B. The provisions of Article 5.B and Article 5.C shall remain in full effect until terminated in writing by the Parties to this Agreement or negated by law.

ARTICLE 8. DEBARMENT

- A. By signing this Agreement, the **Municipality** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency. If the **Municipality** is unable to certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **Municipality** shall notify **MaineDOT** promptly if it or any of its officers, agents and employees associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency.
- B. The **Municipality** agrees that it shall not hire a consultant or contractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state agency.

ARTICLE 9. AGREEMENT APPROVAL

Municipal Authorization: The undersigned municipal representative assures that the **Municipality’s** official legislative body has approved the **Project** and the **Municipality’s** entry into this Agreement, has appropriated or authorized the use of any necessary funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, **MaineDOT** and the **Municipality** have executed this Agreement in duplicate originals effective on the date last signed.

Municipality of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
William A. Pulver, P.E., Director,
Bureau of Project Development

Date: _____

Date: _____

I certify that foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my sole control.

ADDITIONAL MUNICIPAL SIGNATURES ARE REQUIRED ON APPENDIX A and B →

**APPENDIX A TO A LOCALLY ADMINISTERED PROJECT AGREEMENT:
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

The **Municipality of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act (“FFATA”) of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the Project exceeds \$25,000, an authorized representative from the **Municipality** shall sign this document under (B) below and return it with the Project Agreement. Additionally, the **Municipality** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five executives if:

- More than 80% of the City’s annual gross revenues are from the Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal Name and DUNS® Number on file with the Central Contractor Registration (CCR):

Municipality of Bangor, Maine

07-173.9692

Sign and Print Legal CCR Name

DUNS® Number

Authorized Representative: _____
Catherine M. Conlow, City Manager

**Appendix B to a Locally Administered Project Agreement:
Federal Highway Administration Civil Rights Assurance**

The **Municipality** HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance, it will ensure that:

1. No person on the basis of race, color, national origin, sex, age or disability will be subjected to discrimination in the level and quality of transportation services and transportation-related benefits.
2. The **Municipality** will compile, maintain, and submit in a timely manner Title VI information requested by the Maine Department of Transportation pursuant to 49 CFR Part 21.9.
3. The Maine **Municipality** will make it known to the public that those people or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transportation-related benefits may file a complaint with the Federal Highway Administration and/or the U.S. Department of Transportation.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

Authorized signatory

Date

APPENDIX C TO A LOCALLY ADMINISTERED PROJECT AGREEMENT: OPERATION & MAINTANCE OF TRAFFIC SIGNALS

- A. The **Municipality** 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 **Municipality** 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 **Municipality** 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 **Municipality** 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**.

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN 020401.00, Preliminary Engineering for Resurfacing Portion of Broadway

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for preliminary engineering work for a resurfacing of a portion of Broadway, starting 0.04 mile south of the entrance road to People’s United Bank (near Husson Avenue) and continuing northerly for 2.60 miles.

The Maine Department of Transportation has approved federal and state funds in an amount not to exceed \$22,000.00 which includes a Federal share of \$17,600.00 or 80% of construction costs and a State share of funding of \$4,400.00 or 20% of construction costs. As part of that project, the City would need to enter into a local project agreement with the Maine Department of Transportation which have been reviewed and recommended for approval by the Infrastructure Committee at its November 25, 2014 meeting.

John Theriault, P.E.
Department Head

Manager's Comments:

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for
 Passage CONSENT
 First Reading
 Referral

DECEMBER 8, 2014



Assigned to Councilor

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Agreement for Maine Department of Transportation Local Project – WIN #020401.00, Preliminary Engineering for Resurfacing of a Portion of Broadway

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Preliminary Engineering for Resurfacing of a Portion of Broadway.

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
AMS ID #:	_____
CSN:	_____
PROGRAM:	<i>Multimodal (OUC 57000)</i>

**MAINE DEPARTMENT OF TRANSPORTATION
Locally Administered Project Agreement**

With the
Municipality of Bangor
Regarding
Preliminary Engineering for Resurfacing of a Portion of Broadway

Total Amount: <u>\$22,000.00</u>	MaineDOT WIN: <u>020401.00</u>
Federal Share: <u>\$17,600.00 (80%)</u>	Federal Project #: _____
State Share: <u>\$4,400.00 (20%)</u>	Scope: <u>Design</u>
Municipal Share: <u>\$0.00</u>	Vendor #: <u>VC1000007010</u>
Effective Date: _____	Municipality's DUNS® Number: <u>07-173-9692</u>
Expiration Date: _____	CFDA #20.205: <u>Highway Planning & Construction</u>

This Agreement for local administration of a federal-aid project is between the Maine Department of Transportation, an agency of the State of Maine headquartered at 24 Child Street in Augusta, Maine (“**MaineDOT**”), and the Municipality of Bangor, a municipal corporation and body politic with its principal offices at 73 Harlow Street in Bangor, Maine (“the **Municipality.**”) **MaineDOT** and the **Municipality** are collectively referred to as “the **Parties.**”

- The following attachments are incorporated into this Agreement:
 - Appendix A: Federal Funding Accountability and Transparency Act Form (*signature required*);
 - Appendix B: Federal Highway Administration Civil Rights Assurance (*signature required*.)

WHEREAS, the scope of work described herein was selected for federal and state funding and for inclusion in **MaineDOT**'s 2015-2016 capital program; and

WHEREAS, **MaineDOT** has authorized the **Municipality** to administer the work at the local level.

NOW, in accordance with the stipulations and conditions herein, the **Parties** agree as follows:

ARTICLE 1. PROJECT OVERVIEW

- A. SCOPE OF WORK. Preliminary engineering work for a resurfacing of a portion of Broadway, starting 0.04 mile south of the entrance road to People's United Bank (near Husson Avenue) and continuing northerly for 2.60 miles, to be performed by or for the **Municipality** and accepted by **MaineDOT** (“the **Project.**”) Any substantial change to this scope of work shall require **MaineDOT**'s written approval to be eligible for funding from **MaineDOT**.
- B. FUNDING. The estimated cost of the scope of work is twenty-two thousand dollars (**\$22,000**) to be shared at the rates and terms described in Article 3.
- C. ROLE OF MUNICIPALITY. The **Municipality** shall take the lead in developing the **Project** and assign a full-time employee with required certification from **MaineDOT** to be responsible for the **Project**. This Local Project Administrator shall follow the policies and procedures in the latest edition of **MaineDOT**'s “Local Project Administration Manual.”

D. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to carry out the State's responsibilities regarding the **Project**. This person or his/her designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject any invoice; review construction activities to ensure compliance with approved contract documents; and take all other action necessary to ensure the proper performance of this agreement.

ARTICLE 2. PROJECT DEVELOPMENT

- A. AUTHORIZATION. The **Municipality** shall receive Authorization to Proceed from **MaineDOT** before starting work or executing a contract for services under this Agreement. All municipal costs incurred before authorization is given, or before a contract for services is executed, shall be ineligible for reimbursement. Ineligible costs shall not be credited toward the local match.
- B. PROJECT KICKOFF. Before starting work, the **Municipality** shall review with **MaineDOT's** Project Manager the scope of work, estimated cost, schedule, and legal requirements for the **Project**. If necessary, the **Municipality** shall provide an updated schedule and cost estimate.
- C. PROGRESS REPORTS. The **Municipality** shall provide **MaineDOT** with monthly progress reports for the duration of the **Project** listing tasks completed, any changes in staffing, and any issues that could affect the schedule.
- D. CONSULTANT SERVICES. The **Municipality** may contract for consultant engineering services as necessary to develop the **Project**. In doing so, the **Municipality** shall:
1. Use qualifications-based selection and develop an independent government estimate of the price of the services, pursuant to federal regulation 23 CFR, Part 172.
 2. Obtain the **MaineDOT** Project Manager's written approval before awarding any contract.
 3. Ensure that all contracts are fully executed before incurring any costs against them.
 4. Ensure that "Consultant General Conditions for Local Public Agencies" govern all work, including insertion of Form FHWA-1273 and Civil Rights Assurances into every contract.
 5. Obtain **MaineDOT's** written approval before modifying any contract. **MaineDOT** reserves the right not to reimburse the **Municipality** for work covered by a modification executed without prior approval or for work performed before the effective date of a modification.
- E. DESIGN WORK. The **Municipality** or its contracted consultant shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with the latest versions of **MaineDOT's** *Highway Design Guide* and *Standard Specifications*, as follows:
1. The **Municipality** shall submit the preliminary (50-60%) and final (95-100%) plans and specifications to **MaineDOT** for review and comment.
 2. The **Municipality** shall address to **MaineDOT's** satisfaction any changes requested or concerns expressed before requesting construction authorization from **MaineDOT**.
 3. Advertising for construction bids or otherwise proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
- F. QUALITY CONTROL. The **Municipality** or its contracted consultant shall be responsible for the quality of the design plans, specifications and estimates for the **Project** using a documented quality-control process. Acceptance of the final Plans, Specifications and Estimate (PS&E) package by **MaineDOT** shall not relieve the **Municipality** or its consultant of responsibility for the quality of those engineering documents.

- G. PUBLIC PARTICIPATION. The **Municipality** shall provide the general public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is suitable for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be submitted to **MaineDOT** with the final PS&E package.
- H. ENVIRONMENTAL PROCESS. The **Municipality** or its contracted consultant shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- I. PERMITS. The **Municipality** or its contracted consultant shall obtain all required approvals, permits and licenses. Copies of all such documents an environmental certification (Letter 12) shall be submitted to **MaineDOT** with the final PS&E package.
- J. UTILITIES. The **Municipality** or its contracted consultant shall coordinate the **Project** with all utilities and submit documentation to **MaineDOT** with a utility certification (Letter 13) with the final PS&E package. **MaineDOT**'s revised Utility Accommodation Rules (October 2014) shall apply to offsets for any utility relocations required for the **Project**.
- K. RIGHT OF WAY. If applicable, **MaineDOT** will acquire all right-of-way necessary for the **Project** and will carry out the right-of-way process in coordination with the **Municipality**.

ARTICLE 3. FINANCIAL PROVISIONS

- A. MAINEDOT SHARE. **MaineDOT** will reimburse the **Municipality** for one hundred percent (**100%**) of **Project** expenditures eligible for federal and state funding, not to exceed twenty-two thousand dollars (**\$22,000.**)
- B. LOCAL SHARE. The **Municipality** shall be responsible for any costs not eligible for reimbursement and all expenditures exceeding the maximum reimbursement in Article 3.A, unless **MaineDOT** approves otherwise in writing through a modification to this Agreement.
- C. MAINEDOT COSTS. All costs incurred by **MaineDOT** staff in the development and oversight of the **Project** shall be paid for out of the **Project**, including but not limited to design reviews, environmental work, utility support, right-of-way coordination, and construction engineering. The **Municipality** shall share in these costs commensurate with its portion of the **Project** identified in Article 3.B. **MaineDOT** will reconcile these costs upon completion of the **Project**.
- D. REIMBURSEMENT. The **Municipality** may seek reimbursement from **MaineDOT** periodically for **Project** expenditures eligible for federal and state funding, up to the maximum in Article 3.A. Invoices shall be submitted to **MaineDOT** no more than monthly, subject to these conditions:
1. Invoices shall be submitted on the **Municipality**'s letterhead and reference WIN 20401.00.
 2. Each invoice shall be accompanied by a progress report in accordance with Article 2.C.
 3. Each invoice shall contain an itemized account of expenditures incurred during the period covered by the invoice, consistent with the approved budget for the **Project**. Backup documentation and proof of payment made shall accompany each invoice.
 4. Each invoice shall include a certification from the **Municipality** that all amounts claimed are correct, due and not claimed previously.

5. No invoice shall be submitted for less than one thousand dollars (\$1,000) unless such invoice is the final invoice being submitted for reimbursement.
 6. **MaineDOT** may withhold requested payments to the **Municipality** to recover previous reimbursements made for expenditures subsequently deemed to have been ineligible for federal or state funding.
- E. **NON-APPROPRIATION.** While the execution of this Agreement manifests **MaineDOT's** intent to fulfill its financial obligations, such obligations are subject to budgetary appropriations. If **MaineDOT** receives insufficient resources to support this **Project**, if funds are de-appropriated, or if **MaineDOT** does not receive the authority to spend money programmed for this **Project**, **MaineDOT** shall be released from its obligation to make payment under this Agreement.

ARTICLE 4. PROJECT RECORDS AND AUDIT

- A. **Ownership.** **Project** records shall consist of all printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **Municipality**. All such records shall be considered the property of **MaineDOT** and provided to **MaineDOT** upon request after the completion or termination of the **Project**. The **Municipality** shall be allowed an interest commensurate with its share of **Project** costs.
- B. **Retention.** The **Municipality** shall retain all **Project** records for at least **four (4) years** from the date of **MaineDOT's** acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this four (4) year period, all **Project** records shall be kept at least until all action and resolution of all issues arising from it are complete.
- C. **Access.** The **Municipality** shall keep **Project** records in such form as may be easily audited. The **Municipality** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** documents at reasonable times. Copies of requested records shall be furnished at no cost.
- D. **Audits.** The **Municipality** shall adhere to the provisions of Office of Management and Budget (OMB) circular A-133, "Audits of States, Local Governments and Non-Profit Organizations."

ARTICLE 5. GENERAL PROVISIONS

- A. **Governing Law.** This Agreement is made and shall be construed under the laws of the State of Maine. Additionally, all activities under this Agreement will be subject to applicable federal laws and regulations, including but not limited to Title 23 in the United States Code (USC) for statutory law and Title 23 in the Code of Federal Regulations (CFR) for administrative law, as well as 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. **Indemnification.** To the extent permitted by law, the **Municipality** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **Municipality**, its officials, employees, agents, consultants or contractors. Nothing herein shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*

- C. Confidentiality. Information pertaining to right-of-way negotiations, property appraisals and engineering estimates of construction costs shall be kept confidential in accordance with the provisions of Maine law (23 MRSA, Section 63.)
- D. Equal Employment Opportunity. The **Municipality** shall meet applicable EEO requirements:
1. The **Municipality** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age or physical handicap unless related to a bona fide occupational qualification. The **Municipality** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or physical handicap during any period of employment under this Agreement. Such action shall include, but not be limited to: employment, upgrading, demotions, transfers, recruitment, layoffs or terminations, rates of pay or other forms of compensation and selection for all forms of training and apprenticeships. The **Municipality** shall post prominently in places readily available to all employees and applicants for such employment under this Agreement notices setting forth the provisions of this paragraph.
 2. In all solicitations or advertising for employees relating to work done under this Agreement, the **Municipality** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age or physical handicap.
 3. The **Municipality** shall send to each representative of any of its employees covered by a collective-bargaining agreement – or any other contract or understanding under which labor or services are to be furnished under this Agreement – a notice advising of the **Municipality**'s commitment under this Article and shall post copies prominently in places readily available to all such employees and applicants for employment.
 4. The **Municipality** shall include all of the foregoing equal employment opportunity provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **Municipality** or any of its consultants and contractors shall list all suitable employment openings with the Maine Job Service. *This provision shall not apply to employment openings that the **Municipality** or any of its consultants and contractors propose to fill from within their own organizations.*
- E. Independent Capacity. The **Municipality**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- F. Flow Down. Contracts between the **Municipality** and all consultants, contractors or other third parties shall contain or incorporate by reference all applicable provisions of this Agreement.
- G. No Assignment Without Approval. The **Municipality** shall not assign this Agreement to a third party or dispose of this Agreement without specific written consent from **MaineDOT**. In no case shall such action release the **Municipality** from liability under this Agreement.
- H. Binding Effect. The **Parties** shall be bound by the terms of this Agreement. This provision shall apply to the Agreement's executors, their successors, administrators and legal representatives.

ARTICLE 6. TERMINATION

- A. FOR CAUSE. **MaineDOT** may terminate this Agreement for cause in case of one or more occurrences of default defined in section 6.B. The **Municipality** will have a cure period of fourteen (14) calendar days after receiving Notice of Default. If the **Municipality** fails to make a good-faith effort to correct all defaults within the cure period, **MaineDOT** shall terminate this Agreement upon written Notice of Termination for Cause, with the following conditions:
1. The **Municipality** shall stop work immediately – except for work required to protect public health and safety – and turn over to **MaineDOT** all **Project** records within thirty (30) days of the termination date.
 2. If termination is the result of the **Municipality's** failure to correct any occurrence of default, **MaineDOT** reserves the right to recover from the **Municipality** all reimbursements made and **Project** costs incurred.
 3. The **Municipality** shall forfeit all unspent funds from **MaineDOT** remaining in the **Project**.
- B. GROUNDS FOR DEFAULT. The **Municipality** shall be in default if the **Municipality**:
1. Fails to make satisfactory progress in developing the **Project** within twelve (12) months of the effective date of this Agreement.
 2. Takes any action without concurrence from **MaineDOT** that renders the **Project** ineligible for federal funding.
 3. Uses **Project** funds for a purpose other than what is authorized by this Agreement.
 4. Misrepresents or falsifies of any claim for reimbursement.
 5. Fails to meet standards of performance outlined in this Agreement.
 6. Breaches any material provision of this Agreement.
- C. FOR CONVENIENCE. The **Parties** may terminate this Agreement at any time for convenience for any reason not defined as “default.” **MaineDOT** shall notify the **Municipality** through a Notice of Termination for Convenience, with the following conditions:
1. If termination is for any reason other than failure by the **Municipality** to correct any occurrence of default, the **Municipality** will be reimbursed for acceptable, federally eligible work or service accomplished under this Agreement until the effective date of termination. The **Municipality's** share of costs incurred by **MaineDOT** personnel in the development and oversight of the **Project** shall be deducted from amounts due to the **Municipality**.
 2. All **Project** records shall be turned over to **MaineDOT** within thirty (30) days of the date of the Notice of Termination for Convenience.
 3. **MaineDOT** will retain all unspent federal funds in the **Project** for reprogramming.

ARTICLE 7. EXPIRATION

All provisions of this Agreement – except for Article 4.B (records), Article 5.B (indemnification) and 5.C (confidentiality) – shall expire upon satisfactory completion of the terms of this Agreement or **two (2) years** from the final day of the month in which this Agreement was executed, whichever occurs first. The provisions of articles 5.B and 5.C shall remain in place until specifically terminated in writing by the **Parties** or negated by law.

ARTICLE 8. DEBARMENT

- A. By signing this Agreement, the **Municipality** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency. If the **Municipality** is unable to certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **Municipality** shall notify **MaineDOT** promptly if it or any of its officers, agents and employees associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal or state agency.

- B. The **Municipality** agrees that it shall not hire a consultant or contractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state agency.

ARTICLE 9. AGREEMENT APPROVAL

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

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

Municipality of Bangor

Maine Department of Transportation

By: _____
Catherine M. Conlow, City Manager

By: _____
William A. Pulver, P.E., Director,
Bureau of Project Development

Date: _____

Date: _____

I certify that foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my sole control.

ADDITIONAL MUNICIPAL SIGNATURES ARE REQUIRED ON APPENDIX A and B →

**APPENDIX A TO A LOCALLY ADMINISTERED PROJECT AGREEMENT:
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**

The **Municipality of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act (“FFATA”) of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the Project exceeds \$25,000, an authorized representative from the **Municipality** shall sign this document under (B) below and return it with the Project Agreement. Additionally, the **Municipality** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five executives if:

- More than 80% of the City’s annual gross revenues are from the Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal Name and DUNS® Number on file with the Central Contractor Registration (CCR):

Municipality of Bangor, Maine

07-173.9692

Sign and Print Legal CCR Name

DUNS® Number

Authorized Representative: _____
Catherine M. Conlow, City Manager

**Appendix B to a Locally Administered Project Agreement:
Federal Highway Administration Civil Rights Assurance**

The **Municipality** HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance, it will ensure that:

1. No person on the basis of race, color, national origin, sex, age or disability will be subjected to discrimination in the level and quality of transportation services and transportation-related benefits.
2. The **Municipality** will compile, maintain, and submit in a timely manner Title VI information requested by the Maine Department of Transportation pursuant to 49 CFR Part 21.9.
3. The Maine **Municipality** will make it known to the public that those people or persons alleging discrimination on the basis of race, color, or national origin as it relates to the provision of transportation services and transportation-related benefits may file a complaint with the Federal Highway Administration and/or the U.S. Department of Transportation.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

Authorized signatory

Date

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: ORDER, Authorizing Execution of Cooperative Agreement for Maine Department of Transportation Project – The Bangor Exit 186 Intersection Study, Federal Project No. 1010M55E, State Project No. 018597.00

Responsible Department: Engineering

Commentary: This order would authorize the City Manager to execute a Cooperative Agreement with the Maine Department of Transportation for analyzing the feasibility of lifting the prohibition of left turns from I-95 Exit 186 onto Stillwater Avenue and developing recommendations for the intersection of Exit 186 and Stillwater Avenue. The State has outlined the following proposed project schedule tasks:

1. Kickoff, December 2014
2. Review Available Data, December 2014
3. Initial Public Input, January 2015
4. Assessment-Current & Future, January 2015
5. Development & Recommendations, February – March 2015
6. Public Feedback, April 2015
7. Interagency Meeting Presentation, May 2015
8. Final Report, June 2015

The Maine Department of Transportation has approved federal and state funds in an amount not to exceed \$15,000.00, which includes a Federal share of \$6,000.00 or 40% of costs, State share of \$1,500.00 or 10% of costs, and a City share of funding of \$7,500.00 or 50% of costs. As part of that project, the City would need to enter into a Cooperative Agreement with the Maine Department of Transportation which have been reviewed and recommended for approval by the Infrastructure Committee at its November 25, 2014 meeting.

John Theriault, P.E.

Department Head

Manager's Comments:

City Manager

Associated Information: Councilor Order and Agreement

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for
 Passage CONSENT
 First Reading
 Referral

Page __ of __

DECEMBER 8, 2014



Assigned to Councilor

CITY OF BANGOR

(TITLE.) ORDER, Authorizing the Execution of Cooperative Agreement for Maine Department of Transportation Project – The Bangor Exit 186 Intersection Study, Federal Project No. 1010M55E, State Project No. 018597.00

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

A Cooperative Agreement with the Maine Department of Transportation – The Bangor Exit 186 Intersection Study, Federal Project No. 1010M55E, State Project No. 018597.00.

Copy of the agreement is attached.



<i>Internal use only</i>	
TEDOCS #:	_____
CTM #:	_____
CSN #:	_____
PROGRAM:	<i>Bureau of Planning</i>

STATE OF MAINE DEPARTMENT OF TRANSPORTATION
COOPERATIVE AGREEMENT

REGARDING

THE BANGOR EXIT 186 INTERSECTION STUDY

Federal Project No. 1010M55E, State Project No. 018597.00

This Cooperative Agreement (AGREEMENT) is entered into by and between the **MAINE DEPARTMENT OF TRANSPORTATION ("MaineDOT")**, an agency of state government with its principal administrative offices located on Child Street, Augusta, Maine, and the **City of Bangor ("City")**, a Municipal agency with its principal administrative offices located at **73 Harlow Street, Bangor, ME 04401**, hereafter the **"Parties"**.

WHEREAS, the Project consists of analyzing the feasibility of lifting the prohibition of left turns from I-95 Exit 186 onto Stillwater Avenue and developing recommendations for the intersection of Exit 186 and Stillwater Avenue ("Project").

WHEREAS, The City and the MaineDOT share a mutual interest in this Project.

WHEREAS, MaineDOT will perform the traffic analysis in support of the Project between the execution date of this AGREEMENT and August 30, 2015 at which time this AGREEMENT will expire.

WHEREAS, MaineDOT estimates the total Project cost at \$15,000.00.

WHEREAS, as administrator of this Agreement, MaineDOT agrees to pay all Project costs subject to cost sharing by the City as specified below.

Work Element	City Share	Federal & State Project Shares		Total Cost
		Federal Portion	MaineDOT (State) Portion	
Bangor Exit 186 Intersection Study	\$7,500.00	\$6,000.00	\$1,500.00	\$15,000.00

Payment Schedule:

Entity Name	Estimated Payment Amount	Estimated Invoice Date
City of Bangor	\$3,750.00	December 15, 2014
City of Bangor	\$3,750.00	July 15, 2015

NOW THEREFORE, the Parties hereby agree as follows: (The following information provides the scope of work for the services that MaineDOT will perform under this AGREEMENT.)

It is the intent of the Parties that the City shall pay no more than one-half of the cost of the Project to a maximum of \$7,500.00, unless the Parties agree to a modification of the Agreement to increase the Scope of Work. In the event that the Project costs less than \$15,000.00 any amount paid by the City in excess of one-half the actual cost of the Project shall be refunded to the City within thirty (30) days of the completion of the Project. In the event that this Agreement is terminated as provided for herein, any amount paid by the City in excess of one-half of the amount due for the Project to the date of termination shall be refunded to the City within thirty (30) days.

THE CITY SHALL:

- A. Provide information and services for the Project as assigned to the City in Attachment A (Scope of Work and Schedule).
- B. Provide a maximum of \$7,500.00 in City funds. At the time of contract execution the City will be invoiced for half of its share in the amount of \$3,750.00 and at the end of the Study be invoiced for the balance due not to exceed \$3,750.00.

MAINEDOT SHALL:

- A. Provide information and services for the Project as assigned to MaineDOT in Attachment A (Scope of Work and Schedule)
- B. Provide a maximum of \$7,500.00 in federal and state funds, contingent on the federal eligibility of Project costs, in support of the scope of work stated above.

By signing this AGREEMENT, the City certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. If the City is unable to certify to this statement, it shall attach an explanation to this AGREEMENT. The City shall promptly notify MaineDOT if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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 the purposes of set-off monies due the City up to any amounts due and owing to MaineDOT with regard to this Agreement any other Agreement, any other Contract with any State Department or Agency, including any Contract for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. MaineDOT shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by MaineDOT, its representatives, or the State Controller.

Notwithstanding any other provision of this agreement, if MaineDOT does not receive sufficient funds to fund this Agreement and other obligations of MaineDOT, if funds are de-appropriated, or if MaineDOT does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then MaineDOT is not obligated to move forward with the Project.

To the extent permitted by law, the City shall indemnify and hold harmless MaineDOT, its agents and employees 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. Section 8101 et seq.) or any other privileges or immunities provided by law.

MaineDOT may postpone, suspend, abandon or otherwise terminate this AGREEMENT upon thirty (30) days written notice to the City and in no event shall any such action be deemed a breach of contract. Postponement, suspension, abandonment or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by the City to perform any of the services required under this AGREEMENT to the satisfaction of MaineDOT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed.

CITY OF BANGOR

Date: _____

By: _____
Catherine Conlow, City Manager

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Date: _____

By: _____
Edward W. Hanscom, Contract Administrator

I certify that the signature above is true and accurate. I further certify that the signature, if electronic: (a) is intended to have the same force as a manual signature; (b) is unique to myself; (c) is capable of verification; and (d) is under the sole control of myself.

APPENDIX A

Scope of Work

The following summarizes the proposed scope of work to review lifting the prohibition of a left-turn lane from the I-95 Exit 186 Off-Ramp to Stillwater Avenue in Bangor. Prior to initiating a Feasibility Study, MaineDOT and the City will enter into a Cooperative Agreement outlining roles; responsibilities including cost sharing for the study and any future build alternatives.

Task 1 – Project Kick-Off

The MaineDOT Project Manager will work under a collaborative planning process as follows:

- Identify MaineDOT, City, and BACTS Project team members.
- Work with the City to identify local stakeholders.
- Finalize the scope of work.
- Develop Purpose and Need

Task 2 – Review Available Data

The designated Project team members will review the available information on the Exit 186 Stillwater Avenue interchange and nearby intersections.

- Review any existing studies of the Project area. Known studies include a 2004 study of Stillwater Avenue by Gorrill-Palmer and the 2011 Bangor I-95 Corridor Study by MaineDOT.
- Available transportation information will include, but not be limited to volume counts, vehicle classification counts, turning movement counts, roadway inventory data, and available right of way information.
- Data Collection: For the purposes of this study, MaineDOT collected June 2014 turning movement counts at the following locations:
 - Bangor Mall (south)
 - Exit 186
 - Drew Lane
 - Howard Street

These counts may be supplemented by counts collected by BACTS at locations along Stillwater Avenue southeast of the Howard Street intersection.

Task 3 – Initial Public Input

The Project team members will attend up to two locally-sponsored public meetings and up to one standing or special Bangor City Council Meeting. The goal of the initial public meetings is to inform the general public and interested stakeholders of the study and to receive input and any concerns regarding the proposed removal of the left-turn lane prohibition. For initial public input, the following are assumed:

- The City will advertise the meeting(s) in local publications as well as on its website.
- The City will open the public meeting(s) including a brief history of Exit 186 and reasons for conducting a City-initiated study.
- MaineDOT staff will present a PowerPoint presentation of the study scope of work, schedule for completion, and existing conditions. Display maps of the Project area will be presented during the public meetings.
- The meeting venues and times will be determined jointly by the MaineDOT and the City.

Task 4 – Assessment of Current Conditions and Future Scenarios

MaineDOT will evaluate the existing transportation performance of the Exit 186 intersection with Stillwater Avenue, nearby intersections, and Stillwater Avenue as a corridor. The existing conditions will serve as a baseline for comparison to the proposed alternatives for both existing and future conditions as well as no-build future conditions. The assessment will include:

- Analysis of current traffic conditions of the intersection and surrounding area. The analysis will include capacity, crash experience and lane usage.
- Analysis of future traffic no-build conditions of the intersection and surrounding area. The analysis will include future traffic growth and potential development and land-use changes of the surrounding area.
- Analysis of proposed alternatives under existing conditions. The analysis will include predicted change in mobility and crash rates.
- Analysis of proposed alternatives under future conditions. The analysis will include predicted change in mobility and crash rates.

All analyses will be done in accordance with the 2010 Highway Capacity Manual. Alternatives to be analyzed include, but are not limited to: a no-build scenario, restriping of the existing intersection, reconstruction of all or part of the existing intersection, and other modifications to the Stillwater Avenue corridor. All scenarios will be modeled using Synchro/SimTraffic. MaineDOT will seek input from the City and BACTS team members on study area traffic forecasts and alternatives to be analyzed.

Task 5 – Development of Recommendations

Based on the analysis of alternatives determined in Task 4, MaineDOT will develop recommendations based on effectiveness of meeting the intersection and corridor transportation needs.

- Develop recommendations based on effectiveness. Measurements for effectiveness will include benefits to mobility and safety, cost of implementation, and ability to meet the purpose and need of the Exit 186 intersection and the Stillwater Avenue corridor.
- Develop cost estimates for recommendations (including construction and potential right-of-way costs).
- Develop both a short-term and long-term schedule for potential transportation improvements.
- Develop a draft report containing the analysis of existing and future conditions, alternatives analysis, and recommendations, along with an appendix of traffic and crash data, for distribution to the City and BACTS team members for review.

Task 6 – Public Feedback

MaineDOT and the City will meet to review the findings of the draft report and will jointly hold a meeting for the general public to review the findings of the analyses and offer feedback.

- Advertising for the meeting with the general public will appear in the local newspapers as well as on the City and MaineDOT websites.
- For both meetings, a PowerPoint presentation of the analysis findings and recommendations will be made. Display maps of the recommendations will be presented during the public meetings.
- The meeting venues and times will be determined jointly by the MaineDOT and the City.

Task 7 – Agency Input

MaineDOT will present the study and its findings at an Interagency Meeting for informational purposes and agency comment.

Task 8 – Final Report

MaineDOT will prepare a Study Report describing the existing and future baseline conditions, analysis of alternatives and the transportation improvement recommendations. The report will be made available in electronic format on the MaineDOT website.

Proposed Project Schedule

The proposed schedule of Project tasks follows the timeline below.

- Task 1 (Kickoff) December
- Task 2 (Review Available Data) December
- Task 3 (Initial Public Input) January
- Task 4 (Assessment – Current and Future) January-February
- Task 5 (Development of Recommendations) February-March
- Task 6 (Public Feedback) April
- Task 7 (Interagency Meeting Presentation) May
- Task 8 (Final Report) June

Memorandum

To: Infrastructure Committee
From: Paul Nicklas, Assistant City Solicitor
Date: November 25, 2014
Re: Discontinuance of First Street Extension

First Street in Bangor currently ends where it meets Davis Court. The City owns a right-of-way for another 120 feet beyond Davis Court. This right-of-way was accepted by the City in 1890, but has never been used or built.

Staff proposes discontinuing this unused and unnecessary right-of-way. By statute, the right-of-way would revert to the abutters on either side.

Staff asks that the Committee recommend discontinuing First Street Extension to the City Council. Discontinuance will require two Council Orders, the first directing staff to begin the discontinuance process and notify neighbors, the second accepting the report of the City Engineer and discontinuing the right-of-way and removing it from the official City map.

COUNCIL ACTION

Item No. _____

Date: December 8, 2014

Item/Subject: Order, Authorizing the City Engineer to Begin the Process of Discontinuing First Street Extension

Responsible Department: Engineering

Commentary:

The Order attached would begin the process to discontinue First Street Extension. While this street has been accepted as a public way, it is not used by the general public or needed for public purposes. Under 23 M.R.S.A. § 3026, the City would discontinue First Street Extension for its length of approximately 120 feet.

John M. Theriault, P.E.
Department Head

Manager's Comments:

City Manager

Associated Information: Order, Memo, and Location Map

Budget Approval:

Finance Director

Legal Approval:

City Solicitor

Introduced for

Passage
 First Reading
 Referral

Page ___ of



Assigned to Councilor

CITY OF BANGOR

(TITLE.) Order, Authorizing the City Engineer to Begin the Process of Discontinuance of First Street Extension.

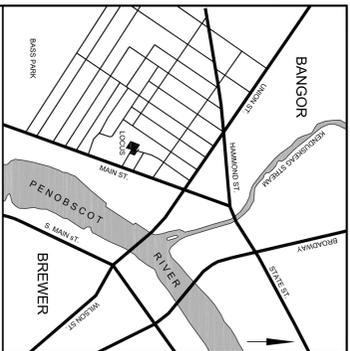
WHEREAS, the 120 foot +/- section of First Street Extension located was accepted by the City in 1890; and

WHEREAS, the City discontinue the 120 +/- foot right-of-way; and

WHEREAS, said portion of First Street Extension is no longer necessary to serve the public as a right-of-way;

NOW THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR THAT

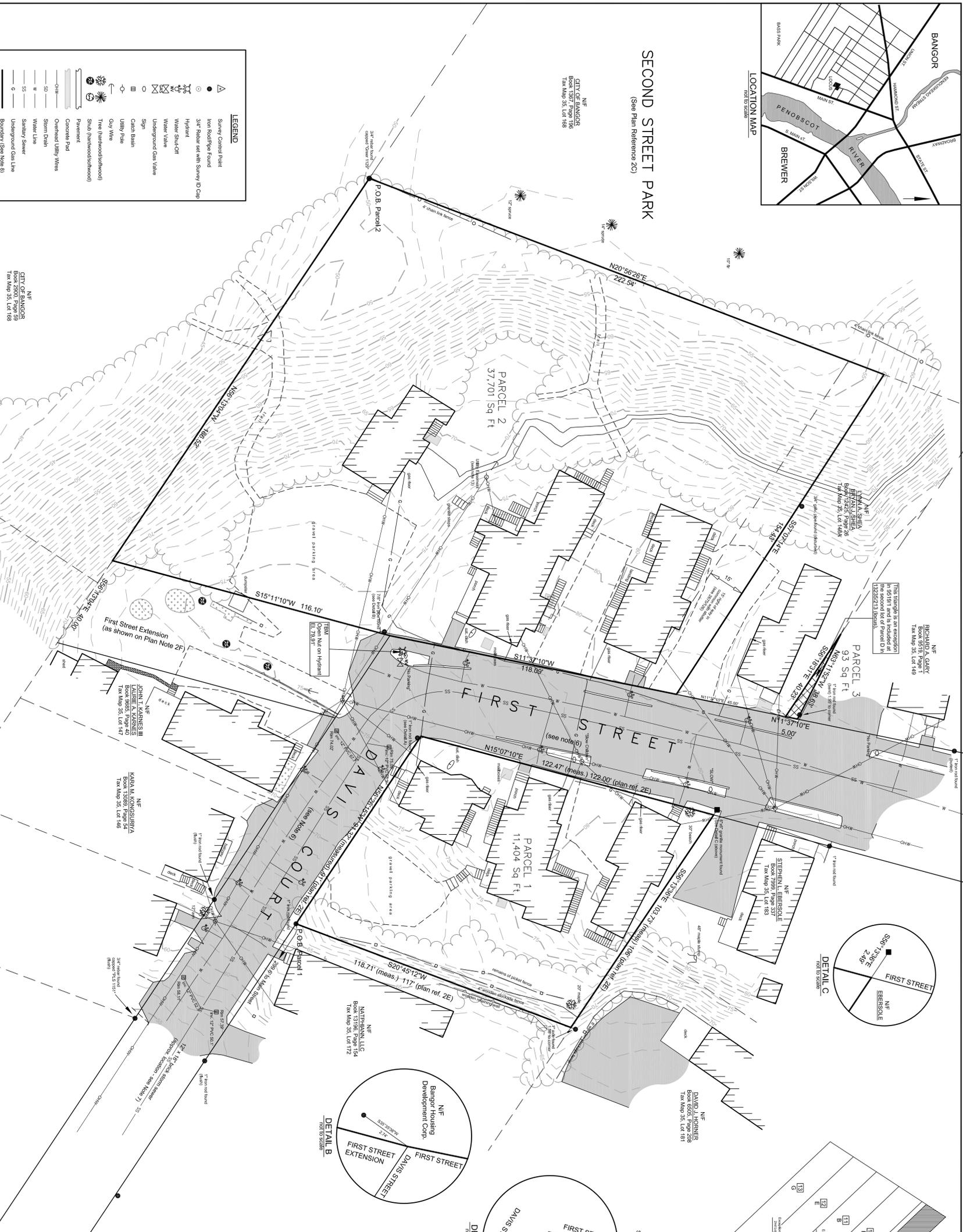
the City Engineer is hereby authorized and directed to begin the process of discontinuing the approximate 120 foot section of First Street Extension in accordance with the provisions of 23 M.R.S.A. §3026 and to submit a written report to the City Council for further action.



SECOND STREET PARK

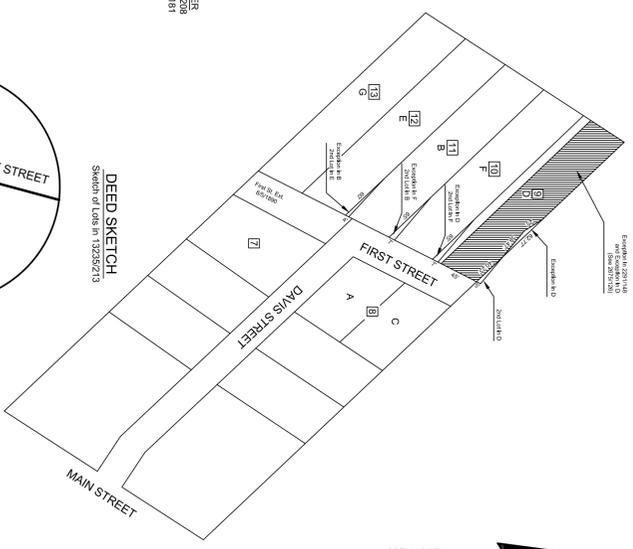
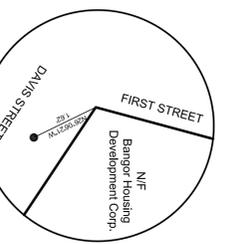
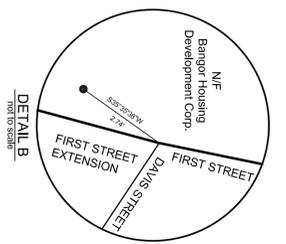
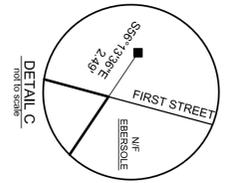
(See Plan Reference 2C)

NIP
CITY OF BANGOR
Book 1567 Page 156
Tax Map 35, Lot 188



LEGEND	
	Survey Control Point
	Iron Rod/Pipe Found
	3/4\"/>
	Hydrant
	Water Standoff
	Water Valve
	Underground Gas Valve
	Sign
	Curb/Basin
	Guy Wire
	Tree (hardwood/softwood)
	Shrub (hardwood/softwood)
	Pavement
	Concrete Pad
	Overhead Utility Wires
	Storm Drain
	Water Line
	Sanitary Sewer
	Underground Gas Line
	Boundary (See Note 8)
	Dred Line
	Easement
	Right of Way (See Note 6)
	Structure Footing
	Chain Link Fence
	Retaining Wall
	Tree Line
	Landscaping

NIP
CITY OF BANGOR
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Tax Map 35, Lot 188



OWNER OF RECORD:
Bangor Housing Development Corp.
601 Bangor Housing Authority
61 Davis Road
Bangor, ME 04401



ATIAACSM CERTIFICATION:
TO Bangor Housing Development Corporation,
TO Bangor Housing Authority

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail requirements for ATIAACSM Land Title Surveys, jointly established and adopted by ATIA and NSPS and includes Items 1-6, 7(a), 7(b), 8, 9, 11a, 13, 14, 16-19 of Table A thereof. The fieldwork was completed on August 13, 2013.

SHYKA SHEPPARD & GARSTER
LAND SURVEYORS
REGISTERED PROFESSIONAL LAND SURVEYORS
8-23-2013

Robert J. Garster, Jr.
Maine Professional Land Surveyor

- The Reference to Surveyed Parcel, Book 1325, Page 213.
- Plan Reference: This Survey prepared for Penobscot Development Limited Liability Company, prepared by Donald Survey, Inc. dated Aug. 23, 1998.
- Survey Plan of Saco Street Park, prepared by James M. Gray, P.S. #1129, dated March 16, 2006, on file at the City of Bangor Engineering Office.
- "The Extension of First Street" prepared by P.H. Coombs, Street Engineer, dated May 12, 1975, on file at the City of Bangor Engineering Office; Book 504, 2, Page 97.
- A Plan of House Lots Belonging to Zaidik Davis, Esq., prepared by P.H. Coombs, dated August 1824, recorded in F.C.D. Book 30, Page 410.
- "Plan and Profile of Laying Out and Grade of First Street" prepared by S.N. Dean and P.H. Coombs, dated August 1, 1880 and on file at the City of Bangor Engineering Office; Plan Book 2, Page 195.
- Area Information:
Parcel 1 = 11,404 sq. ft.
Parcel 2 = 37,701 sq. ft.
Parcel 3 = 93 sq. ft.
Total Area = 49,198 sq. ft. (1.128 acres)
- Text: "Refer to Book 1567, Page 156, Tax Map 35, Lot 188."
- Basics of Bearings: This plan refers to Grid North (NAD83, Maine East Zone) based on the plans referred to in Note 2.
- Road Identifiers: Davis Court, Davis Street. The location shown on this plan for Davis Court is based on the plans in Note 2 and on iron rods found. First Street: The location shown on this plan for First Street is based on the plans in Note 2 and on iron rods found. The width of First Street varies as shown on said plan.
- Utility Information: The location shown on this plan for above and underground utilities, including electric, gas, water, sewer, and storm water, is based on field survey information and existing drawings. SHYKA, Sheppard & Garster, Inc. (SSG) has not physically located the underground utilities shown on the plan. SSG has not physically located the underground utilities.
- The sewer line shown on this plan was scaled from information provided by Sean Currier of the Bangor Public Works. The exact location, connections, and extent is unknown.
- Some variations between distances and bearings shown hereon and those contained in previous deeds and plans are not noted because such variations are negligently small, due to common surveying practices, and are not of sufficient magnitude to affect the true and correct area and overlaid with the necessary fixtures and supports.
- Reference is hereby made to a First American Title Insurance Company Commitment for this location, Effective date June 27, 2013, Section 2, Paragraph 12.
- Shown on plan, see note 9.
- Shown on plan, see note 9.
- See Plan ref. 2E and Deed Sketch.
- Multiple tanks and points of access to the properties were observed in the course of this survey scattered throughout the wooded areas of this site.
- Extensive glass, metal, tires, concrete, and other debris were found in the course of this survey scattered throughout the wooded areas of this site.
- Parcel 2 is subject to a Utility Easement granted by Jay A. Smith to Bangor Hydro-Electric Company dated August 30, 1980, recorded in Book 428, Page 17. The easement is for a line consisting of one and one-half feet wide easement for the necessary fixtures and supports.
- Reference is hereby made to a First American Title Insurance Company Commitment for this location, Effective date June 27, 2013, Section 2, Paragraph 12.
- Shown on plan, see note 9.
- Shown on plan, see note 9.
- See Plan ref. 2E and Deed Sketch.

Revised November 20, 2014. Changed Davis Street to Davis Court.
Revised August 23, 2013. Title Currier, Sean Currier, SSG/changes.
Added Utility Easement.

ATIAACSM LAND TITLE SURVEY
BANGOR HOUSING DEVELOPMENT CORP.
100, 101, 106, 107, 108, & 111 First St., Bangor,
Penobscot County, ME

- Prepared for -
Bangor Housing Authority
161 Davis Road
Bangor, ME 04401

Prepared by
SHYKA SHEPPARD & GARSTER
LAND SURVEYORS
6 STATE STREET, SUITE 301
BANGOR, MAINE 04401
TEL: (207) 942-1955

BOOK: CRNSN FILE: 13-110 SHEET 1 OF 1