



Internal use only

TEDOCS #: _____
CT #: _____
CSN #: _____
PROGRAM: _____

**MAINE DEPARTMENT OF TRANSPORTATION
THREE PARTY AGREEMENT
REGARDING
PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM
MUNICIPAL PARTNERSHIP INITIATIVE PROGRAM
TWO LIGHTS ROAD, CAPE ELIZABETH
MAINEDOT PSN 68739**

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, the Portland Area Comprehensive Transportation System (“**PACTS**”) located at 970 Baxter Boulevard, Portland Maine and the Town of Cape Elizabeth (“**Municipality**”), a municipality in the State of Maine with offices located at 320 Ocean House Road, Cape Elizabeth, ME 04107, hereinafter referred to as the “**Parties**”.

WHEREAS, PACTs has created a Municipal Partnership Initiative Program (“**MPI**”); PACTs will be responsible for administering the program in accordance with the attached MPI process (See Attachment B).

WHEREAS, Municipality shall perform a pavement preservation project on Two Lights Road beginning at the intersection of Route 77 and proceeding easterly 1.71 miles to the end of Two Lights Road. The work will consist of shim and paving of 1-1/4”. Municipality estimates this project at \$242,000.00 Construction complete year is scheduled to be 2016. The funding is 50%/50% at \$121,000 state and \$121,000 local and is capped at \$121,000 state (“**Project**”).

WHEREAS, Payment by MaineDOT for the PACTS MPI Project shall be 50%, up to a maximum of \$121,000.00, of the actual costs incurred and paid by the Municipality.

WHEREAS, this Project has been included in MaineDOT’s 3-Year Work Plan.

NOW THEREFORE, the Parties hereby agree as follows:

The following attachments are hereby incorporated into this Agreement:

- Attachment A – PACTS MPI Project Approval Letter
- Attachment B – Project Scope and Cost Sharing
- Attachment C – PACTS MPI Project Process

MUNICIPALITY SHALL:

- A. Procure and oversee the Project for the work outlined above.
- B. Administer the Project in accordance with an approved design generated by an engineer licensed in the State of Maine. The Project will be designed to provide a smooth ride, and not reduce the safety, mobility or structural quality of the state [state aid] road. All design documents must be stamped and signed in accordance with this provision by a Professional Engineer (“PE”).
- C. Secure all necessary Federal, State and Local permits necessary to complete the work. Municipality also agrees to secure any needed property rights in accordance with all applicable State Laws.
- D. Document any exceptions to State Design Standards as part of this process. This documentation shall compare the new design to the existing conditions for each exception to current design standards. Any exceptions shall be displayed on the cover sheet for the Project plans with the signature and PE stamp of the engineer responsible for the design of the Project. MaineDOT’s Chief Engineer or his/her designee shall determine if the design exception(s) will be granted.
- E. Be responsible, within the Project limits, for the following:
 - a. Ensuring that the safety of the corridor and the life of the resulting structural and design elements are equal to or better than existing conditions and design;
 - b. Ensuring that the structures, roadways and/or design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
 - c. Ensuring that the Project does not introduce any unanticipated safety hazards to the traveling public;
 - d. Ensuring that the Project retains the same level of mobility or improves mobility of travel within the corridor;
 - e. Ensuring that the Project does not in any manner decrease the life expectancy of this component of Maine’s transportation system;
 - f. Ensure the Project meets the most recent Americans with Disabilities Act of 1990 (ADA) design requirements; and
 - g. Providing traffic control and ensuring the safety of pedestrians and the traveling public.
- F. Provide certification through their Engineer to MaineDOT that the Project is complete and was constructed as designed.
- G. Construction shall commence within twelve (12) months and shall be certified complete within twenty-four (24) months of execution of this Agreement. Municipality may forfeit the unpaid balance of this grant if these deadlines are not met or they cannot demonstrate earnest and good faith efforts to meet them.

PACTS SHALL:

- A. Provide a maximum of \$121,000.00 in State funds supporting the Project work stated above. Reimbursement may begin once the Project is 1/3 complete and upon receipt of supporting cost documentation from the Municipality. Payments will be made in accordance with Appendix A.
- B. Through its MPI Administrator review the costs and certify their eligibility prior to requesting reimbursement from MaineDOT and the PACTS Municipal Partnership Initiative Funds.

Anything herein to the contrary notwithstanding, the Municipality and the MPO acknowledge that, although the execution of this Agreement by MaineDOT manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this Agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations.

MaineDOT may terminate this Agreement with or without cause upon 30 days written notice.


The Parties agree to function within all applicable laws, statutes, regulations, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.

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

TOWN OF CAPE ELIZABETH

Dated: _____ By: _____
Michael McGovern
Town Manager

PACTS

Dated: 12/28/15 By: 
John Duncan
Director

STATE OF MAINE DEPARTMENT OF TRANSPORTATION

Dated: _____ By: _____
Herb Thomson, Director Bureau of Planning
Maine Department of Transportation

Portland Area Comprehensive Transportation System

Gerry Audibert, P.E.
MPO Engineer and MaineDOT Project Manager
Bureau of Planning
Maine Department of Transportation
16 State House Station
Child Street
Augusta, Maine 04433-0016

November 30, 2015

Cape Elizabeth Two Lights Road PACTS MPI Project

Gerry,

The following is the letter requested outlining the above project as part of the PACTS MPI program modeled after the similar MaineDOT program.

PACTS will be using a portion of our CY2016 state funding allocation for four projects which have been endorsed by our Committees and approved by the PACTS Policy Committee at their July 30, 2015 meeting.

The following project was submitted by Cape Elizabeth for funding for 2016:

Two Lights Road from Route 77 to the dead-end at/near the Lobster Shack.
The RLM's are from 0.00 miles to 1.71 miles for a total project length of 1.71 miles
The scope is expected to consist of a shim and overlay of 1-1/4 inches including all applicable and associated work.
The total cost is estimated at \$242,000.
Construction complete year is scheduled to be 2016
The funding is 50/50 at \$121,000 state and \$121,000 local and is capped at \$121,000 state.
PACTS is requesting a transfer of the above amount from the MPI WIN and will request a lineage WIN for the project when the time is appropriate to do so.

I have spoken with Robert Malley the Director of Public Works for Cape Elizabeth and Steve Harding of Sebago Tech, the town's engineering consultant and informed them we will need contract documents including a scope of work, unit prices and complete specifications similar to or the same as a MaineDOT "Book Project".

The Metropolitan Planning Organization for the Portland Urbanized Area

**970 Baxter Blvd • Portland, Maine 04103
Telephone: (207) 774-9891 • Fax: (207) 774-7149 • www.pactsplan.org**

Thank you for your attention to this matter. If you have any questions please call.

Sincerely,

A handwritten signature in cursive script that reads "Paul Niehoff". The signature is written in black ink and is positioned above the printed name.

Paul Niehoff
PACTS

cc: Michael McGovern, Cape Elizabeth Town Manager
Robert Malley, Cape Elizabeth Public Works Director
John Duncan, PACTS

ATTACHMENT B

PROJECT SCOPE AND COST SHARING PORTLAND AREA COMPREHENSIVE TRANSPORTATION SYSTEM

Municipal Partnership Initiative Project

~~MUNICIPALITY OF CUMBERLAND~~

MUNICIPALITY OF CAPE ELIZABETH

PROPOSED IMPROVEMENTS TO: TWO LIGHTS ROAD AND LAKE
STREET

STATE PROJECT SEQUENCE NUMBER PSN 68739

Project Scope: Rehabilitation of 1.71 miles of Two Lights Road, work to include shim and 1-1/4" finish paving and all applicable work associated.

Funding Outline: The Total Project Estimated Cost is \$242,000.00, and the Parties agree to share costs through all stages of the Project under the terms outlined below. The State Share shall not exceed a maximum of \$121,000.00.

Work Element	Municipal Share		State Share		Total Cost
	%	\$	%	\$	\$
Project Costs	50	\$121,000	50	\$121,000	\$242,000
PROJECT SHARES		\$121,000		\$121,000	\$242,000
Total Cost of Additional Work above Agreement estimate	100%	\$0			
TOTAL ESTIMATED MUNICIPAL REIMBURSEMENT		\$121,000.00			

REIMBURSEMENT SCHEDULE:

Upon 1/3 Project Completion the Municipality may begin invoicing PACTS. Preferred invoicing interval is 1/3, 2/3 and Final. MaineDOT will also accept monthly invoices after 1/3 Project completion with a maximum number of invoice submittals not to exceed 5 invoices.

ATTACHMENT C - PACTS MPI Projects Process

MaineDOT's approach to the PACTS Municipal Partnership Initiative (MPI) program is for the process to emulate the Department's MPI program. Municipalities will be required to retain a Professional Engineer to prepare plans and certify that a completed project has been constructed according to the plans and following applicable state standards. The Department will not approve plans, per se, nor inspect the completed project. The process for MaineDOT approval follows.

- PACTS will submit its MPI project candidates, including location information, scope of work, cost and cost shares and other information as may be required by the MaineDOT MPO Engineer for potential inclusion in the annual MaineDOT 3-Year Work Plan.
- PACTS staff will participate in a MaineDOT Work Plan "Synergy Meeting" to present their MPI and other project candidates to MaineDOT representatives from the Bureau of Planning, Bureau of Project Development, Region 1 Office and others. The PACTS MPI project requests may be revised or cancelled as a result of the meeting.
- Upon acceptance of a PACTS MPI project into the Work Plan, PACTS will provide to the MaineDOT MPO Engineer a letter on PACTS letterhead, formally requesting authorization of the PACTS MPI project, including:
 - Municipality
 - Project Description
 - Location, including Beginning and Ending Route Log Miles
 - Total Project Cost
 - State Amount
 - (Requested) Construction Year
 - Draft Project Agreement between PACTS, the municipality and MaineDOT
- Upon acceptance of the draft Project Agreement by the MPO Engineer, PACTS will submit a Final Agreement, signed by the Municipality and PACTS, to the MPO Engineer.
- Upon receiving the Final Project Agreement, MaineDOT will sign the Final Agreement, record it to the MaineDOT project file and the MPO Engineer will return a copy to PACTS, requesting PACTS retain a copy for its files and forward a copy to the Municipality.
- MaineDOT will activate the project WIN after the Work Plan has been published and the Letter and Final fully-executed Project Agreement have been recorded.
- The MPO Engineer will then issue a Notice to Proceed to PACTS.
- MUNICIPALITY will retain a Maine-licensed Professional Engineer to oversee all Project activities, including certification that plans were prepared in accordance with agreed-upon scope and relevant state standards.
- MUNICIPALITY will submit Engineer's plans to PACTS and MaineDOT for concurrent review and acceptance. Any exceptions to Design Standards must be clearly noted on the project plans cover sheet with a request for MaineDOT acceptance of the Design Exceptions.
- Following completion of the work, Municipality will provide certification from the Professional Engineer stating the project has been constructed according to the agreed-upon scope and meets the MaineDOT quality assurance standards applicable to the Project.
- Payment of the state funds from MaineDOT will ideally be a one-time reimbursement following completion of the work. For larger projects this could be a draw of 1/3, 1/3, 1/3 or 1/2, 1/2 if needed for cash-flow reasons (this would be specified in the agreement).
- Review of PACTS invoices will be made by the MaineDOT MPO Coordinator. Upon acceptance of an invoice, the MPO Coordinator will process the invoice for payment by the Bureau of Finance and Administration to PACTS.