

Order 172-14/15

Motion to postpone until 5/4/2015: 9-0 on 3/16/2015

Motion to postpone until 6/15/2015: 9-0 on 5/4/2015

Motion to postpone until 9/21/2015: 8-0 (Marshall absent) on 6/15/2015

Motion to postpone until 10/19/2015: 9-0 on 9/21/2015

Motion to postpone until 1/20/2016: 9-0 on 10/19/2015

Motion to postpone until 3/21/2016: 9-0 on 1/20/2016

Passage: 8-0 (Thibodeau absent) on 3/21/2016

Effective 3/31/2016

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TWO-PARTY AGREEMENT
BETWEEN THE CITY OF PORTLAND
AND THE MAINE DEPARTMENT OF TRANSPORTATION
RE: IMPROVEMENTS TO FOREST AVENUE**

ORDERED, that the City Manager is authorized to enter into the two-party partnership agreement between the City of Portland and the Maine Department of Transportation (MaineDOT), in substantially the form attached, for work on Forest Avenue:

- WIN #020543, Proposed Improvements to Forest Avenue

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to sign the two-party agreements and any other documents necessary to effect the purpose of this order.



<i>MaineDOT use only</i>	
TEDOCS #:	_____
CT #:	_____
CSN #:	_____
PROGRAM:	_____

**MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT**

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

<i>(MaineDOT Use Only)</i>	
Project Location: <u>PORTLAND</u>	Estimated Municipal Share: <u>\$640,477.10</u>
State WIN #: <u>020543.00/020543.10</u>	Vendor Customer #: <u>17A12984</u>
Federal Aid Project #: <u>STP-2054(300)/STP-2054(310)</u>	Agreement Begin Date: _____
	Agreement End Date: <u>(3 years from the date last signed below)</u>

This Agreement is entered into between the Maine Department Of Transportation (hereafter the "MaineDOT") and the Municipality of Municipality of Portland, a municipal corporation located in the County of Cumberland (hereafter the "Municipality") (hereinafter the "Parties") regarding the planning, development, design, right of way, construction, cost sharing and reimbursement for a project to make improvements to Forest Ave., in Portland, Maine, (hereafter Project) as follows:

The following checked appendices are hereby incorporated into this Agreement by reference:

- Appendix A – Project scope, cost sharing, and payment schedule
- Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
- Appendix B – Perpetual Landscape Maintenance
- Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or signage and associated light(s)
- Appendix B – Perpetual Traffic Signal Operation and Maintenance
- Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- Appendix C – Additional work requested by Municipality

- A. MaineDOT agrees to procure and administer a contract to construct the Project in accordance with the plans and specifications developed by MaineDOT and, subject to Department approval. This would include any additional plans, specifications and estimates furnished by the Municipality. Please refer to Appendix A of this Agreement for the outline of the scope, limits of work and cost sharing.
- B. MaineDOT shall be the sole administrator of this contract. MaineDOT will pay all project costs, subject to cost sharing by the Municipality, when applicable, as specified in this agreement. Neither MaineDOT nor its contractors will be required to pay for inspections and permits from the Municipality.
- C. MaineDOT reserves the right to terminate the Project for any reason prior to the award of a contract to construct the Project. MaineDOT also reserves the right to terminate all provisions pertaining to work requested by the Municipality at any time prior to the award of a contract to construct the Project

because of any failure by the Municipality to meet any of the conditions and stipulations set forth in this Agreement.

- D.** Upon acceptance of plans, specifications and estimates, MaineDOT shall solicit competitive bids for the Project. Upon acceptance of the lowest acceptable responsive, responsible bid to construct the Project and fulfillment of all terms set forth herein, MaineDOT will submit the information to the Municipality, who will have up to five (5) business days to review the information and notify MaineDOT of any questions or concerns. If MaineDOT is not presented with any questions or concerns during the time allotted all decisions pertaining to the acceptance of the bids, the award and administration of the contract and all payments thereunder shall be the sole discretion of MaineDOT.
- E.** The Municipality, at its election, may request that changes be made or work added to the Project during the period of construction, provided the Municipality agrees in writing to pay any additional cost plus an amount not to exceed ten (10%) percent of such construction cost to cover all necessary engineering, inspection and administrative costs associated therewith, unless specified otherwise. All such requests shall be subject to approval by MaineDOT. In the event that such changes or work are approved for federal participation in the cost thereof, such additional cost may be reduced to the non-federal share.
- F.** The Municipality agrees to allow MaineDOT's contractor to control all traffic through the work areas in accordance with the Traffic Control Plan approved by MaineDOT. The development of the Traffic Control Plan will follow the process outlined below:
1. The PM will submit the project for Traffic Analysis and Movement Evaluation (TAME), when possible, approximately one year prior to advertisement. Once the results are received, the PM/Regional Traffic Engineer will discuss the proposed project with the Municipality (scope, limits, day or night work, work window, etc).
 2. The Municipality will comment on their concerns/issues (two week timeframe allowed).
 3. The PM & Designer will incorporate these comments where practical based on engineering judgment.
 4. If the Municipality desires, a meeting will be held prior to PS&E to review the project design, Special Provision 105 – Limitations of Operations, Special Provision 107 - Time, etc.
 5. The Municipality will have the opportunity to review and comment.
- G.** The Municipality agrees to alter, move, relocate or remove, or cause to be, at no cost to the Project, any municipal property, including all fixtures, facilities or monuments, located on, under or above the ground, as necessary to permit construction of the Project, which has not otherwise been provided for during the development of the Project. Any work necessary to do so during the period of construction shall be coordinated with the contractor for the Project.
- H.** The Municipality will, at no cost to MaineDOT, assure proper adjustment, relocation, or repair of any portion of a service, whether above or below ground, that is located within the limits of the highway right-of-way and connected to any municipal utility, which might become necessary to permit construction of the Project. The Municipality agrees to hold MaineDOT harmless from any claims for damages occurring as a result thereof.

- I. The Municipality agrees that during and after construction it will apply the requirements of the most recent version of MaineDOT's "Utility Accommodation Rules" as the minimum guidelines notwithstanding any municipal rules that are more lenient.
- J. To the extent that it is statutorily responsible therefore, the Municipality agrees to provide utilities, and to maintain all improvements and fixtures constructed, installed or furnished as a part of the Project in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. To the extent any warranty exists for said improvements or fixtures, said warranty shall be first relied on by MaineDOT to address maintenance and/or repairs described in this paragraph.
- K. The Municipality agrees that except for an emergency, or as allowed in § 3351-A, it will prohibit the excavation of the highway within the limits of the Project for a period of at least five (5) years after completion of the Project, and agrees to make all necessary notifications to abutters and occupants of the highway as otherwise required of any city government under the provisions of 23 M.R.S.A. § 3351. Thereafter, all future excavations within the right-of-way of the Project shall be regulated and controlled in the manner specified by MaineDOT in its most recent "Utility Accommodation Rules", which is incorporated herein and made a part hereof by reference.
- L. The Municipality will be responsible to keep new or replaced/rehabilitated pedestrian facilities in usable condition.
- M. The Municipality agrees to keep the right-of-way of the Project inviolate from all encroachments and agrees to remove, or cause to be removed, anything that may encroach thereon.
- N. When applicable the Municipality agrees to regulate all entrances to the highway within the limits of the Project in accordance with the provisions of 23 M.R.S.A. § 704.
- O. The Municipality with city council approval agrees to limit all on-street parking to the parking spaces as designed and constructed under the Project.
- P. MaineDOT shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to MaineDOT's option to withhold for the purposes of set-off any monies owed to the Municipality with regard to this Agreement and any other agreement with MaineDOT, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts owed to the Municipality for any other contract with any State of Maine department or agency.
- Q. 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 any 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 any other privileges or immunities provided by law. *Any other provision of this agreement to the contrary notwithstanding, this provision shall survive any termination or expiration of this Agreement.*
- R. MaineDOT may postpone, suspend, abandon or otherwise terminate this Agreement upon thirty (30) days written notice to the Municipality 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 Municipality to perform any of the services required under this Agreement to the satisfaction of MaineDOT.

In the event of Project termination, all provisions of this Agreement shall become null and void except for those set forth under *Appendices A and C, if attached to this Agreement, as well as those provisions that by their very nature are intended to survive.*

- S. The Municipality certifies, by signing this Agreement, 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 Municipality is unable to certify to this statement, it shall attach an explanation to this Agreement. The Municipality 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.
- T. The Parties agree to: comply with and abide by all applicable State and Federal laws, statutes, rules, regulations; standards and guidelines, including the MUTCD and OSHA standards, and Agreement provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this Agreement.
- U. All provisions of this Agreement, *except those provided above in Paragraphs J-Q and those that by their very nature are intended to survive*, shall expire at Project final voucher, or upon final payment by the Municipality of any Project costs as hereinbefore provided, whichever occurs later.
- V. Anything herein to the contrary notwithstanding, the Municipality acknowledges and agrees 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.
- W. No assignment of this agreement is contemplated, and in no event shall any assignment be made without the express written permission of MaineDOT.

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

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: _____
Jon Jennings, City Manager

By: _____
Dale Doughty, Director, Maintenance &
Operations

(Date Signed)

(Date Signed)

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

**PROJECT SCOPE AND COST SHARING
MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project**

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

FEDERAL AID PROJECT NO. STP-2054(300)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 20543.00

Project Scope: Reconfigure Forest Ave. traffic pattern at Woodford's Corner and Ocean Ave, widen sidewalks, add streetscape aesthetics, extend shared lane bikeways and reduce crossing distances for pedestrians.

Funding Outline: The Total Project Estimated Cost for WIN 020543.00 is \$ 2,062,751.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share		Total Cost
	MPO	Portion	MaineDOT (State) Portion	Portion	
	%	\$	%	\$	\$
Preliminary Engineering	10.0%	\$ 22,481.30	80.0%	\$ 179,850.40	\$ 224,813.00
Right of Way	10.0%	\$ 6,250.00	80.0%	\$ 50,000.00	\$ 62,500.00
Construction	10.0%	\$ 148,156.30	80.0%	\$ 1,185,250.40	\$ 1,481,563.00
Construction Engineering	10.0%	\$ 14,987.50	80.0%	\$ 119,900.00	\$ 149,875.00
PROJECT SHARES		\$ 191,875.10		\$ 1,535,000.80	\$ 1,918,751.00
Total Cost of Additional Work Requested by Municipality (Below)	100.0%	\$ 144,000.00			
TOTAL EST MUNICIPAL SHARE (Receivable Amount)		\$ 335,875.10			

APPENDIX A CONT.

**PROPOSED IMPROVEMENTS TO WOODFORD'S CORNER
FEDERAL AID PROJECT NO. STP-2054(310)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 20543.10**

Project Scope: Upgrade the Railroad crossing signals and gates to current standards and to meet the new roadway and pedestrian facility widths.

Funding Outline: The Total Project Estimated Cost for WIN 020543.10 is \$ 554,602.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share		Total Cost
	%	\$	Federal %	Portion \$	
Preliminary Engineering	10.0%	\$ 2,050.00	90.0%	\$ 18,450.00	\$ 20,500.00
Right of Way		\$ -		\$ -	
Construction	10.0%	\$ 25,562.78	90.0%	\$ 230,065.00	\$ 255,627.78
Construction Engineering	10.0%	\$ 165.00	90.0%	\$ 1,485.00	\$ 1,650.00
PROJECT SHARES		\$ 27,777.78		\$ 250,000.00	\$ 277,777.78
Total Cost of Additional Work Requested	100.0%	\$ 276,824.22			
TOTAL EST. MUNICIPAL SHARE (Receivable Amount)		\$ 304,602.00			

SUMMARY

Funding Outline: The Total Project Estimated Cost for WIN 020543.00/020543.10 is \$ 2,617,353.00 , and the Parties agree to share costs through all stages of the Project under the terms outlined below.

Work Element	Municipal Share		Project Share		Total Cost
	%	\$	Federal %	Portion \$	
Preliminary Engineering		\$ 24,531.30		\$ 198,300.40	\$ 22,481.30
Right of Way		\$ 6,250.00		\$ 50,000.00	\$ 6,250.00
Construction		\$ 173,719.08		\$ 1,415,315.40	\$ 148,156.30
Construction Engineering		\$ 15,152.50		\$ 121,385.00	\$ 14,987.50
PROJECT SHARES		\$ 219,652.88		\$ 1,785,000.80	\$ 191,875.10
Total Cost of Additional Work Requested	100.0%	\$ 420,824.22			
TOTAL EST. MUNICIPAL SHARE (Receivable Amount)		\$ 640,477.10			

Additional Work as outlined in Appendix C to this Agreement.

Funding Outline: The Municipality agrees to pay 100% of the costs for the work outlined below.

Additional Work	Cost: 100% Municipal Share
PE - Design to include milling and paving on Forest Ave. WIN 20543.00	\$ 16,250.00
CON - Milling and paving on Forest Ave. WIN 20543.00	\$ 127,750.00
CON - Balance of Construction cost for RR Crossing above \$277,777.78 covered in WIN 20543.10	\$ 276,824.22
TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY	\$ 420,824.22

Payment:

The Municipality shall submit payment to MaineDOT within 30 days from the invoice date.

- Prior to award of the contract for Project construction, the Municipality will be invoiced a portion of its share of the cost of the Project. Invoicing will include the following:
 - 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
 - Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
 - 100% of all additional work requested by the Municipality.

- Final Voucher Payment to the Contractor. A final bill will be created following MaineDOT's final voucher payment to the Contractor, after all quantities are verified, and any required adjustments have been made. The cost of the work for which MaineDOT will bill the Municipality shall be determined by the contract prices and the completed quantities of the work items or, in the event of termination, the local share of Project development cost to the point of termination as stipulated above. The final invoice will include the Municipality's share of any remaining costs.

Invoicing Schedule: The Municipal Payment Schedule shown below includes estimated invoicing dates based upon the estimated schedule and estimated cost of the Project:

Municipality Name	Receivable Amount	Estimated Invoice Date
PORTLAND	\$546,041.31	12/1/2016
PORTLAND	\$94,435.79	12/1/2017
Total Receivable Amount:	\$640,477.10	

APPENDIX B
**PERPETUAL LIGHTING/FLASHING BEACON OPERATION
AND MAINTENANCE**

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

FEDERAL AID PROJECT NO. STP-2054(300)/STP-2054(310)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00/020543.10

- A. The Municipality agrees to operate and maintain the flashing beacon installed under the Project in such a manner as is necessary to preserve the use and function thereof as designed and intended by the Project as follows:
1. The Municipality shall repair or correct all malfunctions and deficiencies in the flashing beacon expeditiously. Any failure to correct the flashing beacon to function as designed could, upon written notification from the Department, result in the Department making all necessary repairs at the Municipality's expense.
 2. The Municipality agrees to be responsible for electrical service for the flashing beacon and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for installation of such service.
 3. The Municipality shall preserve and maintain the visibility of the flashing beacon at all times by removing all visual impairments thereto.
 4. The Municipality shall make no operational changes or modifications to the flashing beacon without the express written approval of the Department.
 5. The Municipality shall notify the Department in writing prior to any removal or replacement of the flashing beacon.
 6. The Municipality shall maintain all signs and striping necessary or incidental to the operation of the flashing beacon as furnished and installed under the Project.
 7. The Municipality agrees to maintain the beacon with equipment technology equal to or greater than what has been installed.
- B. The Municipality shall implement a Traffic Control Plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) including a provision for Municipality employees and/or contractors entering the State's right-of-way for long-term maintenance.

APPENDIX B
PERPETUAL BICYCLE/PEDESTRIAN FACILITY MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

FEDERAL AID PROJECT NO. STP-2054(300)/STP-2054(310)

STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00.020543.10

The Municipality will be responsible for year round maintenance of new or replaced/rehabilitated bicycle/pedestrian facilities in such a manner as necessary to preserve the use and function thereof for the expected period of their normal useful life as determined by accepted engineering and/or industry standards. When necessary, the Department reserves the right to undertake maintenance and invoice the municipality.

APPENDIX B
PERPETUAL LANDSCAPE MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

FEDERAL AID PROJECT NO. STP-2054(300)/STP-2054(310)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00/020543.10

The Municipality agrees to be responsible for maintenance of planting and landscaping, including structures, including, but not limited to privies, picnic shelters, interpretive panels, and park areas, as installed or modified, as part of the above referenced project upon completion of said project. The Municipality also agrees to maintain such planting and landscaping upon the expiration of all warranties applicable to such landscaping, including the maintenance of all lawn areas, trees, and shrubs. These responsibilities shall include, but are not limited to, the following:

1. Plantings shall be watered during periods of drought or extreme dryness.
2. Measures shall be taken to remove any build-up of winter sand in planting areas.
3. Pruning, trimming, and removal of dead branches to maintain healthy plant growth or so as not to pose safety hazards or unsightly conditions.
4. Measures shall be taken to control disease and insects using appropriate insecticides and to control weeds on a timely basis, including hand weeding, mulching and/or application of herbicides through proper legal application.
5. Dead or dying plant material shall be replaced with new material of the same type and size as originally planted.
6. Lawns and grassy areas shall be mowed at least weekly during the late spring and early summer growing season and at least once a month during the remainder of the growing season, unless unusual weather conditions or rapid growth dictate otherwise.
7. All areas of turf, trees and shrubbery shall be fertilized using suitable materials.
8. All litter and refuse shall be removed expeditiously.
9. The Department shall provide technical assistance to the Municipality upon request, by recommending the materials and procedures necessary for such maintenance.

APPENDIX B
PERPETUAL TRAFFIC SIGNAL OPERATION AND MAINTENANCE

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

**PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S
CORNER**

FEDERAL AID PROJECT NO. STP-2054(300)/STP-2054(310)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00/020543.10

- A. The Municipality agrees to operate and maintain the traffic signal to function as designed and installed by the Department, unless approved otherwise as hereinafter provided or as necessary as follows:
1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant that is not covered by warranty 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 repair or correct the traffic signal to function as designed could, upon written notification from the Department, result in the Department 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. Except in the case of an emergency, 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 Department.
 4. The Department 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 shall be returned to the Department, at no cost to the Department, unless otherwise agreed upon in writing.
- B. The Municipality agrees to be responsible for the electrical service for the traffic signal 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.

APPENDIX C
Additional Work

MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL/STATE AGREEMENT
Transportation Improvement Project

MUNICIPALITY OF PORTLAND

PROPOSED IMPROVEMENTS TO FOREST AVENUE/WOODFORD'S CORNER

FEDERAL AID PROJECT NO. STP-2054(300)/STP-2054(310)
STATE PROJECT IDENTIFICATION NUMBER (WIN) 020543.00/020543.10

1. Description of Work Being Added to Project By The Municipality:

Mill and fill along Forest Ave. from Station 12+50 to 28+50 and upgrade the crossing signals at approximately Station 26+50+/-

2. The Municipality agrees to furnish all plans, specifications and estimates necessary to include additional work under the Project; No - Disregard this Section, or Yes - as follows:

- a) All plans and specifications shall conform to the standards used by the Department as set forth in the latest version of its *"Highway Design Guide"* and *"Standard Details for Highways and Bridges"* and comply with the Department's Utility Accommodation Policy as set forth in its *"Policy On Above Ground Utility Locations"*.
- b) All plans shall be size "D" drawings measuring 22 inches by 36 inches reproducible in black and white print.
- c) All specifications shall be printed on 8-1/2 inch wide by 11 inch long paper suitable for binding in the Department's proposal book.
- d) The Municipality shall provide a detailed engineer's estimate of the cost of such additional work calculated in a manner acceptable to the Department and allowable for bidding. The Municipality agrees that all cost information developed for such bidding shall be kept confidential pursuant to the provisions of Title 23 of the Maine Revised Statutes Annotated (M.R.S.A.) Section 63.
- e) The Municipality shall obtain all permits, licenses, releases and approvals necessary or incidental to the additional work described in Section 1 above.
- f) The submission of all plans, specifications and estimates; as well as all permits, licenses, releases and approvals shall be done in such a timely manner as not to unreasonably delay the Department's schedule for soliciting bids to construct the Project.
- g) The Municipality may utilize the electronic exchange of CADD data; the Municipality must accept pertinent electronic input data as specified by the Department. A copy of the

Department's specifications can be found on its website under Business and CADD support. It is the responsibility of the Municipality to translate this data into other formats required for use in their design software.

3. Following solicitation of competitive bids for the Project under Paragraph D of the Agreement; but before award of a contract to construct the Project that includes additional work as described in Section 1 above; action must be taken by the Municipality:

- a) If the bid price received for such additional work exceeds the detailed engineers estimate by any more than ten (10%) percent, the Municipality may reject such bid price by notifying the Department in writing within five (5) business days following the opening of such bids. The Municipality may waive such right by doing so in writing anytime prior to or during such period. Otherwise, all decisions pertaining to the acceptance of bids and the award of any construction contract shall be the sole discretion of the Department.
- b) If the bid price for such additional work is acceptable to the Municipality, the Municipality shall pay the Department, an amount equal to the Municipality's share of the estimated cost of such additional work based upon the prices of the successful bidder. Following receipt of payment, the Department agrees to award a contract to construct the Project including the additional work.
- c) The parties agree that any additional adjustments to the amount of any payment or deposit made pursuant to the provisions of subparagraph b) above because of any differences between estimated and actual quantities which effects the actual cost of such additional work shall be due and payable upon determination of final quantities, unless the Department determines that the actual cost of such additional work is expected to differ measurably from the amount of such payment, due to changes in quantities placed or work performed during the period of construction.