

Order 81-19/20

Passage: 8-0 (Cook absent) on 11/18/2019

Effective 11/28/2019

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
SPENCER R. THIBODEAU (2)  
BRIAN E. BATSON (3)  
JUSTIN COSTA (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

KIMBERLY COOK (5)  
JILL C. DUSON (A/L)  
PIOUS ALI (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE MODIFICATION TO AGREEMENT  
BETWEEN PORTLAND  
AND THE MAINE DEPARTMENT OF TRANSPORTATION  
RE: CUMBERLAND AVENUE IMPROVEMENTS**

**ORDERED**, that the Modification to the Two-Party Agreement between the Maine Department of Transportation and the City of Portland to construct improvements to the Cumberland Avenue with State Work Identification Number 22164 is hereby approved in substantially the form attached hereto; and

**BE IT FURTHER ORDERED**, that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



*MaineDOT use only*

TEDOCS #: \_\_\_\_\_  
 CTM #: DOT0519-40396  
 CSN #: 40396  
 PROGRAM: Highway Program

**MODIFICATION # 1 TO MUNICIPAL/STATE AGREEMENT**

Project Location: Portland  
 State W.I.N. #: 22164.00  
 Federal Aid Project #: 2216400  
 Vendor Customer #: 17A12144

Original Estimated Municipal Share: \$113,275.00  
 Current Estimated Municipal Share: \$113,275.00  
 Modified Estimated Municipal Share: \$150,417.20  N/A  
 Current Agreement End Date: May 10, 2024  
 Modified Agreement End Date: \_\_\_\_\_  N/A

This Modification hereby amends a Municipal/State Agreement (Agreement) that was executed by MaineDOT on May 10, 2019, with the Municipality of Portland for making improvements to Cumberland Avenue, beginning at State Street and extending north 0.46 miles to Elm Street, regarding the above referenced project as follows:

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

- Appendix A – Project scope, cost sharing, and payment schedule (*not required for non-monetary agreements.*)
- Appendix B – Perpetual Bicycle/Pedestrian Facility Maintenance
- Appendix B – Perpetual Drainage Maintenance
- Appendix B – Perpetual Landscape Maintenance
- Appendix B – Perpetual Operation and Maintenance of Lighting/Flashing Beacon and/or Signage with Associated Light(s)
- Appendix B – Perpetual Traffic Signal Operation and Maintenance
- Appendix B – Perpetual Traffic Signal Operation and Shared Maintenance
- Appendix B – Perpetual Bridge Lighting/Approach Lighting Maintenance & Snow Plowing
- Appendix C – Additional work requested by Municipality

**Increased Estimated Municipal Share.** The Estimated Municipal Share of the Agreement shall be increased by: \$37,142.20 from \$113,275.00 to \$150,417.20.

**Agreement End Date.** The End Date of the Agreement shall be extended from \_\_\_\_\_ to \_\_\_\_\_.

**Change in Scope of Work.** The Scope of Services specified in the Agreement shall be modified by \_\_\_\_\_.

All other terms and conditions of the original Agreement shall remain in effect. This Modification hereby becomes part of the original Agreement. MaineDOT and the Municipality of Portland, by their duly authorized representatives, have executed this modification to said original Agreement, which shall become effective on the date last signed below.

MUNICIPALITY OF PORTLAND

MAINE DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
 Jon Jennings, City Manager

By: \_\_\_\_\_  
 Richard J. Crawford, Director  
 Bureau of Project Development

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

*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 CUMBERLAND AVENUE**

**FEDERAL AID PROJECT NO. 2216400**

**STATE PROJECT IDENTIFICATION NUMBER (WIN) 22164.00**

**Project Scope:**

Mill and Fill on Cumberland Avenue, beginning at State Street and extending north 0.46 miles to Elm Street.

**Funding Outline:**

The Total Project Estimated Cost is \$ 559,668.78 , 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       | MaineDOT (State) Portion |      |               |
|   | %               | \$            | %             | \$            | %                        | \$   | \$            |
| Preliminary Engineering   | 25.0%           | \$ 7,500.00   | 75.0%         | \$ 22,500.00  | 0.0%                     | \$ - | \$ 30,000.00  |
| Right of Way  | 25.0%           | \$ -          | 75.0%         | \$ -          | 0.0%                     | \$ - | \$ -          |
| Construction  | 25.0%           | \$ 118,917.20 | 75.0%         | \$ 356,751.59 | 0.0%                     | \$ - | \$ 475,668.78 |
| Construction Engineering  | 25.0%           | \$ 10,000.00  | 75.0%         | \$ 30,000.00  | 0.0%                     | \$ - | \$ 40,000.00  |
| <b>PROJECT SHARES</b>   |                 | \$ 136,417.20 |               | \$ 409,251.59 |                          | \$ - | \$ 545,668.78 |
| Total Cost of Additional Work Requested by Municipality (Below) | 100.0%          | \$ 14,000.00  |               |               |                          |      |               |
| <b>TOTAL ESTIMATED MUNICIPAL SHARE (Receivable Amount)</b>      |                 | \$ 150,417.20 |               |               |                          |      |               |

*(Check if applicable)*

**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.

| <b>Additional Work</b>   | <b>Cost: 100% Municipal Share</b> |                  |
|--|-----------------------------------|------------------|
| Sewer MH Adjustments   | \$                                | 14,000.00        |
| TYPE OF WORK   | \$                                | -                |
| TYPE OF WORK   | \$                                | -                |
| <b>TOTAL COST OF ADDITIONAL WORK REQUESTED BY MUNICIPALITY</b> | <b>\$</b>                         | <b>14,000.00</b> |

**Payment:**

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

1. 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:

- a. 100% of the local share of the Preliminary Engineering and Right of Way costs; plus
- b. Fifty percent (50%) of the local share of the Construction and Construction Engineering cost based on the total bid price of the Project; plus
- c. 100% of all additional work requested by the Municipality.

2. 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:

| <b>Municipality Name</b>        | <b>Receivable Amount</b> | <b>Estimated Invoice Date</b> |
|---------------------------------|--------------------------|-------------------------------|
| City of Portland                | \$85,959.00              | 5/1/2020                      |
| City of Portland                | \$64,458.00              | 6/30/2020                     |
| City of Portland                | Balance                  | 1/1/2021                      |
| <b>Total Receivable Amount:</b> | <b>\$150,417.00</b>      |                               |