

Order 186-13/14

Passage: 8-0 (Marshall absent) on 4/7/2014

Effective 5/7/2014

MICHAEL F. BRENNAN. (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING MUNICIPAL AGREEMENT BETWEEN THE
CITY OF PORTLAND AND THE TOWN OF FALMOUTH RE: OPERATION &
MAINTENANCE OF LIGHTING RELATED
TO THE MARTIN'S POINT BRIDGE AND A BICYCLE/PEDESTRIAN PATH
WITHIN THE PROJECT LIMITS FOR MARTIN'S POINT BRIDGE
CARRYING US ROUTE 1 OVER THE PRESUMPCOT RIVER**

ORDERED, that the Municipal Agreement Between the City of Portland and Town of Falmouth is hereby approved in substantially the form attached hereto as Attachment 1; and

BE IT FURTHER ORDERED, that the City Manager is authorized to execute the Municipal Agreement and any other related documents necessary or convenient to carry out the intent of said Agreement.

MUNICIPAL AGREEMENT
BETWEEN THE
CITY OF PORTLAND
AND THE
TOWN OF FALMOUTH
REGARDING THE
OPERATION & MAINTENANCE
OF LIGHTING RELATED TO THE MARTIN’S POINT BRIDGE AND
A BICYCLE/PEDESTRIAN PATH WITHIN THE PROJECT LIMITS
FOR
THE MARTIN’S POINT BRIDGE
CARRYING US ROUTE 1
OVER THE
PRESUMPCOT RIVER

This AGREEMENT is entered into by and between the CITY OF PORTLAND and the TOWN OF FALMOUTH, municipal corporations located in the County of Cumberland (hereafter, respectively, the CITY and TOWN) regarding the operations and maintenance of lighting related to the Martin’s Point bridge (the “Lighting”), and a bicycle pedestrian path (the “Bicycle/Pedestrian Path”) under Federal Aid Project No. BR-1673/ (100) Project Identification Number 16731.00, (hereafter **PROJECT**) as follows:

A. OPERATION AND MAINTENANCE OF BRIDGE AND APPROACH LIGHTING.

- 1) The CITY and the TOWN agree to operate and maintain within their respective municipal limits the Lighting from the Portland/Falmouth line on the Bridge to the end of the approach work 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:
 - a. The CITY and the TOWN shall repair or correct all malfunctions and deficiencies in the Lighting system expeditiously. Each community will be responsible for repairs to physical equipment (fixtures, poles, and wires) within its geographic boundary. The TOWN will be responsible for any repairs and maintenance to the control system and shall charge the CITY 26% of any related and reasonable costs to repair and maintain the control system. Said control system will be located in the TOWN.
 - b. The CITY and the TOWN agree to be responsible for the electrical service for the Lighting. The TOWN will be responsible for payment of all electricity supply, electricity transmission and control communication costs. The TOWN will charge the CITY 26% of any such charges.
 - c. The CITY and the TOWN shall preserve and maintain the visibility of the Lighting at all times by removing all visual impairments thereto.

- d. The **CITY** and the **TOWN** shall make no substantial operational changes or modifications to the Lighting without the express mutual written approval.
- e. The **CITY** and the **TOWN** agree to maintain the Lighting with equipment technology equal to or better than what has been installed. More than three years after the expiration of the warranty period for lighting equipment and controls, the **CITY** and **TOWN** may mutually agree to use equipment technology that is less advanced than originally installed if in their judgment it is more reliable than or otherwise preferable to the original equipment.
- f. The **CITY** and the **TOWN** shall assume these maintenance responsibilities upon successful completion, installation, and acceptance of said lighting infrastructure. The **CITY** and **TOWN** shall not be responsible for any defects in materials and workmanship as defined and specified within the Maine Department of Transportation (“MDOT”) plans, specifications, and contract between MDOT and their contractor.

B. OPERATION AND MAINTENANCE OF BICYCLE / PEDESTRIAN PATH

- 1) The **CITY** and the **TOWN** agree to remove snow from all sidewalks and the Bicycle / Pedestrian path within the municipal limits, built on the bridge structure as part of the **PROJECT**. The **CITY** will provide snow removal services on the sidewalks and Bicycle/Pedestrian path focusing on the east side of the bridge following the substantial completion of the plowing of the vehicle lanes. Although weather and unforeseen circumstances may be a factor, the removal of snow on the Bicycle and Pedestrian Path will occur no later than 48 hours after the **TOWN** or **CITY** crews complete the plowing the vehicle travel lanes on the Bridge. The **CITY** and **TOWN** will monitor and assess the 48 hour response time on an ongoing basis as needed to ensure appropriate service levels for the communities. The **CITY** and **TOWN** shall mutually agree upon any future changes to the response time and operations relating to the snow removal on the Bicycle/Pedestrian path and the sidewalks.
- 2) The **CITY** and the **TOWN** accept maintenance responsibility for the sidewalks and bicycle pedestrian paths located on bridge structure within each respective community geographic boundary. The **CITY** and the **TOWN** may mutually agree to share in the operational expenses for all maintenance of the sidewalks and bicycle pedestrian paths built on bridge structures. The acceptance of maintenance responsibilities within this agreement is not intended to supersede or diminish existing responsibilities of MDOT or others for capital improvements, operations or maintenance related to the Bridge or the **PROJECT** facilities.

C. OPERATION AND MAINTENANCE OF VEHICLE LANES

- 1) The **CITY** and the **TOWN** agree to remove snow from all vehicle travel lanes, built on the bridge structure as part of the **PROJECT**. The **TOWN** agrees to remove snow from all vehicle travel lanes and paved shoulders during a snow emergency.
- 2) The **CITY** and the **TOWN** accept all maintenance responsibility required by the Maine Department of Transportation for vehicle travel lanes located on the bridge structure within each

respective community geographic boundary. The **CITY** and the **TOWN** may mutually agree to share in the operational expenses for the vehicle lanes built on bridge structures. The acceptance of maintenance responsibilities within this agreement is not intended to supersede or diminish existing responsibilities of MDOT or others, for capital improvements, operations or maintenance related to the Bridge or the **PROJECT** facilities.

D. TRAFFIC CONTROL

- 1) The **CITY** and the **TOWN** agree to maintain all pavement markings and all traffic control signs installed as part of this **PROJECT** jointly and in coordination with each other, and will be responsible for the payment of said maintenance within each community's respective geographic boundary. It is the intent of both the **TOWN** and the **CITY** to use one contractor for the regular pavement marking work as needed and to work jointly on procurement of and sharing equally in the billing for those services.

The **CITY** and the **TOWN** shall implement and use a Traffic Control Plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) including a provision for **CITY** and **TOWN** employees and/or contractors entering the State's right-of-way for long-term maintenance.

E. COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS

This Agreement imposes an obligation of good faith and fair dealing on both parties in the execution, performance, interpretation, and enforcement of the Agreement. With a positive commitment to honesty and integrity, the **CITY** and the **TOWN** agree to function in accord with all applicable laws, statutes, regulations, MUTCD, 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.

The parties hereto agree to be bound by the terms and conditions of this Agreement and hereby execute this Agreement effective on the day and date signed by both parties, by their duly authorized representatives.

CITY OF PORTLAND

Witness: _____

DATE: _____

By: _____

Mark H. Rees
City Manager

TOWN OF FALMOUTH

DATE: March 11, 2014

By: [Signature]

Nathan Poore
Town Manager