



MaineDOT Internal Use Only	
TEDOCS #:	
CTM #:	
CSN #:	

(Non-monetary Agreement)

Lead Agency: Town of Hiram	Agreement Begin Date: Upon full execution
Partner Vendor Numbers: N/A	Agreement Completion Date: 10 years from date of execution
Funding Sources: • 100% Local Funding	Estimated Annual Cost to MaineDOT: \$0.00
MaineDOT WIN: N/A	Program: Planning

NOTE: The information in the table above is for administrative purposes only and is not a legal component of the attached agreement.

*Administrative Cover Page
Maintenance and Operation Agreement
Mountain Division Recreational Rail Trail
Hiram Trail Segment
Hiram, Maine
(contract begins on following page)*

MAINTENANCE AND OPERATION AGREEMENT

For the Mountain Division Recreational Rail Trail Hiram Segment

This Cooperative Agreement, (the “Agreement”) is made effective on the date last signed below between the **TOWN OF HIRAM**, a municipal corporation with its principal offices located at 16 Nasons Way, Hiram, Maine 04041 (the “Town”) and the **STATE OF MAINE, acting by and through its Department of Transportation** (“MaineDOT”), having its headquarters located at 24 Child Street, Augusta, ME 04333 (“MaineDOT”) (The Town and MaineDOT are jointly the “Parties” or sometimes individually a “Party”).

RECITALS

- A. By virtue of a Quitclaim Deed from Maine Central Railroad (the “MCRR”) to the State of Maine dated December 30, 1996 and recorded in Book 369, Page 360 of the Oxford County Registry of Deeds, the State of Maine was granted all of MCRR’s rights in the so-called Mountain Division rail corridor extending from Windham to Fryeburg, a segment of which included the rights in the portion of the corridor extending through Hiram.
- B. In accordance with the State Railroad Preservation and Assistance Act (23 M.R.S. § 7101, et seq.), MaineDOT has the authority, upon receiving a recommendation from the designated rail corridor use advisory council and approval of the Maine Legislature, to make interim use of acquired rail corridors by converting such corridors to a non-rail recreational or nonrecreational transportation use.
- C. Pursuant to Resolves 2023, Ch. 89 (the “2023 Rail Trail Resolve”), the Maine Legislature authorized MaineDOT to “remove 31 miles of state-owned inactive existing railroad track between the Town of Standish and the Town of Fryeburg and replace the track with an interim 10-foot-wide bicycle and pedestrian trail, surfaced with either pavement or stone dust on the existing rail bed.”
- D. MaineDOT is presently planning for the design and construction of the bicycle and pedestrian trail authorized by the Maine Legislature in 2023 (the “Trail”) by dividing the 31-mile Trail into six segments, which are identified in the plan attached hereto as **Appendix A**. Trail “Segment 2” extends through Hiram and is described as follows:
 - Segment 2: *Beginning at Denmark Road (Route 160) in the town of Brownfield and extending south for 6.5 miles, ending at a proposed trail head located along Mountain View Avenue in Hiram.*

- E. MaineDOT anticipates constructing Trail Segment 2 during the 2027-2028 construction seasons. The portion of Trail Segment 2 that is located within the municipal boundaries of the Town of Hiram is hereafter the “Hiram Trail Segment”.
- F. The purpose of this Agreement is to define the respective responsibilities of MaineDOT and the Town relating to the maintenance and operation of the Hiran Trail Segment for the benefit of the public and consistent with MaineDOT’s interim recreational use of the rail corridor.

AGREEMENT

1. APPENDICES. The following appendices are attached hereto and made a part hereof:

- Appendix A – Plan of Corridor Segments
- Appendix B – Trail Management Principles

2. GRANT OF LICENSED RIGHTS, PUBLIC USE, AND PERMITTED ACTIVITIES.

- a. Upon MaineDOT’s completion of construction of the Hiram Trail Segment, MaineDOT hereby grants to the Town a non-exclusive, revocable license to enter upon and use the Hiram Trail Segment for the limited purposes of maintaining, operating, and coordinating responsibilities for an interim-use, public recreational trail.
- b. The Hiram Trail Segment shall be available for public recreational use consistent with applicable law and posted Trail rules. Permitted uses may include walking, bicycling, cross-country skiing, snowmobiling when conditions permit, and other non-motorized recreational uses approved by the Town in consultation with MaineDOT. Other limited, motorized recreational uses may be considered at MaineDOT’s sole discretion.
- c. The Town, in consultation with MaineDOT via the contact listed under the *Notices* section of this Agreement, may implement reasonable operational rules, seasonal restrictions, and hours of operation. In doing so, the Town will make reasonable efforts to coordinate such operational rules with those of neighboring towns that are similarly operating adjacent segments of the Trail.
- d. This license is appurtenant solely to the Town’s rights and obligations under this Agreement, shall not be assigned except in connection with a permitted assignment of this Agreement, and shall not be construed to convey any leasehold, easement, ownership interest, or other real property rights in the Trail or the rail corridor. MaineDOT shall retain ownership of all property interests associated with the Hiram Trail Segment, including any easements, licenses, or other rights acquired for Trail purposes.
- e. The Town acknowledges that MaineDOT retains ultimate authority regarding substantial modification, relocation, closure, or abandonment of the Hiram Trail Segment. MaineDOT shall provide the Town prior notice of any such changes that would result in

additional maintenance or operations responsibilities, which the Town may refuse to undertake.

- f. MaineDOT reserves the right to modify or close the Hiram Trail Segment or any portion thereof if, in MaineDOT's sole discretion, doing so is necessary to protect the safety of the recreating public or the State of Maine's investment in the Trail infrastructure.
- g. The Town acknowledges that the Trail is constructed as an interim use in accordance with 23 M.R.S. § 7101 et seq. If freight or passenger rail services resume along the Mountain Division rail corridor, this interim Trail use and all licensed rights granted hereunder shall terminate. Upon such termination, any installed Trail amenities or materials shall be removed, repurposed, or otherwise disposed of by MaineDOT at MaineDOT's expense, without any compensation due to the Town.

3. TOWN MAINTENANCE AND OPERATION RESPONSIBILITIES.

- a. The Town shall be responsible for all maintenance and operation of the Hiram Trail Segment, including, without limitation, the following as reasonably necessary (the "Maintenance and Operation Tasks"):
 - Surface grading and repair;
 - Vegetation management and trimming;
 - Litter and debris removal;
 - Inspection and minor repair of signage, gates, fencing, and related trail amenities;
 - Coordination of volunteer maintenance activities;
 - Monitoring and reporting unsafe conditions to MaineDOT;
 - Seasonal maintenance activities as determined appropriate by the Town
- b. The Town shall perform all Maintenance and Operation Tasks in a manner reasonably intended to preserve the useful life, public recreational and transportation use, and accessibility features of the Hiram Trail Segment and associated Trail amenities, consistent with generally accepted practices for public recreational trail management and subject to available municipal funding and resources. The Trail Management Principles set out in **Appendix B** are intended solely as a general operational guide and shall not establish mandatory performance standards or independent obligations enforceable against the Town.
- c. The Town shall not materially restrict public access to the Hiram Trail Segment except as reasonably necessary for maintenance activities, emergency conditions, public safety concerns, or temporary operational needs.
- d. The Town may coordinate with local trail organizations, snowmobile clubs, volunteer groups, or other entities to assist with maintenance, grooming, or recreational programming associated with the Hiram Trail Segment. Any such arrangements shall be

the sole responsibility of the Town, and no such entity shall be deemed a party to this Agreement absent a written amendment executed by the Parties.

4. **MAINEDOT RESPONSIBILITIES.** MaineDOT shall remain responsible for the following:

a. **Capital Infrastructure and Structural Elements.**

- Major planned capital repairs, replacement, rehabilitation, or reconstruction of substantial Trail infrastructure, unless otherwise agreed in writing;
- Structural inspection of all numbered bridges and minor spans or culverts in accordance with MaineDOT bridge inspection protocols;
- Structural rehabilitation, repair, replacement, or maintenance of bridges, culverts, retaining structures, drainage structures, and similar capital structural elements as MaineDOT determines necessary to preserve structural integrity;
- Coordination of any beaver control measures or beaver removal required to mitigate integrity of the corridor or prevent damage from flooding associated with beaver activity.
- Notwithstanding the foregoing, maintenance and replacement of trail-specific timber decking, railing systems, and similar non-structural trail amenities installed as part of bridge retrofits for Trail use shall remain the responsibility of the Town unless otherwise agreed in writing. The Town may, through coordination with local trail organizations, snowmobile clubs, volunteer groups, or other entities, delegate performance of these maintenance responsibilities to the relevant organization when damage to railings or timber decking is caused by snowmobile use or snowmobile grooming equipment. Any such delegation shall not relieve the Town of its obligations under this Agreement, and the Town shall remain fully responsible to MaineDOT for ensuring that all maintenance responsibilities are performed in accordance with this Agreement. The Town, at its discretion, may also require relevant organizations to install rubberized belting, sacrificial timbers, or other appropriate designs intended to minimize damage to bridge decking caused by snowmobile use.

b. **Future Capital Improvements.**

- Future Trail expansion projects or substantial reconstruction activities undertaken by MaineDOT;
- Potential long-term rehabilitation of the Trail following the anticipated service life of major Trail improvements, including resurfacing or significant rehabilitation of paved

Trail surfaces. MaineDOT may participate in such future rehabilitation activities as available funding, grants, and applicable state or federal programs allow. Any required local cost-sharing shall be subject to future agreement of the Parties and the requirements of applicable funding programs.

c. Emergency Repairs and Property Coordination Matters.

- Assessment and repair of significant unforeseen damage to major Trail capital infrastructure resulting from flooding, severe weather events, or similar emergencies, subject to MaineDOT's sole discretion and the availability of federal, state, or local funding resources, including applicable disaster assistance programs. Routine Trail surface washouts, shoulder erosion, drainage maintenance, or localized slope stabilization shall generally remain Town maintenance responsibilities;
- Coordination with adjacent property owners, easement holders, or other third parties concerning property rights or encroachments affecting the Trail Corridor.

5. EMERGENCY RESPONSE AND UNSAFE CONDITIONS.

- a. The Town shall promptly notify MaineDOT of any known Trail conditions posing a significant risk to public safety or materially affecting use of the Hiram Trail Segment.
- b. Nothing herein shall obligate the Town to provide police, fire, emergency medical, or other emergency response services beyond those customarily provided by the Town in the ordinary course of municipal operations. To the extent that such services are made available, emergency vehicles shall have unrestricted access to the Trail at all times.

6. SIGNAGE AND ATV RESTRICTIONS.

- a. MaineDOT, in consultation with the Town, shall install certain signage during Trail construction, including signs identifying Trail rules, distances, road crossings, landmarks, points of interest, and other informational or directional signage, as well as permanent advance warning signs at roadway crossings, where applicable.
- b. MaineDOT shall install signage at Trail access points and trailheads directing Trail users to contact the Town for non-emergency Trail-related matters and shall include the appropriate contact information designated by the Town.
- c. All Terrain Vehicles ("ATVs") are prohibited on the Trail unless otherwise expressly authorized by MaineDOT. MaineDOT shall install signage at trailheads directing Trail users to report unauthorized ATV activity, including license plate information where available, to the Town using the contact information designated by the Town. The Town shall forward such reports, as appropriate, to local law enforcement or the local Game Warden Service.

7. LIABILITY AND IMMUNITY.

- a. Each Party shall remain responsible for its own acts and omissions and those of its officers, employees, agents, and contractors. Nothing in this Agreement shall be construed as an assumption by either Party of liability for the acts or omissions of the other Party. However, this limitation shall not apply to claims arising from a Party's fraud, gross negligence, willful misconduct, or material breach of its expressly stated obligations under this Agreement.
- b. Nothing herein shall constitute a waiver of any defense, immunity, or limitation of liability available to either Party under applicable law, including but not limited to the Maine Tort Claims Act (14 M.R.S. § 8101 et seq.), the recreational use immunity provisions of 14 M.R.S. § 159-A, or any other immunities or protections provided by law.
- c. *Notwithstanding any other provision of this Agreement to the contrary, this limitation of liability provision shall survive any termination or expiration of this Agreement.*

8. CONTRACTOR INSURANCE AND INDEMNIFICATION.

The Town shall require all contractors performing construction, repair, or maintenance activities within the Hiram Trail Segment to:

- a. Maintain insurance coverage customary and appropriate for the nature of the work being performed, including workers' compensation coverage as required by law; and
- b. Indemnify, defend, and hold harmless the State of Maine, its officers, agents, or employees from all claims, suits, or liabilities of every kind or nature attributable to, resulting from, or arising from the actions of the contractor, its representatives, employees, agents, invitees, consultants, or subcontractors. Nothing herein will constitute a waiver of any defense, immunity, or limitation of liability that may be available to the State of Maine under the Maine Tort Claims Act (14 M.R.S. § 8101 et seq.) or any other privileges or immunities provided by law. *Notwithstanding any other provision of this Agreement to the contrary, this indemnification provision shall survive any termination or expiration of this Agreement.*

9. **ACCESS BY MAINEDOT.** MaineDOT and its employees, contractors, agents, and representatives shall retain the right to enter upon the Hiram Trail Segment at all times for inspection, maintenance, repair, construction, or other Trail or rail-related purposes.

10. TERM AND TERMINATION.

- a. Term. This Agreement shall become effective upon execution by both Parties and shall remain in effect for a period of ten (10) years unless extended or earlier terminated.

Upon terms mutually agreeable to both Parties, this Agreement may be extended in additional ten (10) year increments.

b. Termination:

- By Either Party. This Agreement may be terminated by either Party upon no less than six (6) months' written notice to the other Party, and, in no event, shall any such action be deemed a breach of contract.
- MaineDOT Termination and Town's Right to Cure.
 1. If the Town fails to perform any obligation under this Agreement to MaineDOT's satisfaction, MaineDOT may deliver written notice of default to the Town. The Town shall have thirty (30) days from receipt of such notice to cure the default to MaineDOT's reasonable satisfaction. If the default remains uncured after thirty (30) days, MaineDOT may terminate, suspend, or abandon this Agreement upon thirty (30) days' subsequent written notice to the Town.
 2. If the Town fails to cure a performance default within the thirty (30) day cure period, MaineDOT reserves the right, but not the obligation, to cure the default at the Town's expense, to the extent reasonably necessary, either through MaineDOT forces or a third-party contractor. The Town shall fully reimburse MaineDOT for all actual, reasonable, and documented costs incurred within thirty (30) days of MaineDOT's written demand and invoice.

11. GENERAL PROVISIONS.

- a. Town Authority. The Town represents that it has received all necessary approvals or authorizations by its governing authorities to enter into this Agreement and fulfill the Town's obligations hereunder.
- b. State of Maine's Rights of Set-Off. The State of Maine (the "State") 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 to the State up to any amounts due and owing to MaineDOT with regard to this Agreement or 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. The State of Maine 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.

- c. Independent Capacity. Neither Party, its respective employees, agents, representatives, consultants, or contractors shall act as officers, employees, or agents of the other Party.
- d. The Parties agree to: comply with and abide by all applicable state and federal laws, statutes, rules, regulations, standards, and guidelines, including the Manual of Uniform Traffic Control Devices (the “MUTCD”) and Occupational Safety and Health Administration (“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.
- e. Non-appropriation. Notwithstanding anything herein to the contrary, each Party acknowledges and agrees that, although the execution of this Agreement manifests the Parties’ 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, the United States Congress, and applicable municipal authorities and, therefore, this Agreement does not create any obligation on behalf of either Party in excess of such appropriations.
- f. Non-Discrimination and Accessibility. The Town shall operate and maintain the Hiram Trail Segment in compliance with applicable federal and state nondiscrimination laws and accessibility requirements, including Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act, as applicable.
- g. Debarment or Suspension of Contractors. The Town shall not knowingly retain contractors or subcontractors suspended or debarred from participation in federally funded programs for work performed in connection with the Hiram Trail Segment.
- h. Assignment. The Town shall not assign or transfer any rights or obligations under this Agreement without MaineDOT’s prior written consent, which consent shall be at MaineDOT’s sole discretion. The Parties acknowledge that a regional trail management entity or similar organization may, in the future, assume Maintenance and Operations Tasks for all or portions of the Trail. Subject to MaineDOT’s prior written approval, nothing herein shall prohibit assignment of this Agreement to such an entity.
- i. Entire Agreement and Amendment. This Agreement constitutes the entire agreement between the Parties; supersedes all prior oral or written agreements, understandings, and courses of dealing between the Parties about the subject matter of this Agreement; and may only be amended or modified by a writing signed by all Parties.
- j. Counterparts and Electronic Signatures. This Agreement may be implemented in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same Agreement, and will be effective when counterparts have been signed by and delivered to each of the Parties. Each Party agrees that this Agreement and any other documents to be executed in

connection herewith may be electronically signed and that any electronic signatures appearing on this Agreement or the associated documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

- 12. NOTICES.** Any communications, requests, or notices required or appropriate to be given under this Agreement shall be in writing and may be sent via email, which shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving Party. Alternatively, communications can be mailed via U.S. Mail, Certified or Registered, Return Receipt Requested, or sent via a recognized commercial carrier such as, but not limited to, Federal Express, that requires a return receipt delivered to the sending Party. Said communications, requests, or notices shall be sent to each Party, as follows:

For MaineDOT: Dakota Hewlett
Active Transportation Planner
Maine Dept. of Transportation
Bureau of Planning
16 State House Station
Augusta, ME 04333-0016
Email: dakota.hewlett@maine.gov
Phone: 207-592-3384

For the Town: Name: _____
Title: _____
Address: _____

Email: _____
Phone: _____

(See Signatures on Following Page)

The Parties, through their authorized representatives, hereby execute this Agreement, effective on the date last signed below.

STATE OF MAINE
Department of Transportation

Date: _____

By: _____
Jennifer Grant, Director
Bureau Planning
Duly authorized

TOWN OF HIRAM

Date: _____

By: _____
Print Name: _____
Title: _____
Duly Authorized