

Municipal Stream Crossing Program Grant Agreement (State Funds)

MaineDOT WIN: <u>28820.05</u>	Vendor Number: _____
Maximum Grant Funds: \$ <u>200,000</u>	Grantee Match: \$ <u>248,210</u>
Agreement Effective Date: _____	Agreement End: _____

NOTE: The information in the table above is for administrative purposes only and is not part of the Municipal Stream Crossing Program Grant Agreement below.

**MUNICIPAL STREAM CROSSING PROGRAM
GRANT AGREEMENT**

This Municipal Stream Crossing Program Grant Agreement (the "Agreement") is entered into by and between the State of Maine, acting by and through its Department of Transportation ("MaineDOT"), and Town of Casco (the "Grantee").

EFFECTIVE DATE: This Agreement is effective as of the date last signed as indicated on the signature page below (the "Effective Date"), and does not take effect until both MaineDOT and the Grantee have signed. Any commitments made or obligations or expenditures incurred by Grantee prior to the Effective Date of this Agreement are at Grantee's sole risk and may not be reimbursed in whole or in part by MaineDOT in MaineDOT's sole judgment.

RECITALS

1. The Municipal Stream Crossing Program (the "Program") was established to provide Program grant funding ("Grant Funds") to local and tribal governments, municipal conservation commissions, soil and water conservation districts, and nonprofit organizations to upgrade culverts that carry a stream under a municipal road that is not a State or State-aid highway, with the goal of creating infrastructure that is resilient to future climate conditions and that provides community, economic, and environmental benefits.

2. MaineDOT is authorized to administer the Grant Funds, which will be State funds, in accordance with the Program.
3. MaineDOT has conducted a competitive application process for Grant Funds for municipal stream crossing projects under the Program.
4. In reliance on the representations contained in Grantee's application to the Program for funding for its municipal stream crossing project (the "Application"), which is incorporated by reference into and made part of this Agreement, MaineDOT has selected Grantee's municipal stream crossing project for Grant Funds subject to the terms and conditions of the Program and this Agreement.

In consideration of the foregoing Recitals, which are an integral part of this Agreement, and the mutual covenants and agreements contained herein, MaineDOT and Grantee hereby agree as follows:

A. Grantee's Stream Crossing Project

1. Grantee will undertake and complete the stream crossing project described in Grantee's Application (the "Stream Crossing Project") and referenced in Appendix A hereto, which is incorporated into and made part of this Agreement. The completed Stream Crossing Project must conform to the Application, including but not limited to the following elements as specified in the Application: (a) the extent to which the Stream Crossing Project is 1.2 times the stream's bankfull width measurement; and (b) proposed culvert size and the extent to which this crossing size meets MaineDOT's 100-year flood standard. Final design and construction plans for Grantee's Stream Crossing Project must be stamped by a Professional Engineer licensed in Maine (the "Project Plans") and evidence thereof must be made available to MaineDOT prior to the start of construction of the Stream Crossing Project. If Grantee's Stream Crossing Project involves a structure span 10 feet or greater, Grantee's design must be reviewed and approved by MaineDOT's Bridge Maintenance Office prior to final design and, after such approval, will not be altered without MaineDOT's further review and approval. Grantee will not make any other changes to the Stream Crossing Project to a degree that fundamentally alters the Stream Crossing Project unless it has received the prior written consent of MaineDOT.
2. Grantee will use qualified contractors and consultants for the design, engineering, and construction of the Stream Crossing Project and will have responsibility for overseeing and monitoring the Stream Crossing Project during its design, engineering, construction and implementation. In addition, Grantee will be solely responsible for ongoing maintenance of the Stream Crossing Project at its own cost and expense.

3. Grantee will comply with all applicable federal, Maine, and local laws and regulations, including but not limited to environmental laws and regulations, in connection with the Stream Crossing Project. In the event that the Stream Crossing Project is required to comply with the National Environmental Policy Act, as amended, and associated regulations (collectively, "NEPA") because it is also funded with funds from a federal financial assistance program or requires a federal permit, Grantee will be solely responsible for ensuring such NEPA compliance.
4. Grantee will obtain and keep in effect all federal, Maine, and local permits required for the Stream Crossing Project. If Grantee's Stream Crossing Project requires a permit from the Army Corps of Engineers, Grantee must provide a copy of the permit to MaineDOT prior to construction of its Stream Crossing Project.
5. Grantee will obtain any necessary property rights for the Stream Crossing Project.
6. Grantee will ensure that the Stream Crossing Project does not create any safety hazards and undue inconvenience to the public and will take steps to ensure the safety of the public at all times in connection with the Stream Crossing Project. Grantee must take steps to ensure that the Stream Crossing Project does not reduce the safety or structural quality of any public roadway or associated right-of-way, there are no roadway obstructions for the traveling public, and the roadway surface is restored so that it provides a smooth ride.
7. Grantee will adhere to the timelines for development and completion of the Stream Crossing Project ("Project Milestones") set forth in Grantee's Application and Appendix A hereto, as may be extended with MaineDOT's consent. Unless extended by MaineDOT, the completion date for Grantee's Stream Crossing Project will be no later than two (2) years from the Effective Date of this Agreement.

B. Funding of Stream Crossing Project

1. MaineDOT will disburse Grant Funds to Grantee for actual eligible direct costs of the Stream Crossing Project in the maximum amount set forth in Appendix A attached hereto. Grantee will use Grant Funds only for eligible costs of the Stream Crossing Project as described in its Application. In the event that actual eligible direct costs of the Stream Crossing Project are less than the maximum amount of Grant Funds set forth in Appendix A hereto, MaineDOT will disburse Grant Funds only in an amount sufficient to pay actual eligible direct costs of the Stream Crossing Project, subject to the requirements of this Section B below.
2. Grantee will provide matching funds for the Stream Crossing Project in the amount(s) and from the source(s) identified in Appendix A ("Match"). Costs incurred by

Grantee prior to the Effective Date of this Agreement are not considered part of Grantee's Match requirement.

3. Grantee will pay all costs of the Stream Crossing Project that exceed the maximum amount of Grant Funds plus Match under this Agreement. The estimated total cost of the Stream Crossing Project is set forth in Appendix A hereto.
4. MaineDOT will make disbursements of Grant Funds in no more than three (3) payments. Grantee may request fewer than three (3) payments.
5. Disbursements of Grant Funds will be made only on a reimbursement basis and each disbursement must be associated with the completion of a specific Project Milestone identified in Appendix A. For purposes of this Agreement, "reimbursement" means that eligible Stream Crossing Project costs (i) have been paid by Grantee or (ii) have been incurred by Grantee and payment is due. All requests for reimbursement must be submitted to MaineDOT by Grantee no later than two (2) years from the Effective Date of this Agreement.
6. a. Each request for Grant Funds must be accompanied by all of the following, in the format that may be required by MaineDOT:
 - (i) The Project Milestone set forth in Appendix A for which reimbursement is requested and the start and end dates for that Project Milestone.
 - (ii) A written explanation of any variance of more than thirty (30) days in the schedule set forth in Appendix A in completing the Project Milestone.
 - (iii) An invoice that includes an itemized list of expenses actually incurred by Grantee identifying the services and materials, with amounts, dates, and vendor and contractor names and evidence that such expenses have been paid or that payment is due.
 - (iv) The total amount of Grant Funds being requested, showing the dollar amount deducted for the portion of Match applied to the invoice as specified in Appendix A hereto.
- b. For a Stream Crossing Project, as a condition to the final disbursement of Grant Funds (or in the event a request for Grant Funds is made only after completion of construction), Grantee must, in addition to the items listed above, submit a written certification by a Professional Engineer licensed in Maine that the Stream Crossing Project is complete and was constructed as designed.

- c. A request for disbursement of Grant Funds may not include any contractor retainage withheld by Grantee. MaineDOT will not disburse Grant Funds for any such retainage.
 - d. MaineDOT will review each request for disbursement of Grant Funds and supporting materials to ensure that costs are eligible for reimbursement with Grant Funds in accordance with this Agreement and may request additional information deemed necessary by MaineDOT before disbursing Grant Funds. MaineDOT may also, in its discretion, view the Stream Crossing Project during construction and upon completion to assess the progress of the work and the completion of the Project Milestone for which a disbursement request has been submitted by Grantee, and Grantee will permit MaineDOT and its consultants to access the work site of the Stream Crossing Project for such purpose. In the event any additional information requested by MaineDOT or such access is not provided, MaineDOT may withhold all or a portion of the Grant Funds requested by Grantee, as determined by MaineDOT.
 - e. Prior to the first disbursement of Grant Funds, Grantee may terminate this Agreement after fifteen (15) days prior written notice to MaineDOT. If Grant Funds become unavailable to fund the Stream Crossing Project, MaineDOT will have the right to terminate this Agreement after fifteen (15) days prior written notice to Grantee. In the event of termination of this Agreement by Grantee or MaineDOT, MaineDOT will have no liability for payment of Grant Funds to Grantee.
7. a. Grantee acknowledges and agrees that it may forfeit the undisbursed balance of the Grant Funds if MaineDOT determines that a Project Milestone is significantly behind schedule and Grantee cannot demonstrate to MaineDOT's satisfaction earnest and good faith efforts to complete the Stream Crossing Project within two (2) years from the Effective Date of this Agreement, as such time period may be extended by MaineDOT.
- b. In addition, if MaineDOT determines that Grantee has failed to complete the Stream Crossing Project in accordance with this Agreement, or has used Grant Funds for any purpose other than as provided in this Agreement, or has failed to submit all required reports to MaineDOT as provided in this Agreement, MaineDOT will also have the right to terminate this Agreement, withhold all further disbursements of Grant Funds, recoup Grant Funds disbursed to Grantee, set off amounts of Grant Funds payable to Grantee against amounts that Grantee is required to pay or return to MaineDOT under this Agreement or any other arrangement or agreement between MaineDOT and Grantee whether or not related to the Program, and pursue all other legal remedies that may be available to MaineDOT after written notice of non-compliance is provided to Grantee and Grantee fails to cure the non-compliance within the period specified in the notice, in MaineDOT's judgment. MaineDOT will have the right to recover its attorneys' fees and legal costs in the exercise of its legal remedies.

8. Grantee acknowledges and agrees that MaineDOT's obligations under this Agreement are conditioned on the availability of Program funds and on MaineDOT's continued authorization under applicable laws, regulations, or appropriations to use such funds for the purposes described in this Agreement.

C. **Reporting**

1. For each calendar year, or portion of a calendar year, after the Effective Date of this Agreement until completion of the Stream Crossing Project, Grantee will submit an annual report to MaineDOT ("Annual Report"), as provided in the Program. Each Annual Report will be due not later than fifteen (15) business days after the close of a calendar year. Each Annual Report must include all of the following:
 - (a) A description of the progress of the Stream Crossing Project, including percent completed and whether the Stream Crossing Project is on track to be completed by the Project Completion Date set forth in Appendix A based on the major activities that remain to be completed.
 - (b) Any scheduling changes and the reasons for any delays.
 - (c) Cumulative costs incurred and expenditures made for the Stream Crossing Project for the calendar year.
2. Within thirty (30) days after the completion of the Stream Crossing Project, Grantee will also submit a final report on the Stream Crossing Project, which must include the following:
 - (a) A summary of the completed Stream Crossing Project.
 - (b) A description of the anticipated reduced risk to public safety resulting from the Stream Crossing Project, based on the estimated number of individuals and businesses that will no longer suffer from impacts such as service disruption, inoperability, property washouts, or inaccessibility of a necessary resource.
 - (c) The anticipated amount of the avoided cost of damages that results from the Stream Crossing Project, based on records of past actual damage costs incurred during failure of similar infrastructure, or in the absence of such records, estimated damage costs.
 - (d) A description of how the Stream Crossing Project has been designed for increased resilience to future storm and flooding impacts.

D. No Liability

Notwithstanding MaineDOT's selection of Grantee's Stream Crossing Project for an award of Grant Funds, any involvement by MaineDOT in the review or approval of Project Plans, or the provision of Grant Funds to Grantee under this Agreement, MaineDOT will have no responsibility or liability to Grantee or its agents or contractors or any other third party for any damages, costs, claims, demands, or causes of action arising from the design, engineering, or construction of Grantee's Stream Crossing Project or from any other cause. This Agreement is for the sole benefit of MaineDOT and Grantee and is not intended to benefit any other person or entity, and no such person or entity will be deemed a third-party beneficiary of this Agreement or have any rights under this Agreement, including but not limited to any rights to payment with Grant Funds or any other funds.

To the extent permitted by law, Grantee will indemnify and hold harmless MaineDOT and its officers, agents, and employees from any and all claims, damages, demands, suits, actions, liabilities, or costs, including but not limited to court costs and attorneys' fees, of every kind or nature arising out of this Agreement. Nothing herein will waive any defense, immunity, or limitation of liability that may be available to MaineDOT or its officers, agents or employees under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or any other privileges or immunities as may be provided by law. *This provision will survive any expiration or earlier termination of this Agreement.*

E. Records

Grantee must retain full and accurate records of all labor, services and materials obtained, and associated costs and expenditures, with supporting invoices, receipts, and check copies, for the Stream Crossing Project for a period of three (3) years after the date of the final disbursement of Grant Funds to Grantee. MaineDOT and any appropriate agency of Maine State government (each, a "Reviewing Agency") will have the right during said three-year period to review, examine, audit, and copy such records during Grantee's normal business hours, and Grantee will cooperate in all respects with each such Reviewing Agency.

F. Contact Information

1. MaineDOT's Project Manager for this Agreement is as follows:

Sierra Millay
Project Manager
Maine Department of Transportation
16 State House Station

Augusta, Maine 04333

Tel: (207) 441-6435

Email: MunicipalStreamCrossing.MDOT@maine.gov

2. Grantee's Project Manager and related contact information for this Agreement are set forth in Appendix A hereto.
3. Any notice provided for in this Agreement may be sent by email.

G. Nondiscrimination

Grantee will not discriminate against any person on the basis of race, color, ethnicity, national origin, sex, sexual orientation, gender identity, religion, disability, age, or familial status. Grantee will comply with all applicable federal, Maine, and local laws and regulations regarding nondiscrimination.

MaineDOT does not and will not exclude from participation in, or deny the benefits of, its programs or activities, or subject anyone to discrimination or treat persons unfavorably based on race, color, religion, national origin, sex (pregnancy, sexual orientation, and gender identity), age, genetic information, disability, veteran status, limited English proficiency, or economic status. In addition, MaineDOT will not retaliate against any person who complains of discrimination or who participates in an investigation of discrimination.

H. Miscellaneous

1. This Agreement and its Appendix A may be amended only in a writing signed by MaineDOT and Grantee.
2. Grantee has received all necessary approvals and authorizations by its governing body for the Stream Crossing Project, including but not limited to Match, and its entry into this Agreement.
3. Grantee is acting as an independent contractor and not as an agent, representative, or partner of MaineDOT under this Agreement.
4. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. Each party agrees that this Agreement and any other documents to be executed in connection with this Agreement 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.

In witness whereof, MaineDOT and Grantee have executed this Municipal Stream Crossing Program Grant Agreement by their respective duly authorized representatives.

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Date

By: _____

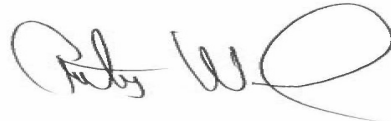
Joyce Noel Taylor, P.E.
Chief Engineer

GRANTEE

November 12, 2024

Date

By: _____



Printed Name: _____

Anthony Ward

Title: _____

Town Manager

**APPENDIX A
TO
MUNICIPAL STREAM CROSSING PROGRAM GRANT AGREEMENT**

Work Identification Number (WIN) 28820.05

Name of Grantee Town of Casco

Grantee's Contact Information for Stream Crossing Project

Project Manager Anthony Ward

Mailing address 635 Meadow Road, Casco, Maine 04015

Tel.: (207) 627-4515

Email: award@cascomaine.org

Name of Grantee's Stream Crossing Project Edwards Brook on Edwards Road

Physical Location of Stream Crossing Project 43.992902, -70.45857

Project Milestones – Description and start and end dates of each

Kick off -

Final design -

Construction begin - July 2025

Construction end -

Projected Project Completion Date

Estimated Total Project Cost \$448,210

Total Maximum Grant Funds \$200,000

Funding Match

Dollar Amount \$248,210

Source(s) Town of Casco's Capital Improvement Funding

Anticipated number of Disbursements of Grant Funds to be requested (must be 3 or fewer and each must be tied to completion of a specific Project Milestone above)

1st Disbursement - End of Design

2nd Disbursement - Construction

3rd Disbursement - Final close out