

**PROJECT READINESS: ENVIRONMENTAL RISK**

MaineDOT is an accomplished, experienced and responsible recipient of past successful FASTLANE, TIGER, INFRA and BUILD grants and can be relied upon to fully fund and commence the Project well in advance of the obligation date and to complete the Project well in advance of the completion date requirement without risk.

**Project Schedule**

Milestone	Finish Date
Project Kickoff	April 2023
Preliminary Design Report	May 2024
NEPA Complete	February 2025
Right of Way Certified	August 2026
Plans, Specifications & Estimates	August 2026
Advertise	September 2026
Construction Begin	November 2026
Construction Complete	July 2029

**Environmental Risk/Required Approvals**

During the development of the Reconnecting Communities and Neighborhoods package, numerous risks were contemplated, but each has a comprehensive mitigation strategy. Coordination between the design team and the environmental team will ensure that the Project goals and community needs can be met while avoiding, minimizing, and mitigating potential environmental impacts.

Preliminary baseline data collection is underway to identify natural and cultural resources potentially affected by the Project. This information will be refined during design and will be used to avoid and minimize impact while meeting the purpose and need of the Project.

- i. **National Environmental Policy Act (NEPA):** The NEPA process will inform design efforts. Based on the Project scope, the Project will be classified as a Categorical Exclusion in accordance with 23 CFR 771.117(c) (3) & (c)(26) or d(13). MaineDOT will review the Project and prepare NEPA documentation in accordance with the *Programmatic Agreement between the Federal Highway Administration, Maine Division and the Maine Department of Transportation Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects*. Should any issues arise, MaineDOT will work directly with the respective agencies to quickly resolve them. The anticipated date for NEPA completion is February 2025. Public involvement will be completed in accordance with MaineDOT Public Involvement Plan and the MaineDOT NEPA Public Involvement Plan. These plans can be found at this link:

<https://www.maine.gov/mdot/env/NEPA/public/index.shtml>

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- ii. **Historic and Archeological:** MaineDOT and FHWA have initiated and will complete the Section 106 process for all Project elements in accordance with the *Programmatic Agreement among the Federal Highway Administration, the Federal Railroad Administration, the Maine State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Maine Department of Transportation for the Transportation Program in Maine, dated July 6, 2022.*

The design team will work to avoid and minimize impacts. Should adverse effects arise, MaineDOT and FHWA will resolve adverse effects to historic properties in consultation with the Cultural Coordinator and the Maine Historic Preservation Commission as outlined in 36 CFR 800 and the MaineDOT Section 106 Programmatic Agreement.

MaineDOT and FHWA Maine Division will engage federally recognized Tribes.

- iii. **Section 4(f) of the Department of Transportation Act:** The MaineDOT Cultural Coordinator will review the project corridor to identify Section 4(f) resources. Project details and right-of-way information will be evaluated to avoid and minimize potential Section 4(f) uses. Based on the project scope, and Section 4(f) use that is unavoidable is expected to be *de minimus*.
- iv. **Endangered Species Act (ESA) and Essential Fisheries Habitat (EFH):** The Project is located within the range of the federally threatened Northern Long-Eared Bat. MaineDOT anticipates that the Project may affect, but not adversely, the Northern Long-Eared Bat. MaineDOT and FHWA will coordinate with federal agencies during Project design to avoid and/or minimize effects to EFH and ESA species and to complete the required consultations, as applicable, in accordance with the Project schedule.
- v. **Section 404 Clean Water Act Permit (U.S. Army Corps of Engineers [USACE]):** Freshwater wetland and stream impacts are not expected but could be required. MaineDOT will avoid and minimize temporary and permanent wetland and waterbody impacts to the extent practicable. MaineDOT anticipates that wetland impacts and any in-water work will be eligible for Category 2 Permits under the Maine Programmatic General Permit. Use of In-lieu fee mitigation payments to the Maine Natural Resources Compensation Program will streamline compensatory mitigation for unavoidable wetland impacts.
- vi. **Natural Resources Protection Act (Maine Department of Environmental Protection):** Wetland and stream impacts are regulated by the Maine Natural Resources Protection Act. MaineDOT anticipates that any wetland and stream impacts associated with the Project will be eligible for Permit-By-Rule Chapter 305, Section 11, which is a streamlined permit process for State Transportation Facilities.

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- vii. **Stormwater (Maine Department of Environmental Protection [DEP]):** The Project will incorporate Best Management Practices for temporary and permanent management of soil erosion and sedimentation. Permanent measures for treatment of stormwater quantity and quality will be incorporated in accordance with Maine DEP Chapter 500 Stormwater regulations and the Memorandum of Agreement for Stormwater Management Between the MaineDOT, MTA and Maine DEP. The project will comply National Pollutant Discharge Elimination System General Permit requirements as administered by Maine DEP.
- viii. **Floodway/Floodplains:** The Project is not located within designated Zone A or Zone B floodplains or floodways. The project team will consider improvements to stormwater system and drainage system designs.

MaineDOT recognizes that assuring sustainability of habitats, ecosystems and transportation infrastructure can occur in concert rather than in conflict. Toward that end, MaineDOT endeavors to exercise reasonable stewardship over both natural resources and transportation infrastructure through its commitment to addressing aquatic organisms, wildlife habitat and fish passage in cooperation with natural resource agencies while weighing all aspects of a proposed project.

The parties involved in this grant application are also applying an innovative means with respect to NEPA and permitting for this project through Programmatic Agreements to ensure timely and consistent reviews and accelerate project delivery:

*Programmatic Agreements*

MaineDOT and various other state and federal departments have executed agreements to expeditiously but thoroughly review environmental impacts from projects. MaineDOT will take advantage of the following agreements, where applicable, to streamline the environmental review and approval process:

1. Programmatic Agreement between the Federal Highway Administration, Maine Division and the Maine Department of Transportation Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects;
2. Programmatic Agreement among the Federal Highway Administration, the Federal Railroad Administration, the Maine State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Maine Department of Transportation for the Transportation Program in Maine, dated July 6, 2022;
3. Cooperative Agreement between U.S. Department of the Interior Fish and Wildlife Service (USFWS), FHWA and the MaineDOT for State Transportation Reviews by the USFWS in Maine;
4. Maine Atlantic Salmon Programmatic Consultation finalized January 23, 2017;

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5. Programmatic Agreement for the State of Maine concerning identification of listed and proposed species and designation of non-federal representative under the Federal Endangered Species Act between FHWA, Maine Division USACE and MaineDOT;
6. Programmatic Agreement for the State of Maine concerning identification of listed and proposed species and designation of non-federal representative under the Federal Endangered Species Act between FHWA, Maine Division USACE and MaineDOT;
7. Memorandum of Agreement for Stormwater Management Between the MaineDOT, MTA and Maine Department of Environmental Protection; and
8. Advisory Council on Historic Preservation (ACHP) Section 106 Program Comment to Exempt Consideration of Effects to Rail Properties Within Rail Rights-of-Way (Program Comment), dated August 17, 2018.

Project Risks	Mitigations
Environmental permitting/restriction:	
Federally Endangered Northern Long-Eared Bat	Collaborative agreements with MaineDOT, USFWS, USACE, FHWA and MTA under the Endangered Species Act through a process that expedites endangered species consultations and aims to meet both wildlife and Project goals <sup>1</sup>
Potential National Register eligible historic properties within the project area	Close coordination with Maine Historic Preservation Commission (MHPC) and the Municipality will be completed regarding potentially affected resources. The project design will be compatible or complement the character-defining features of NR-eligible properties.
Areas of known soil contamination from previous land uses	Complete DEP file reviews and onsite testing where appropriate to inform design and minimize disturbance of contaminated soil. Provide direction for disposal and health and safety protective measures during construction.
Maintenance of Traffic during construction? Business, vehicular, transit bike/ped impacts?	

The Project team will engage the public and the city to ensure the impacts from the project will not disproportionately impact people of color, low-income, or disadvantaged populations.

<sup>1</sup> <http://www.maine.gov/mdot/maspc/>

MaineDOT recently updated its Public Involvement Plans, which outline the Department's efforts to ensure disadvantaged populations are afforded meaningful opportunities for public involvement. The Plans are available here:

<https://www.maine.gov/mdot/env/NEPA/public/index.shtml>

### **Administrative and National Policy Requirements**

**Climate Change and Environmental Justice Impact Consideration:** All MaineDOT projects include consideration of climate change and environmental justice impacts. MaineDOT utilizes the EPA EJSCREEN for all Federally-funded projects. The team will engage the public and work to ensure impacts will not disproportionately affect people of color, low-income individuals or disadvantaged populations. MaineDOT recently updated its Public Involvement Plans, which outline the Department's efforts to ensure disadvantaged populations are afforded meaningful opportunities for public involvement. The Plan is available at:

<https://www.maine.gov/mdot/env/NEPA/public/index.shtml>.

**Equity and Barriers to Opportunity:** MaineDOT recently updated its Public Involvement Plans to ensure disadvantaged populations and underserved areas are afforded meaningful opportunities for public involvement, available at: <https://www.maine.gov/mdot/env/NEPA/public/index.shtml>. MaineDOT has an equity statement outlining a commitment to ensuring that all Mainers have access to safe and reliable transportation options.

**Labor and Workforce:** MaineDOT is responsible for managing and funding the transportation system statewide. The Agency also manages the state's relationship with transportation-related private entities. Employing approximately 1,600 people, the agency expends and disburses more than \$1.25 billion annually in Federal, state and local funds. MaineDOT works to create good-paying jobs that incorporate strong labor standards.

**Critical Infrastructure Security, Resilience and Cybersecurity:** The State of Maine takes physical and cybersecurity threats seriously and works closely with Federal agencies to ensure cybersecurity systems are in place. The state considers security when designing and constructing infrastructure that could be vulnerable to physical or cyber-attack.

**Domestic Preference Requirements:** MaineDOT follows all applicable domestic preference laws including Executive Order 14005, "*Ensuring the Future Is Made in All of America by All of America's Workers*" (86 FR 7475) and ensures the use of goods, products and materials produced in the United States for all infrastructure projects.

**Civil Rights and Title VI:** MaineDOT complies with all Federal civil rights obligations and nondiscrimination laws. "In accordance with Title VI of the Civil Rights Act of 1964 and other authorities, MaineDOT is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the public-at-large is afforded access to our programs and services. To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any MaineDOT program or activity on the grounds of race,

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color, or national origin. MaineDOT will work with staff, sub-recipients, contractors and service beneficiaries to promote awareness for the provisions of Title VI and the responsibilities associated with that Act.”<sup>2</sup>

**Federal Contract Compliance:** As a condition of grant award and consistent with EO 11246, Equal Employment Opportunity (30 FR 12319, and as amended), MaineDOT will make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women as well as meeting or exceeding goals for work being performed by people of color or those with disabilities.

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<sup>2</sup> <https://www.maine.gov/mdot/civilrights/title-vi/>