



*Victoria F. Sheehan*  
Commissioner

**THE STATE OF NEW HAMPSHIRE**  
DEPARTMENT OF TRANSPORTATION



*William Cass, P.E.*  
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

Executive Office  
December 27, 2021

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into an extended maintenance agreement with the City of Berlin for the continued maintenance of a section of NH 110 for a period of 5 years following the reclassification of that section to a Class IV highway under the City of Berlin's jurisdiction and ultimate maintenance responsibility, effective upon Governor and Council approval.

**EXPLANATION**

The City of Berlin is interested in extending the existing urban compact approximately 1.3 miles along NH 110 to Jericho Lake Road and having jurisdictional control over this section of highway to better support and align economic development and the City's vision and land use for that area. There has been some reluctance to accept full maintenance responsibility for the highway until maintenance upgrades can be completed. This extended maintenance agreement facilitates reclassification of this section of highway to a Class IV municipally controlled roadway immediately, while providing an extended maintenance period to accomplish the maintenance upgrades and transition to full municipal maintenance responsibility for the highway.

Under this agreement, the Commissioner will reclassify this section of NH 110 to a Class IV highway under the City's jurisdiction, while the Department continues to maintain it as it has for a period of no longer than 5 years. Over the next 5 years, the Department will accomplish various maintenance upgrades including drainage repair and replacement and pavement overlay. The City will assume full maintenance responsibility following this work at the duration of the agreement.

It is respectfully requested that this item be approved.

Sincerely,

Victoria F. Sheehan  
Commissioner

Attachments

**EXTENDED MAINTENANCE AGREEMENT  
BETWEEN THE CITY OF BERLIN AND THE  
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION  
FOR NH 110**

THIS AGREEMENT, executed in *triplicate*, made and entered into this 22<sup>nd</sup> day of November, 2021, between the NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", and the CITY OF BERLIN, hereinafter called the "CITY".

WITNESSETH that,

WHEREAS, the CITY, is interested in extending the urban compact to Jericho Lake Road and having jurisdictional control over that section of road to better support and align economic development and the City's vision for that area; and

WHEREAS, it is the DEPARTMENTS prerogative through the authority of the Commissioner in accordance with RSA 229:5 to reclassify portions of State highways; and

WHEREAS, the DEPARTMENT would typically perform a certain level of maintenance upgrades to provide a serviceable maintenance condition in advance of a roadway reclassification; and

WHEREAS, the DEPARTMENT desires to cooperate with the CITY in accomplishing the extension of the Urban Compact sooner rather than later and in doing the DEPARTMENT is willing to enter into an extended maintenance agreement with the CITY to facilitate this;

NOW, THEREFORE, in consideration of the above premises and in further consideration of the agreements herein set forth by and between the parties hereto, it is mutually agreed as follows:

**I. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT:**

- A. The Department in accordance with RSA 229:5 shall reclassify the section of NH 110 between the present Urban Compact Limit westerly to Jericho Lake Road to a Class IV highway effective upon the approval of this agreement.
- B. The DEPARTMENT shall continue to maintain this section of NH 110, including winter maintenance, for a period of no longer than 5 years from the date of this agreement. The level of maintenance during this period shall be the same level of maintenance as past years and as adjoining sections of NH 110 under State jurisdiction.
- C. The DEPARTMENT shall include the mileage for this section of Class IV highway in the CITY's annual Block Grant Aid calculation after 5 years when the CITY assumes full maintenance responsibility.
- D. The DEPARTMENT shall over the next 5 years, accomplish various maintenance upgrades along this reclassified section on NH 110. The goal of this work is to provide a serviceable maintenance condition upon the CITY assume full maintenance responsibility. This work will include a drainage assessment to determine the adequacy of the existing drainage, repair or replacement of any drainage infrastructure in need of repair as deemed necessary by the

DEPARTMENT, and resurfacing including a leveling course and typical routine maintenance pavement treatment consisting of a 3/4" pavement overlay. This work shall be reviewed and coordinated with the CITY.

- E. The DEPARTMENT shall support pursuit of future upgrades or reconstruction to this section of highway by the CITY, whether through discretionary grants, the Ten Year Plan, etc.

**II. DUTIES AND RESPONSIBILITIES OF THE CITY:**

- A. The CITY shall assume jurisdictional control over the reclassified section of NH 110 and be responsible for all administrative control for the operation and use of the facility including allowed uses, permitting, etc.
- B. The CITY shall be responsible for all maintenance along this reclassified section of NH 110 after 5 years from the date of this agreement. At the end of this extended maintenance agreement, the DEPARTMENT will have no maintenance responsibility.
- C. The CITY shall recognize the DEPARTMENT's extended maintenance of the reclassified NH 110 as a continuation of the existing State Highway maintenance. Any and all claims, liabilities or suits arising from the extended maintenance in the performance of this AGREEMENT shall be treated by the CITY and the DEPARTMENT as a continuation of the existing State Highway maintenance.
- D. The CITY shall review and coordinate with the DEPARTMENT any issues or approvals under the CITY's administrative control and purview that could impact DEPARTMENT maintenance operations and responsibilities.

It is further understood between the DEPARTMENT and the CITY that this AGREEMENT is contingent approval from the Governor and Council.

**NEW HAMPSHIRE DEPARTMENT  
OF TRANSPORTATION**

By: John F. Shea  
Commissioner  
Department of Transportation

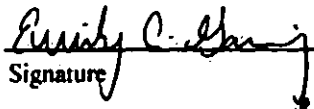
**CITY OF BERLIN**

By: James O. Wilhelm  
City of Berlin  
Title: City Manager

Authorized to enter into Agreement as  
approved by Governor & Council on

\_\_\_\_\_

NH Attorney General

  
Signature

EMILY C. GOERING  
Name

AAG  
Title

Authorized to enter into Agreement as approved by  
Governor and Council on:

\_\_\_\_\_  
Secretary of State

\_\_\_\_\_  
Dated