

SPECIAL MEETING NOTICE

A special meeting of the Ellsworth City Council will be held on Friday March 08, 2019 at 8:30 AM in the Ellsworth City Hall Council Chambers

AGENDA

1. Call to Order.
2. Council Order #031900, Request to authorize the City Manager to sign a project agreement for a grant under the Recreational Trails Program through the State of Maine for the Ellsworth Harbor Walk Trail Extension Project. **
3. Adjournment.



Planning Department

One City Hall Plaza, Ellsworth, Maine 04605

Interim City Planner Dwight Tilton
Assistant City Planner Steve Fuller

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MEMORANDUM

From: Assistant City Planner Steve Fuller

To: City Council

CC: City Manager David Cole, Public Works Director Lisa Sekulich, Harbormaster Adam Wilson, Harbor Commission Chairman Mark Remick

Date: March 6, 2019

Subject: Recreational Trails Program grant for extension of walkway at Harbor Park

Introduction

At the September 17, 2018 City Council meeting, the Council voted 7-0 to authorize the City Manager to apply for a Recreational Trails Program (RTP) grant — administered by the Maine Bureau of Parks and Lands — to extend the existing walkway at Harbor Park and connect it with Water Street across from Deane Street. As part of that same vote, the Council also approved committing “a match not to exceed \$30,716 from future funding” in order to secure the requested \$50,000 in RTP grant funding.

Update

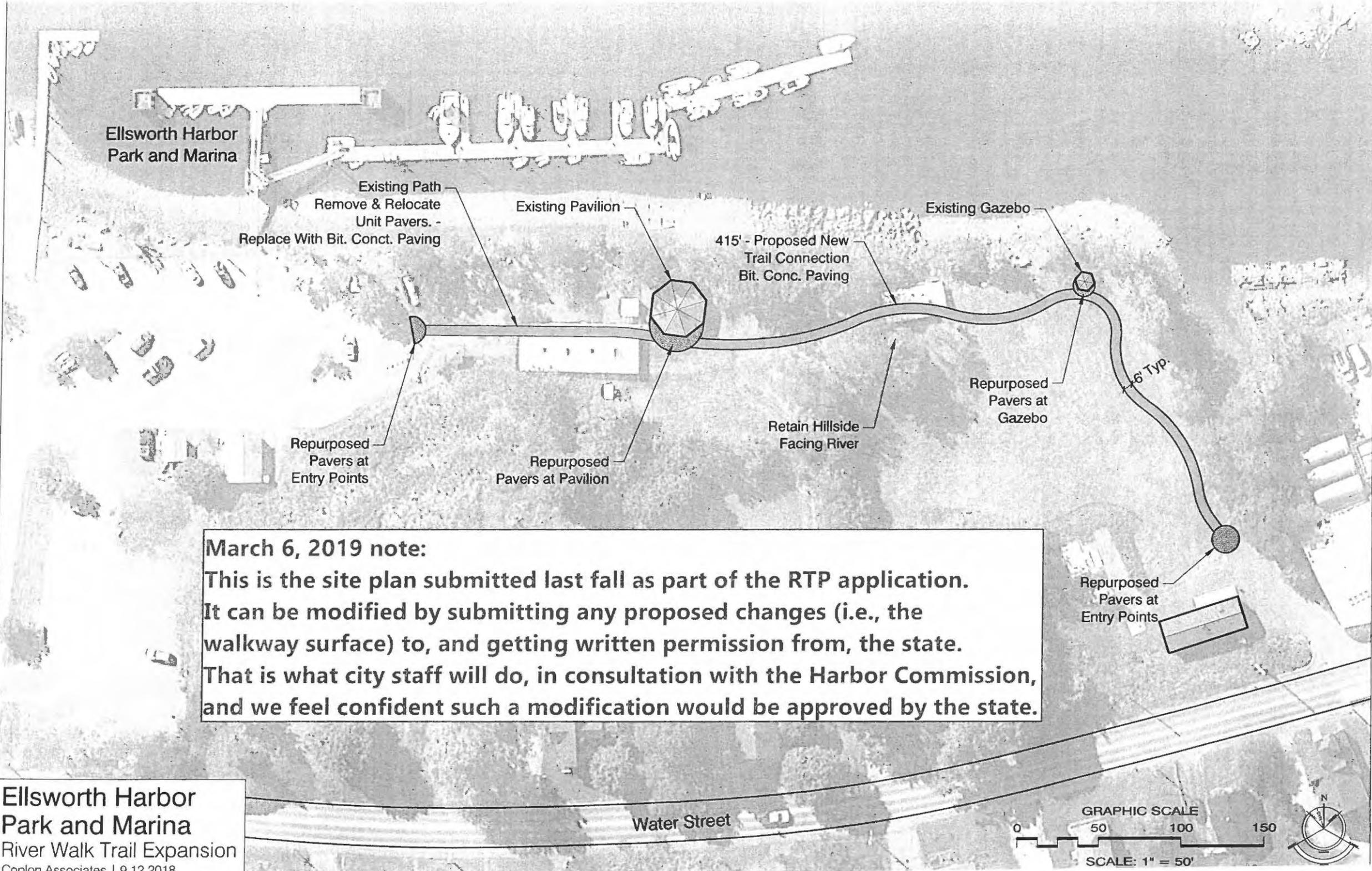
A grant application was submitted on September 28, 2018. On January 9, 2019, the city learned that the application was successful and had been approved at the requested funding level. On February 26, 2019, city staff were given a project agreement document (attached) and informed that the City Manager’s signature was needed ASAP in order to proceed. Such authorization was not secured last fall, so a special City Council meeting was called for March 8, 2019, in order to obtain authorization.

Also after the Council authorization last fall, city staff learned the Harbor Commission had concerns about the proposed walkway design (specifically, removing existing pavers and reusing them in different areas on site — see attached site plan). The city can modify its plan by seeking and securing written permission from the state (see item 2.B on page 2 of the attached project agreement). It is the city’s intent to consult with the Harbor Commission on a satisfactory fix to the initial plan and then secure state approval to do so. We believe it is very likely the state would approve such a change, so long as the overall objective (connecting the two end points with a trail) remains intact.

Approving a specific source for the up to \$30,716 in municipal funding for this project is set to be dealt with at the City Council’s next regular monthly meeting on Monday, March 18.

Proposed Motion

For the City Manager to sign the RTP grant project agreement, the following is a proposed motion:
Move to authorize the City Manager to sign and enter into a project agreement for a grant under the Recreational Trails Program through the State of Maine for the Ellsworth Harbor Walk Trail Extension Project.



Ellsworth Harbor
Park and Marina

Existing Path
Remove & Relocate
Unit Pavers. -
Replace With Bit. Conct. Paving

Existing Pavilion

415' - Proposed New
Trail Connection
Bit. Conc. Paving

Existing Gazebo

Repurposed
Pavers at
Entry Points

Repurposed
Pavers at Pavilion

Retain Hillside
Facing River

Repurposed
Pavers at
Gazebo

6' Typ.

Repurposed
Pavers at
Entry Points

March 6, 2019 note:

This is the site plan submitted last fall as part of the RTP application. It can be modified by submitting any proposed changes (i.e., the walkway surface) to, and getting written permission from, the state. That is what city staff will do, in consultation with the Harbor Commission, and we feel confident such a modification would be approved by the state.

Water Street

GRAPHIC SCALE

0 50 100 150

SCALE: 1" = 50'



2. In connection with all phases of the Project, including all work to be performed in the development thereof, the Recipient agrees as follows:

A. The Recipient, if acquiring interest in real property, shall comply with the provisions of the Uniform Relocation and Real Property Acquisition Policies act of 1970 (P.L. 91)646 84 Stat. 1894) including amendments thereto and regulations thereunder, as provided in 1 M.R.S.A 901 et seq.

B. The Recipient agrees to execute and complete the Project in strict accordance with the above referenced Project Scope and the other terms and conditions hereof. Subsequent to this Agreement, any change in the use or any substantial change in the design or arrangement of the Project must have the prior written approval of the State.

C. The Recipient shall not advertise any work on the Project for bidding, enter into any contract for work to be performed, or undertake any work on the Project unless and until the Recipient shall have submitted reasonably detailed plans and specifications for the Project to the State for approval and shall have received written approval of the State.

D. All contracts for work on the Project of or exceeding \$5,000.00 shall be awarded through competitive negotiation. Contracts of or exceeding \$10,001.00 shall be awarded through competitive public bidding and shall be subject to prior approval of the state.

E. All purchases of steel and or iron must abide by the FHWA's Buy America policies which require a domestic manufacturing process for all steel or iron products that are permanently incorporated in a Federal-aid highway construction project, which includes RTP projects. Per regulation, the FHWA's minimum threshold for Buy America to apply is \$2,500 (the total amount of iron and steel products as delivered to the project) or 0.1% of the total contract amount, whichever is greater.

F. The Recipient shall establish a separate account for all funds received and expended in connection with the Project and shall preserve (and permit inspection of) such financial records until an audit is made by the United States Government, but in no case for less than three (3) years following the completion of the Project.

G. The eligibility for reimbursement by the State of any cost incurred or proposed to be incurred in connection with the Project shall be determined by the State Project Manager in accordance with the criteria set forth by the U.S. Department of Transportation and any replacements or amendments thereto.

H. The Recipient agrees to repay any funds received for costs determined to be non-allowable by a post audit of the Project account.

3. The Recipient agrees that it shall, at its sole cost and expense, retain title to and management over all land acquired in connection with the Project. The Recipient agrees, if it is the owner of the property on which the Project will be developed, to operate and maintain the Facilities in a safe and attractive manner for the use of the general public. In the case of Project Development on lands not owned by the Recipient, the Recipient agrees it shall obtain a renewable written easement, license, or use agreement for a minimum of one (1) year, preferred five (5) years, from the property owner and further agrees it shall, at a minimum, operate and maintain the developed Facilities in a safe and attractive manner for the use of the general public during the period of its easement, license or use agreement from the property owner. Without limitation of the foregoing, the Recipient shall, at its sole cost and expense, comply with the following particular requirements:

- A. The Facilities shall be kept open to the public at reasonable hours and times of the year consistent with the types of recreational opportunities offered therein, and shall be open to use and entry by all members of the public, regardless of race, color, creed, national origin, sex or place of residence, who are eligible according to reasonable rules and regulations for the use of the facilities adopted by the Recipient in accordance with the Project Agreement. Fees for use may be charged but must meet the above standards of nondiscrimination. Income from user's fees must be dedicated to the operation and maintenance of the Facilities.
- B. The Facilities shall be operated and maintained to present an attractive and inviting appearance to the public to the satisfaction of the State Project Manager. If the Recipient provides and maintains sanitation and sanitary facilities, they shall be maintained and operated in accordance with the applicable Federal, State and Local laws, ordinances, codes, rules, regulations, and standards. The Recipient shall keep the facilities safe for public use in good, operable condition and repair.

4. Upon request of the State, the Recipient shall, at its own cost and expense, keep any building, improvements or equipment, as designated by the State, forming part of the Facilities, insured against loss or damage by fire, lightning, vandalism, malicious mischief, theft, and such other risks as may be included in the broadest form of extended coverage available in an amount determined from time to time by the State to the full insurable value thereof.

5. Upon request of the State, the Recipient shall, at its own cost and expense, provide and keep in force comprehensive general public liability insurance against claims for personal injury, death or property damage occurring on, in or about the Facilities, or respecting the use of any vehicle or equipment used by the Recipient in connection with the Project or the Facilities, such insurance to be in form and amount determined from time to time by the State.

6. All insurance provided by the Recipient pursuant to this Agreement shall be carried by responsible companies satisfactory to the State. Certificates evidencing such policies shall be furnished to the State and shall require thirty (30) days prior written notice to the State of any cancellation or modification thereof.

7. The Recipient understands and agrees that by executing this Agreement and receiving the benefits hereof, it is irrevocably binding itself to operate, maintain, and care for the Facilities, all at its sole cost and expense, and in accordance with the Provisions of this Agreement. If the Recipient fails to fulfill any of its obligation hereunder, including without limitation of those relating to the operation, insurance, maintenance, and repair of the Facilities, the State may, at its election, in addition to other rights it may have hereunder or at law or in equity, operate and insure the Facilities, provide such maintenance and repairs and/or otherwise perform the obligations of the Recipient for and on account of the Recipient, in which event any amounts so expended by the State shall become an amount due and payable by the Recipient to the State and the Recipient shall promptly reimburse the State for all such amounts.

8. The Recipient shall post in a prominent place on the Facilities, and shall maintain in good condition, a sign, approved by the State, giving public acknowledgment of assistance from the Recreational Trails Program.

9. The Project and the Facilities, and all records pertaining thereto, shall at all reasonable times be open and available for inspection by the State, its agents and designees.

10. The Recipient shall indemnify, defend, and save the State harmless from and against any and all claims, expenses, damages, injuries, liabilities and costs (including reasonable attorneys' fees and court costs) arising out of or in any way in connection with the Project or any accident or occurrences therein or thereon.

11. The provisions of 5 M.R.S.A #784(2), regarding nondiscrimination in employment, are hereby incorporated into this Agreement by reference as if the same were set out in full herein.

12. The following terms and conditions are made a part of this Agreement:

- a. The Recipient shall be responsible for acquiring all local, state or federal permits required for development of the project site prior to any work being initiated.
- b. Plans for the development or improvement of any bridges or other load bearing structure shall be prepared or approved by a registered Professional Engineer and submitted to the State for approval prior to construction of such structure.
- c. Applicant will notify State Trail Administrator (STA) upon completion of project and request a project close-out inspection. STA, or designee, will inspect the project, prepare a written report, and forward a copy to the project sponsor. Any deficiencies noted in the report will be corrected and reported in writing to STA within four (4) weeks of sponsor's receipt of the inspection report.
- d. Upon submission of approved reimbursement requests, the State agrees to turn over to the Recipient federal funds granted hereunder up to the maximum indicated. Five (5) percent of the grant amount may be withheld until a project close-out inspection is completed and, if necessary, deficiencies are addressed and/or corrected.
- e. Any information and/or material prepared to promote this project must specifically recognize the Recreational Trails Program and its contribution to the project (i.e., "funded in part by the Recreational Trails Program"). This includes press releases, articles, maps, brochures, websites, and primary trailhead/utility signage.

By: _____ Date: _____
David Cole
Town Manager
City of Ellsworth

And

By: _____ Date: _____
Douglas S. Beck
Outdoor Recreation Supervisor
Department of Agriculture, Conservation & Forestry

And

By: _____ Date: _____
Amanda E. Beal
Commissioner
Department of Agriculture, Conservation & Forestry

Vendor Name: City of Ellsworth PO #: RTP1950 Date: _____

CFDA name : Recreational Trails Program CFDA number: 20.219

Certification Regarding
Compliance with federal audit requirements

Compliance is required by OMB guidance § 200.501 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 2 CFR §200.331(f), 2 CFR §200.521(c), 2 CFR §200.331(a)(1)(xi), 2 CFR §200.331 (a)(2)

(BEFORE SIGNING THIS CERTIFICATION, PLEASE READ THE ABOVE REGULATION)

Subpart F—Audit Requirements

GENERAL

§ 200.500 Purpose. This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards

AUDITS

§ 200.501 Audit requirements. (a) *Audit required.* A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part. (b) *Single audit.* A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with § 200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section. (c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § 200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a sub-recipient, approves in advance a program-specific audit. (d) *Exemption when Federal awards expended are less than \$750,000.* A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in § 200.503

1. The prospective primary participant/sub-awardee/contractor certifies to the best of its knowledge and belief that it and its principals

DO expend \$750,000 or more federal awards and are required to comply with audit requirements above. A copy of the report will be submitted.

DO NOT expend \$750,000 or more federal awards and are NOT required to comply with audit requirements above.

Should prospective primary participant/sub-awardee/contractor status change during our agreement period we will notify the Department.

Name and Title, Authorized Representative

Signature