

**MEMORANDUM OF AGREEMENT  
AMONG RSU NO. 14,  
TOWN OF WINDHAM, AND  
PORTLAND WATER DISTRICT**

This Memorandum of Agreement ("Agreement") is made this \_\_\_\_ day of June, 2022, by and among the Portland Water District, a quasi-municipal corporation located at Portland, Maine ("District"); the Town of Windham, a municipal corporation located at Windham, Maine ("Town"); and Regional School Unit No. 14, a Maine regional school unit ("RSU").

**RECITALS**

- A. The Town has proposed a multi-phase, publicly funded, wastewater treatment system in the North Windham area to mitigate surface water and groundwater pollution and to provide for more economic growth opportunities ("North Windham System"); and
- B. The District will own and operate the North Windham System that will benefit the Town and RSU; and
- C. The RSU currently operates four schools in Town, including Manchester Elementary School, Windham Primary School, Windham High School, and Windham Middle School, which is soon to be replaced ("New Middle School" and collectively, the "Windham Schools"); and
- D. The Town and RSU entered into an agreement on April 13, 2022 ("Athletic Field Agreement"), in which the RSU agreed to convey a 20-year easement to the Town over the RSU's real property adjacent to Manchester Elementary School ("Athletic Field Easement") for the development, construction, and maintenance of athletic fields to serve the RSU and Town ("Athletic Fields"), and the Town agreed to develop, construct, maintain, replace, and repair such Athletic Fields; and
- E. The North Windham System includes a drip dispersal system for the disposal of wastewater, which is proposed to disperse under the Athletic Fields, and such drip dispersal will require an easement from the RSU and Town ("District Easement");
- F. The Town, District, and RSU desire to coordinate as to the construction, development, and placement of the North Windham System and Athletic Fields.

NOW THEREFORE, in consideration of the mutual covenants expressed herein and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties hereby agree as follows:

1. Town to RSU. Pursuant to the Athletic Field Agreement, the Town is responsible to the RSU for the construction and maintenance, including irrigation, of the Athletic Fields, and the Town and RSU have already completed a preliminary design for the Athletic Fields. All parties agree that the Athletic Field Easement shall be subject to the terms and conditions of the District Easement, provided that, should the maintenance, repair, or replacement of the North Windham System require disturbance of the Athletic Fields, the District shall restore

the Athletic Fields to their condition prior to such disturbance. The Athletic Field Easement shall be in the form attached hereto as Exhibit A.

2. RSU to District. The RSU shall grant the District Easement (composed of distinct easement areas) to the District for a term of 30 years for the location, development, construction, maintenance, and repair of the North Windham System's drip dispersal system on the RSU's Manchester Elementary School property as generally depicted in Exhibit B. The term of the easement may be extended for a period of 30 years by agreement of the parties. All parties agree that the District Easement shall not impede the RSU's use of the premises as described in the Athletic Field Easement or the future expansion of the Manchester Elementary School building and facilities except as may be necessary for the maintenance, repair, or replacement of the North Windham System.
3. Town to District. The Town shall join the RSU in granting the District Easement, which shall be superior to the Athletic Field Easement. The Town and District shall coordinate as to the construction of the North Windham System and Athletic Fields. The Town and the District shall pay any additional engineering, construction, or maintenance cost incurred by incorporating the drip dispersal system into the Athletic Fields. All parties agree that the District Easement shall not impede the Town's use of the premises as described in the Athletic Field Easement except as may be necessary for the maintenance, repair, or replacement of the North Windham System.
4. Town to RSU. In consideration for the District Easement, the Town shall:
  - A. Connect Manchester Elementary School to the North Windham System.
  - B. Extend the North Windham System to the New Middle School and pay any cost incurred by connecting the New Middle School to the North Windham System in excess of the amount allocated for the New Middle School septic system, currently budgeted to be \$3M, and permit the RSU's contractor for the New Middle School to connect the New Middle School to the North Windham System.
  - C. Extend the North Windham System to the central collection point for waste water from the Windham Primary School, existing Windham Middle School, and Windham High School, install a pumping station, and any other necessary equipment or facilities for the connection and use of the North Windham System.
5. User Fees. In consideration of the RSU's providing the Manchester Elementary School property for the drip dispersal system of the North Windham System, the Town shall not charge, and the District shall not bill user fees or other ongoing fees to the RSU for use of the North Windham System by Manchester Elementary School for the duration of the District Easement.
6. Permits and Approvals. The District shall obtain all municipal, state, and federal permits required to construct the North Windham System. The Town shall obtain all municipal, state, and federal permits necessary to construct the Athletic Fields. The RSU shall cooperate in the receipt of such permits. The RSU shall obtain all necessary approvals from the Board. The Town shall obtain all necessary municipal approvals, including authorization from the Inhabitants of the Town of Windham by referendum.
7. School Operations. Neither the Town nor the District shall disrupt normal RSU school operations with their use of the Athletic Fields Easement or the District Easement.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Agreement to be executed by their duly authorized representatives as of the day and year first written above.


For the RSU :

REGIONAL SCHOOL UNIT NO. 4

By: \_\_\_\_\_  
Name: Chris Howell  
Title: Superintendent

For the Town:

TOWN OF WINDHAM

By:  \_\_\_\_\_  
Name: Barry Tibbetts  
Title: Town Manager

For the District:

PORTLAND WATER DISTRICT

By: \_\_\_\_\_  
Name: Carrie Lewis  
Title: General Manager

*[Signature page to MOA among RSU 14, Town of Windham, and Portland Water District.]*



8. Further Assurances. Each party agrees to negotiate in good faith and execute and deliver any instruments, and to perform any acts, that may be reasonably necessary to give full effect to the terms of this Agreement. Each party shall use reasonable efforts to provide such information, execute such further documents, and take such action as may be reasonably requested by the other party so long as such actions are not inconsistent with this Agreement and do not involve the assumption of obligations other than those which are expressed by this Agreement.
9. Notice. Any notice delivered hereunder shall be in writing and sufficiently given by the date accepted or refused if delivered in person, the date mailed if sent by overnight delivery, or the date mailed if sent by certified mail, postage prepaid, with a copy sent by electronic email, as follows:

To the District:       General Manager  
Portland Water District  
225 Douglass Street  
P.O. Box 3553  
Portland, Maine 04104  
Cc: E-mail: ccrovo@pwd.org

To the Town:         Barry Tibbetts  
Town Manager  
Town of Windham  
8 School Road  
Windham, Maine 04062  
E-mail: batibbetts@Windhammaine.us

To the RSU 14       Chris Howell  
School Superintendent  
RSU 14 –Windham Raymond  
228 Windham Center Road  
Windham, Maine 04062  
E-mail: chowell@rsu14.org

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other parties.

10. Miscellaneous: The waiver by any party of a default or of a breach of any provision of this Agreement by any other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. This Agreement may be executed electronically in any number of counterparts. This Agreement is not assignable. This Agreement may be modified only by written agreement duly executed by all parties. This Agreement shall be interpreted, construed, and enforced in accordance with and governed by the laws of the State of Maine. If any provision of this Agreement is found to be invalid or unenforceable, such funding shall not affect the validity or enforceability of any other provision hereof.
11. Contingency. The RSU's obligations under this Agreement are subject to and contingent on the RSU's Board of Director's approval of this Agreement.

Attachments:

Exhibit A – Form of Athletic Field Easement

Exhibit B – Plan of District Easement and Athletic Field Easement

*[Remainder of page intentionally blank. Signature page follows.]*

EXHIBIT A

Form of Athletic Field Easement

## EXHIBIT B

### Plan of District Easement and Athletic Field Easement

*[Please include location of dispersal field and waste water treatment plant]*

