

MEMORANDUM OF AGREEMENT
BETWEEN PORTLAND WATER DISTRICT AND
TOWN OF WINDHAM

This Memorandum of Agreement (“Agreement”) is made this ____ day of ____, 2025, by and among the Portland Water District, a quasi-municipal corporation located at Portland, Maine (“District”); and the Town of Windham, a municipal corporation located at Windham, Maine (“Town”).

RECITALS

- A. The Town has proposed a multi-phase, publicly funded, wastewater treatment system in the North Windham area of the Town 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 Regional School Unit No. 14, a Maine regional school unit (“RSU”); and
- C. The RSU owns and operates an existing wastewater treatment system (“RSU WWTF”) that serves as the central collection point for sewerage from the Windham Primary School, Windham High School, and Windham Middle School, which is soon to be replaced (“New Middle School”); and
- D. The District and Town entered into an agreement on May 26, 2020 (“System Agreement”), in which the District and Town agreed to various terms related to financing, design, ownership, service procurement, and other responsibilities for the construction of the North Windham System; and
- E. Under Paragraph 4 of the System Agreement, the District agreed to, *inter alia*, finance the North Windham System project and develop a budget to operate and maintain the North Windham System as part of the District’s annual assessment to the Town; and
- F. Under Paragraph 5 of the System Agreement, the Town agreed to, *inter alia*, acquire and convey required real estate interests to the District; and cooperate in obtaining licenses, permits, and approvals; and
- G. The District, Town, and Regional School Unit No. 14 (“RSU”) entered into an agreement on June 30, 2022 (“WWTF Agreement”), in which the District, Town, and RSU agreed to various terms related to easements, operation, permitting, and approval of the North Windham System; and
- H. Under Paragraph 4 of the WWTF Agreement, the Town agreed to provide to the RSU the following:
 - i. “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 as of June 30, 2022 to be \$~~3,166,000~~\$3,000,000, and permit the RSU’s contractor for the New Middle School to connect the New Middle School to the North Windham System”; and
 - ii. “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”; and

- I. The District and Town desire to continue coordination as to the financing, engineering, and construction of the ~~project to extend the~~ North Windham System to extend to the New Middle School and existing RSU WWTF (~~“Windham School Conveyance Project” or “Connection Project”~~); and
- J. The Town has applied for and received Clean Water State Revolving Fund (“CWSRF”) funding for the School Connection Project through the Maine Department of Environmental Protection (“DEP”); and
- K. The District, through its Request-for-Qualifications-based General Engineering Services program, has prequalified and entered into General Engineering Services Agreements with several Engineering Consultants that are qualified to perform the technical design and construction engineering in areas of expertise related to the scope of the School Connection Project; and
- L. The District contracted with Stantec to perform preliminary design for the School Connection Project as a Task Order (dated December 31, 2024) to the District and Stantec’s General Engineering Services Agreement (dated March 15, 2024).
- ~~L. The Town and District will jointly review all expenditures and any modifications to the scope of work.~~

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. The terms of the System Agreement apply to the School Connection Project except where changes or additional terms are noted in this Agreement below.
2. The Town hereby authorizes and approves the General Engineering Services Agreement (dated March 15, 2024) and the Task Order (dated December 31, 2024) between the District and Stantec. The Town and District will jointly review all expenditures and any modifications to the scope of work.
- ~~3. The Town will finance all costs associated with the design and construction of the Project.~~
- 4.3. The Town shall undertake the following additional actions related to the School Connection Project:
 - a. Finance all costs associated with the School Connection Project as the applicant for and issuer of all CWSRF bonds, grants, and other non-CWSRF funding opportunities, including debt, through the completion of construction of the School Connection Project.
 - b. Reimburse the District for all costs and legal fees incurred by the District related to the School Connection Project within 90 days of the District submitting an invoice as set forth in Paragraph 5(a) below, including but not limited to with respect to the engineering, construction, administration, and short-term financing of the Project, the assignment of the CWSRF bonds (as described below) and the entering into of this Agreement.
 - c. Following completion of construction of the School Connection Project, and with the approval of the Maine Municipal Bond Bank, transfer and assign to the District its obligations under any CWSRF bonds issued by the Town for the School Connection Project to the District.

- d. If any of the CWSRF bonds or other non-CWSRF debt are issued on a tax-exempt basis, The Town will do all things and take all actions necessary to establish that the interest on such the CWSRF bonds or other non-CWSRF debt is excludable from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), that the reimbursement of any preliminary expenditures is permitted under the Code, and that the such CWSRF bonds or other non-CWSRF debt are not private activity bonds or arbitrage bonds under the Code.
- ~~e. Reimburse the District for costs related to the invoices described in Paragraph 5a below within 90 days of the District submitting the invoices or a mutually agreed upon period of time.~~

5-4. The District shall undertake the following actions related to the School Connection Project:

- a. Invoice the Town for all costs and legal fees, incurred by the District related to the School Connection Project, including but not limited to with respect to the engineering, construction, administration, and short-term financing of the School Connection Project, the assignment of the CWSRF bonds and the entering into of this Agreement.
- b. Following completion of construction of the School Connection Project, and with the approval of the Maine Municipal Bond Bank, accept the transfer and assignment from the Town of any CWSRF bonds issued by the Town and related to the School Connection Project.
- c. Include debt service payments and financing costs, including but not limited to legal fees, related to any CWSRF bonds, and the assignment thereof, for the School Connection Project in the District's annual assessment to the Town.

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.