

**TOWN OF WINDHAM  
TOWN COUNCIL  
September 11, 2018**

18-\_\_\_\_\_

WHEREAS, the Town of Windham, Maine (the “Governmental Unit”) is authorized by 30-A MRSA §5772 to borrow money to pay all or a portion of the costs of the design, construction, and equipping of a new public works and school transportation and maintenance facility located at property on Windham Center Road in the Governmental Unit and related redevelopment of the site (the “Project”); and

WHEREAS, pursuant to law, the article to authorize borrowing for the Project in a sum not to exceed \$9,300,000 was submitted to the voters of the Governmental Unit at a meeting held on November 7, 2017; and

WHEREAS, the voters casting “yes” with respect to the acceptance of the article constituted a majority of the legal voters voting at the election; and

WHEREAS, the Town Council has determined that a sum not to exceed \$9,300,000 should be borrowed for the purpose of providing the funds for the Project and that for that purpose the \$9,300,000 General Obligation Bond (the “Securities”) of the Governmental Unit should be issued; and

WHEREAS, there has been submitted to the Town Council in substantially final form, but undated, a Loan Agreement with the Maine Municipal Bond Bank (the “Bank”), attached to which are Exhibit A, Maturity Schedule, and Exhibit B, Form of Bond, which are by this reference made a part hereof;

NOW, THEREFORE, **IT IS ORDERED**, that:

Section 1. The issuance, sale and delivery of the Securities is authorized for the purpose of providing funding for the Project. The form of the Securities is hereby approved. The Securities shall be sold at an aggregate purchase price of \$9,300,000, shall be payable as to principal commencing November 1, 2019 and on each November 1 thereafter through and including November 1, 2038 in annual installments calculated so that the total amount of principal paid each year is approximately equal, shall bear interest at a rate per annum such that the interest cost rate as defined in the Loan Agreement shall not exceed six percent (6%) per annum, shall be payable as to interest commencing May 1, 2019 and thereafter on May 1 and November 1 through and including November 1, 2038 and shall contain such other terms as are set forth in the Securities.

Section 2. The Treasurer of the Governmental Unit is authorized and directed to sign the Securities and a Non-Arbitrage and Use of Proceeds Certificate (the “Non-Arbitrage Certificate”) and the Town Manager of the Governmental Unit is authorized and directed to sign the Loan Agreement, on behalf of the Governmental Unit and the Clerk of the Governmental Unit is authorized to attest to the authority of the Treasurer and the Town Manager to sign such instruments on behalf of the Governmental Unit. The Clerk is authorized and directed to impress

the official seal of the Governmental Unit on the Securities and the Loan Agreement. The Town Manager is authorized to deliver the Securities to the Bank upon receipt of the purchase price therefor.

Section 3. The Town Council, the Town Manager, the Treasurer and the Clerk are each authorized and directed, on behalf of the Governmental Unit, to carry out or cause to be carried out all of the obligations of the Governmental Unit under the Securities, the Loan Agreement and the Non-Arbitrage Certificate and to cause to be done all acts and to execute and deliver all certificates and other documents as may be necessary and proper in connection with the issuance, sale and delivery of the Securities and in carrying out the purposes of this Order.

Section 4. This Order shall take effect immediately.

Motion by Councilor \_\_\_\_\_, seconded by Councilor \_\_\_\_\_ to approve the resolution.

In Favor:

Opposed:

Absent:

**Attest by:** \_\_\_\_\_

Linda Morrell, Town Clerk

## LOAN AGREEMENT

AGREEMENT, dated the \_\_\_\_ day of \_\_\_\_\_ 20\_\_, between the MAINE MUNICIPAL BOND BANK, a public body corporate and politic constituted as an instrumentality of the State of Maine exercising public and essential government functions (hereinafter referred to as the "Bank"), created pursuant to the provisions of Chapter 225 of Title 30-A of the Maine Revised Statutes, as amended (hereinafter referred to as the "Act"), having its principal place of business in Augusta, Maine, and Town of Windham (hereinafter referred to as the "Governmental Unit"):

### WITNESSETH:

WHEREAS, pursuant to the Act, the Bank is authorized to make loans of money (hereinafter referred to as the "Loans") to governmental units and the governmental units are authorized to contract with the Bank with respect to such Loans to be evidenced by its municipal securities (as defined in the Act) to be purchased by the Bank; and

WHEREAS, the Governmental Unit is desirous of borrowing money from the Bank and has requested a loan from the Bank in the amount of \$9,300,000 (hereinafter referred to as the "Loan") and to evidence the indebtedness to be thereby incurred, has duly authorized the issuance of bonds in the principal amount of \$9,300,000 of which \$9,300,000 principal amount (the "Municipal Bonds"), the form of which is attached hereto as Exhibit B, are to be purchased by the Bank in accordance with this Loan Agreement; and

WHEREAS, the Bank has adopted or will adopt a General Bond Resolution (herein referred to as the "Bond Resolution") authorizing the issuance of its bonds from time to time, a portion of the proceeds of which will be expended for the purpose of making the Loan, and will adopt a resolution authorizing the making of the Loan to the Governmental Unit and the purchase of the Municipal Bonds,

NOW, THEREFORE, the parties agree:

I. The following words or terms used herein shall have the following meanings:

(a) "Fees and Charges" shall mean all fees and charges authorized to be charged by the Bank for the use of its services or facilities pursuant to subsection I(h) of section 5954 of the Act.

(b) "Governmental Unit's Allocable Proportion" shall mean the proportionate amount of the total requirement in respect of which the term is used determined by the ratio that the Loan then outstanding bears to the total of all Loans which are then outstanding as certified by the Bank.

(c) "Loan Obligation" shall mean that amount of bonds issued by the Bank which shall be equal to the principal amount of Municipal Bonds outstanding.

(d) "Municipal Bonds Interest Payments" shall mean the amount to be paid by the Governmental Unit pursuant to this Loan Agreement representing interest due or to become due on its Municipal Bonds.

(e) "Municipal Bonds Principal Payments" shall mean the amount to be paid by the Governmental Unit pursuant to this Loan Agreement representing principal due or to become due on its Municipal Bonds.

2. The Bank hereby agrees to make the Loan and the Governmental Unit hereby agrees to accept the Loan in the amount of \$9,300,000. As evidence of the Loan made to the Governmental Unit, the Governmental Unit hereby agrees to sell to the Bank the Municipal Bonds in the principal amount of \$9,300,000. The Municipal Bonds shall bear interest from the date of their delivery to the Bank at such rate or rates per annum as will result in an interest cost rate to the Governmental Unit of six per centum per annum (6%) (as calculated by the "Interest Cost Per Annum" method) or at such rate or rates per annum as will result in a lesser interest cost rate to the Governmental Unit as determined by the Bank. The interest cost rate for purposes of this Loan Agreement will be computed as if the Municipal Bonds bore interest from the delivery date of the Bank's bonds, and without regard to Sections 4 and 5 hereof which require that the Governmental Unit make funds available to the Bank for the payment of principal and interest at least thirty (30) calendar days prior to each respective principal and interest payment date. Subject to any applicable legal limitations, the rate or rates of interest borne by the Municipal Bonds shall be not less than the rate or rates of interest borne by the bonds issued by the Bank (for corresponding maturities) the proceeds of sale of which were used to make the Loan and to purchase the Municipal Bonds. Notwithstanding the above, the obligation of the Bank to make the Loan shall be conditioned upon receipt by the Bank of the proceeds of bonds issued by the Bank both for the purposes set forth herein and to create the reserves required by the Bond Resolution.

3. The Governmental Unit has duly adopted or will adopt all necessary resolutions and has taken or will take all proceedings required by law to enable it to enter into this Loan Agreement and issue its Municipal Bonds for purchase by the Bank.

4. The Municipal Bonds Interest Payments shall not be less than the total amount of interest the Bank is required to pay on the Loan Obligation and shall be scheduled by the Bank in such manner and at such times as to provide funds sufficient to pay interest as the same becomes due on the Loan Obligation and the Governmental Unit shall make such funds available to the Bank at least thirty (30) calendar days prior to each interest payment date.

5. The Municipal Bonds Principal Payments shall be scheduled by the Bank in such manner and at such times as to provide funds sufficient to pay the principal of the Loan Obligation as the same matures (based upon the maturity schedule provided by and for the Governmental Unit and appended hereto as Exhibit A) and the Governmental Unit shall make such funds available to the Bank at least thirty (30) calendar days prior to each principal payment date.

6. The Governmental Unit agrees to be obligated to pay Fees and Charges to the Bank. The Fees and Charges, if any, collected from the Governmental Unit shall be in an amount sufficient, together with the Governmental Unit's Allocable Proportion of other monies available therefore, including any grants made by the United States of America or any agency or instrumentality thereof or by the State or any agency or instrumentality thereof, to pay on a semi-annual basis:

(a) as the same become due, the Governmental Unit's Allocable Proportion of the administrative expenses of the Bank; and

(b) as the same become due, the Governmental Unit's Allocable Proportion of the fees and expenses of the trustee and paying agents for the bonds of the Bank.

7. The Governmental Unit agrees to be obligated to make the Municipal Bonds Principal Payments scheduled by the Bank on an annual basis and agrees to be obligated to make the Municipal Bonds Interest Payments scheduled by the Bank and to pay the Fees and Charges imposed by the Bank on a semi-annual basis.

8. The Bank shall not sell and the Governmental Unit shall not redeem prior to maturity any of the Municipal Bonds with respect to which the Loan is made by the Bank prior to the date on which all outstanding bonds issued by the Bank with respect to such Loan are redeemable, and shall not after such date sell any such Municipal Bonds unless the sales price thereof received by the Bank shall not be less than the aggregate of (i) the principal amount of the Loan Obligation so to be redeemed, (ii) the interest to accrue on the Loan Obligation so to be redeemed to the next redemption date thereof not previously paid, (iii) the applicable premium, if any, payable on the Loan Obligation so to be redeemed, (iv) the costs and expenses of the Bank in effecting the redemption of the Loan Obligation so to be redeemed, and (v) at the direction of the Bank, an amount equal to the proportionate amount of bonds so to be redeemed which were issued by the Bank with respect to the Loan Obligation and necessary to fund a portion of the reserve fund authorized by Section 6006 of the Act, less the amount of monies or investments available for withdrawal from such reserve fund and for application to the redemption of such bonds issued by the Bank in accordance with the terms and provisions of the Bond Resolution, as determined by the Bank; provided, however, that, in the event the Loan Obligation has been refunded and the refunding bonds issued by the Bank were issued in a principal amount in excess of or less than the Loan Obligation remaining unpaid at the date of issuance of such refunding bonds, the amount which the Governmental Unit shall be obligated to pay under item (i) hereof shall be the principal

amount of such refunding bonds then outstanding. In the event the Loan Obligation has been refunded and the interest the Bank is required to pay on the refunding bonds is less than the interest the Bank was required to pay on such Loan Obligation, the amount which the Governmental Unit shall be obligated to pay under item (ii) above shall be the amount of interest to accrue on such refunding bonds then outstanding.

In no event shall any such sale or redemption of Municipal Bonds be effected without the prior written agreement and consent of both parties hereto.

9. Simultaneously with the delivery to the Bank of the Municipal Bonds, which Municipal Bonds shall be in a form acceptable to the Bank, the Governmental Unit shall furnish to the Bank an opinion in a form acceptable to the Bank of bond counsel satisfactory to the Bank which shall set forth, among other things, the unqualified approval of said Municipal Bonds then being delivered to the Bank and that said Municipal Bonds will constitute valid obligations of the Governmental Unit as required by the Act.

10. The Governmental Unit shall be obligated to notify the Bank and the corporate trust office of the trustee for the bonds of the Bank in writing at least 30 days prior to each interest payment date of the name of the official of the Governmental Unit to whom invoices for the payment of interest and principal should be addressed, provided, however, that no such notice shall be required if the name of the official of the Governmental Unit has not changed.

11. The Governmental Unit and the Bank agree that the Municipal Bonds Principal Payments, the Municipal Bonds Interest Payments and the Municipal Bonds or a portion thereof may be pledged or assigned by the Bank under and pursuant to the Bond Resolution.

12. The Governmental Unit agrees upon surrender to it of the Municipal Bonds by the Bank it will, at the option of the Bank, cause there to be delivered to the Bank either registered or coupon Municipal Bonds as the case may be.

13. Prior to payment of the amount of the Loan, or any portion thereof, and the delivery of the Governmental Unit's Municipal Bonds to the Bank or its designee, the Bank shall have the right to cancel all or any part of its obligations hereunder if:

(a) Any representation made by the Governmental Unit to the Bank in connection with application for Bank assistance shall be incorrect or incomplete in any material respect; or

(b) The Governmental Unit has violated commitments made by it in its application and supporting documents or has violated any terms of this Loan Agreement.

14. The Governmental Unit agrees to submit to the Bank and to such other persons as directed by the Bank (including, without limitation, securities information repositories) from time to time such information relating to the Governmental Unit (including, without limitation, annual financial reports as they become available) as the Bank requests as being necessary or desirable to

comply with securities laws and rules relating to the Municipal Bonds or to the bonds of the Bank. Such request may take the form of a general direction to supply certain types of information in the event that certain types of events occur (for example, to submit information relating to material adverse changes to the financial condition of the Governmental Unit).

15. If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

16. This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments, and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

17. No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase, or other provision of this Loan Agreement.

18. This Loan Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof.

19. The Governmental Unit agrees to provide such information about such Governmental Unit as the Bank shall request in connection with the preparation of the official statement of the Bank relating to the offering of the Bank's bonds with respect to the Loan, including but not limited to financial statements, litigation and the project being financed or refinanced with the proceeds of the Loan. The Governmental Unit understands and agrees that the Bank may include such information (or a part thereof) in such official statement, and the Governmental Unit agrees to execute and deliver or cause to be delivered to the Bank such certificates and opinions as the Bank shall reasonably request to confirm and verify the adequacy and accuracy of such information.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

MAINE MUNICIPAL BOND BANK

(SEAL)

Attest:

\_\_\_\_\_

By \_\_\_\_\_  
Its Chairman

TOWN OF WINDHAM

(SEAL)

Attest:

\_\_\_\_\_

By \_\_\_\_\_  
Its Town Manager

EXHIBIT A

TOWN OF WINDHAM

MATURITY SCHEDULE

Governmental Unit's Bonds  
Due November 1\*,

Principal Amount

2019	\$	<u>465,000.00</u>
2020	\$	<u>465,000.00</u>
2021	\$	<u>465,000.00</u>
2022	\$	<u>465,000.00</u>
2023	\$	<u>465,000.00</u>
2024	\$	<u>465,000.00</u>
2025	\$	<u>465,000.00</u>
2026	\$	<u>465,000.00</u>
2027	\$	<u>465,000.00</u>
2028	\$	<u>465,000.00</u>
2029	\$	<u>465,000.00</u>
2030	\$	<u>465,000.00</u>
2031	\$	<u>465,000.00</u>
2032	\$	<u>465,000.00</u>
2033	\$	<u>465,000.00</u>
2034	\$	<u>465,000.00</u>
2035	\$	<u>465,000.00</u>
2036	\$	<u>465,000.00</u>
2037	\$	<u>465,000.00</u>
2038	\$	<u>465,000.00</u>

Total Due

9,300,000.00

\* Bond payments are due 30 days prior to the November due date

## STATE OF MAINE

\$9,300,000

TOWN OF WINDHAM, MAINE  
GENERAL OBLIGATION BOND

The Town of Windham (hereinafter called the "Governmental Unit"), in the State of Maine, promises to pay to the Maine Municipal Bond Bank (the "Bond Bank"), or registered assigns, the principal sum of

NINE MILLION THREE HUNDRED THOUSAND AND 00/100 DOLLARS  
(\$9,300,000.00)

in principal installments, payable on November 1, of each year as set forth below, with interest on each installment at the rate per annum set forth below opposite the year in which the installments become due:

<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rate</u>
2019	\$465,000.00	%	2029	\$465,000.00	%
2020	465,000.00		2030	465,000.00	
2021	465,000.00		2031	465,000.00	
2022	465,000.00		2032	465,000.00	
2023	465,000.00		2033	465,000.00	
2024	465,000.00		2034	465,000.00	
2025	465,000.00		2035	465,000.00	
2026	465,000.00		2036	465,000.00	
2027	465,000.00		2037	465,000.00	
2028	465,000.00		2038	465,000.00	

Aggregate Principal Amount: \$9,300,000.00

Interest on each installment shall run from the date of the original delivery of this Bond to the Bond Bank and payment therefor and until payment of such installment, and such interest shall be payable semi-annually on May 1 and November 1 of each year, commencing May 1, 2019. Both principal of and interest on this Bond are payable at U.S. Bank National Association, in the City of Boston, the Commonwealth of Massachusetts, or at its successor as Trustee under the General Bond Resolution of the Bond Bank adopted July 11, 1973, as amended and supplemented. Final payment of the interest on and principal of this Bond shall be made upon surrender of this Bond for cancellation at the bank or trust company at which this Bond is then payable.

This Bond may not be prepaid prior to maturity without the consent of the Bond Bank.

This Bond is issued by the Governmental Unit under and by virtue of 30-A MRSA §5772, the votes of the voters of the Governmental Unit and the duly adopted resolution of the Select Board of the Governmental Unit. This Bond is issued for the purpose of paying all or a portion of the costs of the design, construction, and equipping of a new public works and school transportation and maintenance facility located at property on Windham Center Road in the Governmental Unit and related redevelopment of the site for the Governmental Unit.

This Bond is transferable only upon presentation to the Treasurer of the Governmental Unit of a written assignment duly acknowledged or proved. No transfer hereof shall be effectual unless made on the books of the Governmental Unit kept by the Treasurer as transfer agent and noted hereon by the Treasurer with a record of payments as provided hereon.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the issuing of this Bond have been done, have happened, and have been performed in regular and due form, as required by such laws, votes and resolution; that this General Obligation Bond is within every debt and other limit prescribed by the Constitution and laws of the State of Maine; that this General Obligation Bond is a valid and binding general obligation of the Governmental Unit; and, that unless paid from other sources, this General Obligation Bond is payable as to both principal and interest from ad valorem taxes, which are limited as to rate and amount unless certain requirements set forth in 30-A MRSA §5721-A are satisfied, upon all the property within the territorial limits of the Governmental Unit taxable by the Governmental Unit, except to any extent that the Governmental Unit may enter into an agreement under 30-A MRSA §5751 and following to share any portion of its assessed valuation with another municipality and except also to any extent that the Governmental Unit may retain all or part of the tax increment of a tax increment financing district for the purpose of financing a development program in accordance with 30-A MRSA §5221 and following.

IN TESTIMONY WHEREOF, the Governmental Unit has caused this Bond to be signed by its Treasurer and attested to by its Clerk and the seal of the Governmental Unit to be affixed hereto, as of November 1, 2018.

ATTEST:

TOWN OF WINDHAM, MAINE

\_\_\_\_\_  
Linda Morrell  
Town Clerk

By:\_\_\_\_\_  
Anthony Plante  
Town Treasurer

(SEAL)

COUNTERSIGNED BY:

\_\_\_\_\_  
Donna Chapman, Councilor

\_\_\_\_\_  
Robert Muir, Councilor

\_\_\_\_\_  
Rebecca Cummings, Councilor

\_\_\_\_\_  
Jarrod Maxfield, Councilor

\_\_\_\_\_  
Dennis Welch, Councilor

\_\_\_\_\_  
Timothy Nangle, Councilor

\_\_\_\_\_  
Clayton Haskell, Councilor

This Bond is registered in the name of the transferee noted hereon on the books of the Governmental Unit kept by the Treasurer as transfer agent.

<u>Name of Registered Transferee</u>	<u>Date of Registration of Transfer</u>	<u>Date on Which Interest Paid</u>	<u>Aggregate Principal Paid</u>	<u>Balance of Principal Due</u>
U.S. Bank National Association, as Trustee	November 1, 2018	None Paid	None Paid	All

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Anthony Plante, Town Treasurer