

AGREEMENT

THIS AGREEMENT, in duplicate originals, entered into this ____ day of August A.D. 2019 by and between the Town of Windham, hereinafter referred to as “the Town” and the Portland Water District, a quasi-municipal corporation duly organized under the Laws of the State of Maine, hereinafter referred to as “the District.”

WHEREAS, the District has an undersized 4” siphon that is a constant maintenance problem and was installed in 1987 to service portions of Depot, High Street and Androscoggin Streets; and

WHEREAS, said siphon has resulted in three sanitary sewer overflows and has reached its current capacity, which is limiting the future growth and proper development of the Depot Street area; and

WHEREAS, the Town and the District intend to provide additional sewer service to the Little Falls area of South Windham, which includes replacement of the undersized 4” siphon with the installation of a new pump station and associated force and gravity mains on Depot Street, hereinafter called “Pump Station Work”; and

WHEREAS, the District has underground facilities consisting of 1,500 feet of water main in Depot Street which need to be replaced, and seeks to install a new 16” higher pressure (407 zone) connector water main to provide a direct connection to the District’s new 407 zone water pumping station on Wards Hill in Gorham within the limits of the project and extending beyond, hereinafter called the “Water Main Work”; and

WHEREAS, the Town desires to install sidewalks, drainage and make general improvements to Depot Street as the budget allows hereinafter called “the Road Work”, after the completion of the Pump Station Work and the Water Main Work; and

WHEREAS, the Pump Station Work, the Water Main Work and the Road Work hereinafter are collectively referred to as the “Project”; and

WHEREAS, the work proposed by both the Town and the District serves the public interest;

NOW, THEREFORE, the Parties hereto agree:

1. The District will be responsible for the design, construction and financing of the Pump Station Work and the Water Main Work. Payment of costs associated with the Pump Station Work shall be the responsibility of the Town, as provided herein in Section 7.
2. The Town will be responsible for the cost of installation of the Road Work, as its budget allows, after the completion of the Pump Station Work and the Water Main Work.
3. The Town will advertise the Project for competitive bid in the early winter of 2020, with an expected construction start date in 2020. The District will provide the Town with all design documents necessary for the Pump Station Work and Water Main Work and the Parties shall

agree as to the scope and elements of the Pump Station Work, Water Main Work and Road Work before advertising for bid. The Town shall consult with the District prior to awarding the bid.

4. The Town and the District will enter into separate contracts with the contractor(s) selected through the competitive bidding process for the Road Work (Town contract) and Water Main Work and Pump Station Work (District contract) respectively. To the extent the Town's contract includes work associated with the water main replacement as described in the contract documents for the Project the District agrees to reimburse the Town for those costs in accordance with the provisions included in Attachment A to this agreement. The Town will be responsible for overseeing the Road Work in its contract with the contractor.

5. The District will be responsible for overseeing the Pump Station Work and Water Main Work in its contract with the contractor. The District shall be responsible for providing all engineering and inspection necessary for work relating to the construction and maintenance of the Pump Station Work and Water Main Work.

6 Upon completion of the Project, the Town shall invoice the District for work performed on behalf of the District. If the Project is not completed by December 31, 2020, the Town may invoice the District for work performed to date, with the balance to be invoiced and paid upon completion. The cost of the work shall be determined by the Town's construction contract unit prices applied to the actual quantities of accepted work. The District shall pay the Town within 30 days of receipt of the invoice.

7. The Town has received a grant of \$250,000 from the CDBG program which it will utilize towards the cost of the Pump Station Work. PWD shall invoice the Town for the Pump Station Work as billed by the contractor, and the Town shall pay the District within 30 days of receipt of the invoice. PWD agrees to finance the remainder of the Pump Station Work costs and will assess those costs to the Town through its annual wastewater assessment.

8. The Town and the District agree to comply with all CDBG federal regulations, including Davis Bacon and related acts, regarding the selection of the contractor for and the construction of the Pump Station Work.

9. Each party shall indemnify and hold harmless the other party, and its agents and employees from any and all claims, actions or liabilities of any nature arising out of or from any negligent, intentional, malicious, or criminal act, error, or omission related to the project by that party, or its agents, servants, employees or independent contractors. Nothing herein shall, nor is intended to, waive any defense immunity or limitation of liability which may be available to the District or Town, its officers, agents or employees, under the Maine Tort Claims Act, 14 M.R.S.A. Section 8101, et seq. or any other privileges and/or immunities provided by law.

10. This agreement may be terminated by either party in the event that budget constraints do not allow the Project to proceed.

IN WITNESS WHEREOF, the Parties to this Agreement have executed the same on the day and year first written above, the Town of Windham by and through its Town Manager, duly authorized, and the Portland Water District by and through its General Manager, duly authorized.

IN THE PRESENCE OF:

TOWN OF WINDHAM

(Witness - Town)

By _____
Town Manager

PORTLAND WATER DISTRICT

(Witness - District)

By _____
Carrie Lewis
General Manager

ATTACHMENT A

The District agrees to reimburse the Town for the following Project related costs attributed to its Water Main Work:

NOTE: Estimated quantities and costs will be provided once Gorrill Palmer prepares an opinion of construction cost for the project and finalized when once a contractor is selected and the bid awarded.

1. Estimated cost of the District's contribution to roadway gravel, paving and traffic control for the roadway reconstruction of Depot Street from Route 202 to High Street: \$###,###
 - a. ### cubic yards of Type D gravel (subbase) @ \$##/cy = \$##,###
 - b. ### cubic yards of Type A gravel (base) @ \$##/cy = \$##,###
 - c. ### tons of 19.0 mm HMA (binder) @ \$##/ton = \$##,###
 - d. ### tons of 12.5 mm HMA (surface) @ \$##/ton = \$##,###
 - e. ##% of lump sum item for traffic control = ## x \$##,### = \$##,###
2. Estimated cost of the District's contribution to roadway gravel, paving and traffic control for the roadway reconstruction of Depot Street from High Street to River Road: \$###,###
 - a. ### cubic yards of Type D gravel (subbase) @ \$##/cy = \$##,###
 - b. ### cubic yards of Type A gravel (base) @ \$##/cy = \$##,###

- c. ### tons of 19.0 mm HMA (binder) @ \$##/ton = \$##,###
- d. ### tons of 12.5 mm HMA (surface) @ \$##/ton = \$##,###
- e. ##% of lump sum item for traffic control = ## x \$##,### = \$##,###

Total Estimated Cost: \$###,###