



TOWN OF ESSEX VERMONT

MEMORANDUM OF AGREEMENT BETWEEN TOWN OF ESSEX AND VILLAGE OF ESSEX JUNCTION RE: STORM WATER PERMITTING AND MANAGEMENT SERVICES

This Memorandum of Agreement (Agreement) is entered into this 13th day of January 2015, by and between the Town of Essex ("Town") and Village of Essex Junction ("Village").

WITNESSETH:

WHEREAS, both the Village and the Town are authorized to discharge storm water within their respective municipal borders pursuant to an Authorization to Discharge Under Municipal Separate Storm Sewer System (MS4) General Permit 3-9014; and

WHEREAS, as MS4 permit holders, both the Village and the Town are subject to similar permit compliance obligations, including the payment of annual operating fees to the State of Vermont (State), the development of plans for addressing expired state storm water permits discharging into their respective MS4 systems, the filing of semi-annual and annual reports, and the development of a Flow Restoration Plan (FRP); and

WHEREAS, presently there are two designated impaired waterways located within the Town and the Village—Indian Brook and Sunderland Brook—which flow through both communities in shared watersheds; and

WHEREAS, the MS4 General Permit 3-9014 requires communities in shared watersheds to work collectively to develop watershed-based FRPs; and

WHEREAS, the Village and Town previously formed a Joint Storm Water Coordinating Committee (SWCC), which developed a common ordinance for handling expired permits in the impaired waterways for both municipalities and is presently developing a joint FRP; and

WHEREAS, proposed total maximum daily load (TMDL) requirements for phosphorous flowing into Lake Champlain will require the continued coordination of storm water planning and improvements by the Village and Town; and

WHEREAS, section 4901 of Title 24, Vermont Statutes Annotated, allows a municipality to contract with another municipality to perform any governmental service, activity or undertaking which each municipality is authorized by law to perform, provided the legislative body of each municipality approves the contract and the expenses for such governmental service are included in a municipal budget approved under 17 V.S.A. § 2664 or comparable charter provision; and

WHEREAS, the Village and the Town desire to continue their coordinated efforts with respect to storm water permit compliance and program management by creating one cost center within the Town's annual budget;

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. On or before January 15th of each year, the Village Board of Trustees shall provide the Town Selectboard with a budget amount for storm water permit compliance and program management within the Village for inclusion in the Town's annual budget. The costs to be included in the Village's budget amount shall be: (1) all salaries and benefits of Village employees involved in storm water permitting and management; (2) State storm water permit fees; (3) payments to the State for required stream flow monitoring; (4) GIS support for storm

water system mapping; (5) field data collection costs required under storm water permits; (6) consultant studies determined necessary by the SWCC; (7) employee storm water training and travel to effect permit compliance; and (8) minor storm water system design costs required for implementation of permit-required storm water system improvements.

Unless otherwise agreed by the Town and Village, the amounts submitted by the Village Board of Trustees for inclusion in the Town budget shall not include funds for the repair, maintenance or reconstruction of existing storm water system infrastructure in the Village, including catch basins, pipelines, outfalls, culverts and related structures, which shall continue to be a Village expense separate and apart from storm water permit compliance and program management costs.

2. The Town Selectboard shall include the storm water permit compliance and program management costs provided by the Village Board of Trustees pursuant to section 1, above in the Town's annual budget for approval by the legal voters of the Town at its annual meeting in March pursuant to 24 V.S.A. Appx. Ch. 117, § 303. In the event the voters do not approve a budget that includes the Village's storm water permit compliance and program management costs, then this Agreement shall be null and void and the Village shall remain responsible for raising such funds through the Village budgeting process.

3. The Town shall be responsible for paying all Town and Village storm water permit compliance and program management costs during each fiscal year that the voters approve the inclusion of the Village's costs in the Town budget, including costs associated with the proportionate salaries and benefits of the Village Water Quality Superintendent (33%) and the Village Environmental Technician (20%). The stated percentages are subject to change upon the mutual agreement of the Parties.

4. The SWCC shall continue in place to assist with the coordination of storm water activities within each municipality. The SWCC shall make recommendations to the Village Board of Trustees and the Town Selectboard for the inclusion of additional costs in the combined storm water budget for future budget years, including major storm water system design and construction costs as required by a State-approved FRP. The SWCC also shall make recommendations to the Village Board of Trustees and the Town Selectboard concerning development of a separate charge or fee for storm water permit compliance and program management separate and distinct from the Town General Fund if determined to be in each party's "best interests."

5. This Agreement may be modified only by a written amendment signed by the Parties. If any provision of this Agreement shall be found to be invalid, inoperative or unenforceable in law or equity, such finding shall not affect the validity of any other provisions of this Agreement, which shall be construed, reformed and enforced to effect the purposes of this Agreement to the fullest extent permitted by law. This Agreement shall be governed by and construed under the law of the State of Vermont, without application of principles of conflicts of laws, and constitutes the entire agreement of the Parties with respect to the subject matter hereof, superseding all prior oral and written communications, proposals, negotiations, representations, understandings, courses of dealing, agreements, contracts, and the like between the Parties in such respect.

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IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

For the Town of Essex Selectboard

For the Village of Essex Junction Board of Trustees

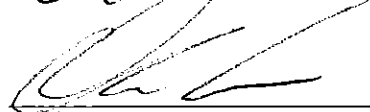

Max G. Levy, Chair

George A. Tyler, President


Brad M. Luck, Vice Chair

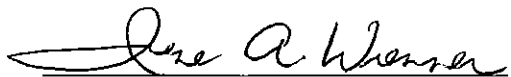

Daniel S. Kerin, Vice President

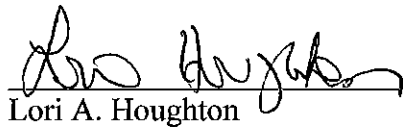

Andrew J. Watts, Clerk


Andrew Brown


R. Michael Plageman


Elaine Sopchak


Irene A. Wrenner


Lori A. Houghton