

Administrative Addendum to the Intermunicipal Agreement for Development of An Adaptive Water Quality Management Plan for Great Bay Estuary

WHEREAS, the Town of Exeter (“Town”) operates a Wastewater Treatment Facility located at 13 Newfields Road, Exeter, New Hampshire, that discharges treated effluent to the Squamscott River, which empties into the Great Bay Estuary;

WHEREAS, the Town is subject to an existing National Pollutant Discharge Elimination System (“NPDES”) Permit that contains a 3 mg/L nitrogen concentration permit limit, *NPDES Permit No. NH0100871*;

WHEREAS, the Town is subject to a United States Environmental Protection Agency (“EPA”) Administrative Order on Consent (“AOC”) executed in or about June 2013;

WHEREAS, in accordance with the terms of the AOC, the Town performed upgrades to its Wastewater Treatment Facility in 2019 and incurred costs of approximately \$53 million to perform such upgrades;

WHEREAS, pursuant to the AOC, the Town has already developed and begun implementing a Nitrogen Control Plan dated September 2018, which, in part, presents an implementation plan and schedule for how the Town will address non-point source and stormwater point source nitrogen loadings from the Town;

WHEREAS, the Town has consistently donated funds to the Piscataqua Region Estuaries Partnership (“PREP”) in order to help fund efforts to restore the health of the Great Bay Estuary;

WHEREAS, on November 24, 2020, EPA issued the Great Bay Total Nitrogen General Permit, *NPDES Permit No. NHG58A000* (“General Permit”);

WHEREAS, the Town submitted its Notice of Intent (“NOI”) to opt-in to the General Permit on March 17, 2021;

WHEREAS, EPA has indicated that it will not act on Town’s NOI, and that the Town will not be covered under the General Permit unless and until EPA invokes certain additional procedures required pursuant to 40 C.F.R. § 124, *see General Permit, Part 4, p. 8*;

WHEREAS, EPA has indicated to the Town that it will take several months to a year (and potentially longer) for EPA to complete all procedures required to remove the nitrogen discharge provisions from the Town’s individual NPDES permit and obtain coverage under the General Permit (the “Interim Period”);

WHEREAS, the communities and cities of Portsmouth, Dover, and Rochester (collectively the “Cities”) have entered into an Intermunicipal Agreement for Development of An Adaptive Water Quality Management Plan for Great Bay Estuary (“IMA”);

WHEREAS, the Town wishes to immediately engage with the Cities pursuant to the IMA, as well as any other municipality that enters the IMA, even though the Town will not be covered under the General Permit during the Interim Period;

WHEREAS, the Cities have expressed their desire to have the Town join the IMA as part of the collaborative effort during this Interim Period, as well as after EPA accepts the Town's NOI; and

WHEREAS, in addition to becoming a member of the IMA, the Town wishes to serve on the Executive Board as an At-Large Member in order to assist and help lead the activities and actions pursuant to the IMA;

NOW THEREFORE, the Town and the Cities agree to the following:

1. By signing the IMA and this Addendum, the Town agrees to join the IMA. The Town intends and wishes to participate in the community discussions and community planning pursuant to the IMA as both a member and an At-Large Member of the Executive Board during this Interim Period and after EPA accepts the Town's NOI.

2. Notwithstanding ¶ 1, during the Interim Period and until EPA accepts the Town's NOI and EPA removes the Town's existing nitrogen limits from its individual permit, the Town shall not be required to make any monetary contributions pursuant to the IMA, including, but not limited to any recommended annual contribution pursuant to the IMA.

3. The Town's duty to make any monetary contributions, including but not limited to Section VII, ¶ C of the IMA, will not take effect until the beginning of the calendar year following EPA's acceptance of Town's NOI and EPA's removal of any nitrogen limits from the Town's individual permit. Following the occurrence of these conditions precedent, the Town agrees to contribute funds towards the Annual Contribution for Monitoring pursuant to Section VII, ¶ C of the IMA.

4. Notwithstanding ¶ 2 and 3, during the Interim Period, the Town reserves the right to make voluntary contributions at its sole discretion for any purpose consistent with the IMA, including but not limited to water quality monitoring, data gathering, and analysis.

5. The Town reserves the right to withdraw its membership in the IMA at any time with 30 day's prior notice to the Executive Board of the IMA during the Interim Period and/or pursuant to the terms in Section IX of the IMA, if EPA has accepted the Town's NOI.

[Signature Page to Follow]

Dated this 29th day of April, 2021.

TOWN OF EXETER

By: 
Russell Dean, Town Manager

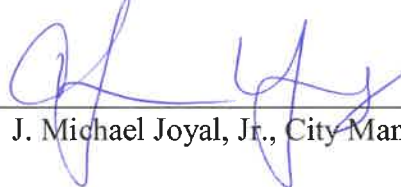
Dated this 29th day of April, 2021.

CITY OF ROCHESTER

By: 
for Blaine Cox, City Manager

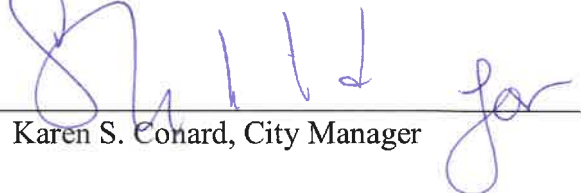
Dated this 29 day of April, 2021.

CITY OF DOVER

By: 
for J. Michael Joyal, Jr., City Manager


Dated this 29 day of April, 2021.

CITY OF PORTSMOUTH

By: 
Karen S. Conard, City Manager

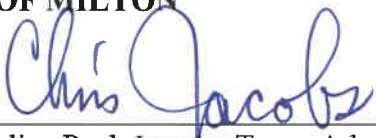
Dated this 29 day of April, 2021.

TOWN OF NEWINGTON

By: 
Denis ~~Mercier~~ ^{Messier}, Wastewater Treatment Plan
Manager

Dated this 29th day of April, 2021.

TOWN OF MILTON

By: 
~~Julius Peel~~, Interim Town Administrator
Chris Jacobs

Dated this 24 day of May, 2021.