



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



Rem
41

September 29, 2020

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTIONS

1. Authorize the Department of Environmental Services to amend a Drinking Water and Groundwater Trust Fund grant (PO# 1067926) to the City of Rochester (VC# 177467-B002), Rochester, NH, by increasing the grant amount by \$1,644,000 from \$3,800,000 to \$5,444,000 for water system improvements and extending the completion date from December 1, 2022 to September 1, 2023 under the provisions of RSA 485:F, effective upon Governor and Council approval through September 1, 2023. The original grant was approved by Governor and Council on June 5, 2019, Item #128A. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the following account:

	<u>FY 2020</u>
03-44-44-442010-3904-073-500580	\$1,644,000
Dept. Environmental Services, Drinking Water and Groundwater Trust, Grants Non-Federal	

2. Authorize the Department of Environmental Services to amend a Drinking Water and Groundwater Trust Fund loan (PO# 1067926) to the City of Rochester (VC# 177467-B002), Rochester, NH, by updating the allocation percentage between grant and loan funds to reflect the requested increase in grant fund action number 1 and extending the completion date from December 1, 2022 to September 1, 2023 under the provisions of RSA 485:F, effective upon Governor and Council approval through September 1, 2023. No additional loan funds are being requested. The original loan was approved by Governor and Council on June 5, 2019, Item #128A. 100% Drinking Water and Groundwater Trust Fund.

EXPLANATION

We are requesting approval of this amendment in order to provide the City of Rochester additional time and funds to complete the agreed-upon scope of services. The project is to extend water to serve private residences with significant water quality issues (iron, manganese, arsenic, and radon) and residents with private wells contaminated by MtBE. Additional funds are needed due to increased project costs caused by required design modifications and increased quotes from project vendors, which are consistent with

observed industry cost trends for recently bid projects. The total project cost increase is \$3,880,000. The additional Drinking Water and Groundwater Trust Fund grant funds requested will supplement other funding sources in order to fully fund the project. The Drinking Water and Groundwater Advisory Commission approved the increase in grant funding on May 11, 2020.

The loan is being amended to reflect the increase in grant funds. The increase in the grant funding changes the percentage the City of Rochester is reimbursed from the grant and loan for each disbursement request. The completion dates for the grant and loan are also being extended to allow the City additional time to complete the project. To date, no grant or loan funds have been disbursed.

The grant amendment has been approved by the Attorney General's Office as to form, substance and execution.

We respectfully request your approval of this item.

A handwritten signature in black ink, appearing to read "Robert R. Scott", written over a horizontal line.

Robert R. Scott
Commissioner

AMENDMENT #1
TO
STATE OF NEW HAMPSHIRE
DRINKING WATER AND GROUNDWATER TRUST FUND

City of Rochester
ORIGINAL LOAN AGREEMENT
For Project #DWGT-32

Whereas the City of Rochester wishes to reflect the increase in the Drinking Water and Groundwater Trust Fund grant contribution to the Route 202A Water Main Extension project and extend the Scheduled Completion date from December 1, 2022 to September 1, 2023 to complete the construction.

Now Therefore, amend the ORIGINAL LOAN AGREEMENT for Project DWGT-32 as approved by Governor and Council on June 5, 2019 as Item #128A in the following manner:

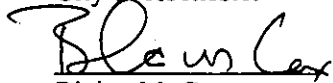
Change Page 1, Line 22 through Page 2, Line 12 of the ORIGINAL LOAN AGREEMENT to read:

“III. Disbursements shall be made on a periodic basis, as requested by the Loan Recipient, but not more frequently than monthly, subject to the approval of the amount of each Disbursement by the State. The State shall approve the amount requested if it determines that the costs covered by the request are eligible under and consistent with the purposes of RSA485-F, and consistent with the project application as approved by the N.H. Drinking Water and Groundwater Advisory Commission. Such approval shall be within the sole discretion of the State but shall not be unreasonably withheld. In concert with the City’s Drinking Water and Groundwater Trust Fund (DWGTF) grant for \$5,444,000 each disbursement request will be paid 81% grant funds and 19% loan funds. The total reimbursement shall not exceed the loan amount of \$1,293,000. Interest on each Disbursement shall accrue on the outstanding principal balance from the date of the Disbursement at the rate of 1% per annum computed on the basis of 30-day months and 360-day years until the date of Substantial Completion of the Project or the date of Scheduled Completion as noted in Paragraph VI, whichever is earlier. At the option of the Loan Recipient, such interest may be paid (1) prior to the commencement of Loan repayment, (2) at the time of the first Loan repayment, or (3) by adding the charges to the outstanding principal Loan balance so long as the Loan Recipient’s authority to borrow is not exceeded.”

Change Page 2, Line 22 through Page 3, Line 3 of the ORIGINAL LOAN AGREEMENT to read:

“VI. The Loan Recipient hereby authorizes the State to compute the payments of principal and interest on the Note. The principal shall be paid in full within twenty (20) years from the date of the Note. Note payments shall commence within one year of the Substantial Completion date of the Project or the Scheduled Completion date of the project, whichever is earlier. The Scheduled Completion date is hereby determined to be September 1, 2023; however, should the project experience an excusable delay, an extension may be granted by the Commissioner of the Department of Environmental Services upon request in writing by the Loan Recipient.”

Accepted By:
City of Rochester

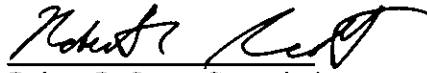


Blaine M. Cox
City Manager

7-30-2020

Date

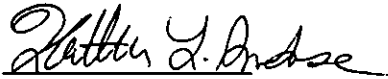
Accepted By:
State of New Hampshire



Robert R. Scott, Commissioner
Department of Environmental Services

9/30/20

Date



Kathryn L. Ambrose
Deputy City Manager/Director of
Finance and Administration

7-30-2020

Date

**Grant Agreement with the City of Rochester
Drinking Water and Groundwater Trust Fund Grant
Amendment No. 1**

This Agreement (hereinafter called the Amendment) dated this 30th day of September, 2020, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the State) and the City of Rochester acting by and through the City Manager, Blaine M. Cox, and the Director of Finance Administration, Kathryn L. Ambrose (hereinafter referred to as the Grantee).

WHEREAS, pursuant to an Agreement (hereinafter called the Agreement) approved by the Governor and Council on June 5, 2019, the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:
 - (A) The Grant Limitation as set forth in sub-paragraph 1.8 of the Agreement shall be changed from \$3,800,000 to \$5,444,000.
 - (B) The Completion Date as set forth in sub-paragraph 1.6 of the Agreement shall be changed from December 1, 2022 to September 1, 2023.
 - (C) The Scope of Services as set forth under Exhibit A shall be changed to clarify that grants funds will cover costs necessitated by the project and to include submittal of an Asset Management Program for the funded assets.
 - (D) The grant award as set forth in the third paragraph of Exhibit B shall be changed from \$3,800,000 to \$5,444,000.
 - (E) Disbursement request payments as set forth in the third paragraph of Exhibit B shall be changed from 74.6% to 81% grant funds and 25.4% to 19% loan funds.
2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. Continuance of Agreement: Except as specifically amended and modified by the terms and

conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

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

CITY OF ROCHESTER

By Blaine M. Cox
Blaine M. Cox, City Manager

7.30.2020
Date

Kathryn L. Ambrose
Kathryn L. Ambrose, Deputy City Manager
Director of Finance and Administration

7.30.2020
Date

STATE OF NEW HAMPSHIRE
COUNTY OF Strafford

On this the 30 day of July 2020, before the undersigned officer, personally appeared Blaine M. Cox who acknowledged himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
Lisa J. Clark
LISA J. CLARK, Justice of the Peace
State of New Hampshire
My Commission Expires November 8, 2022

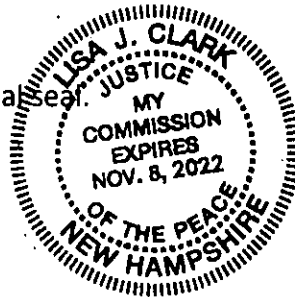


My Commission Expires:

STATE OF NEW HAMPSHIRE
COUNTY OF _____

On this the 30 day of July 2020, before the undersigned officer, personally appeared Kathryn L. Ambrose who acknowledged herself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
Lisa J. Clark
LISA J. CLARK, Justice of the Peace
State of New Hampshire
My Commission Expires November 8, 2022



My Commission Expires:

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By:  9/30/20
Robert R. Scott, Commissioner Date

Approved by Attorney General this 5th day of October, as to form, substance and execution.

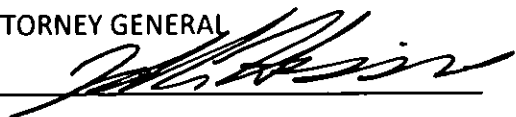
OFFICE OF ATTORNEY GENERAL


EXHIBIT A
SCOPE OF SERVICES

City of Rochester:

The City of Rochester will use the grant funds to address contamination and poor water quality in certain sections of the City. The project includes installation of water main along Route 202A, Fiddlehead Lane, Strafford Road, Walnut Street, Winkley Farm Road and Bickford Road and the installation of a new water storage tank at the Highfield Commons development which will provide adequate pressure to properties along the new water main. Grant funds will cover engineering, bidding and construction costs necessitated by the project. The City is required to provide documentation that the funded assets have been incorporated into the water department's Asset Management Program.

EXHIBIT B
BUDGET & PAYMENT METHOD

The NHDES shall pay to the Grantee the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made no more than monthly by the Grantee using the Drinking Water and Groundwater Trust Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain adequate documentation to substantiate all Program related costs. All work shall be performed to the satisfaction of the NHDES before payment is made.

In concert with the City's Drinking Water and Groundwater Trust Fund (DWGTF) loan for \$1,293,000 each disbursement request will be paid 81% grant funds and 19% loan funds. The total reimbursement shall not exceed the grant award of \$5,444,000.

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services require NHDES approval in advance. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.6).

Grantee Initials BWC
Date 7.30.2020

A Certificate of Vote of Authorization is a certificate that states that a grant applicant is willing to enter into a grant agreement with the State of NH Department of Environmental Services, that whoever signs the Grant Agreement has the authority to do so. All certificates must include:

- Certificate should be completed and signed by someone other than the person being given authority (a signature other than the person that will sign the Grant Agreement)
- Must state that the person who signed the Grant Agreement has the authority to do so
- Must be notarized
- Original is needed for submittal. No copies.

Certificate of Vote of Authorization

City of Rochester NH
Municipal Water System
31 Wakefield Street Rochester NH 03867

I, Kelly Walters, City Clerk of the City of Rochester NH do hereby certify that at a meeting held on June 16, 2020 by the City of Rochester City Council voted to enter into a Drinking Water and Groundwater Trust Fund grant agreement with the NH Department Environmental Services to fund a water system improvement project.

The City of Rochester further authorized the Rochester City Manager, Blaine M. Cox and / or the Deputy City Manager / Finance & Administrative Director, Kathryn L. Ambrose to execute any documents that may be necessary to effectuate this grant agreement.

IN WITNESS WHEREOF, I have hereunto set my hand as the Rochester City Clerk of City of Rochester NH Municipal Water System on the 30 day of July 2020.

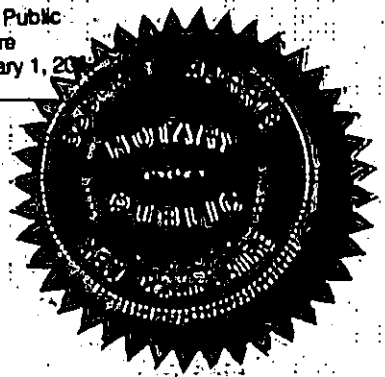
Signature Kelly Walters

STATE OF NEW HAMPSHIRE County of Strafford

On this 30th day of July, 2020, before me Susan E. Morris (Notary Public) the undersigned Officer, personally appeared. Kelly Walters, who acknowledged herself to be the City Clerk of Rochester, NH being authorized so to do, execute the foregoing instrument for the purpose therein contained.

In witness thereof, I have set my hand and official seal.

Notary Public Susan E. Morris My commission expires: SUSAN E. MORRIS, Notary Public
State of New Hampshire
My Commission Expires February 1, 2021





CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City of Rochester 31 Wakefield Street Rochester, NH 03867		Member Number: 280	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not:	
<input checked="" type="checkbox"/> General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2020	7/1/2021	Each Occurrence	\$ 5,000,000
			General Aggregate	\$ 5,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2020	7/1/2021	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease - Each Employee	\$2,000,000
			Disease - Policy Limit	
<input type="checkbox"/> Property (Special Risk Includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	
Description: Proof of Primex Member coverage only.				

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex³ - NH Public Risk Management Exchange
Drinking Water & Groundwater Bureau New Hampshire Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095			By: <i>Mary Beth Purcell</i>
			Date: 7/30/2020 mpurcell@nhprimex.org Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



Johnna McKenna

May 15, 2019

APPROVED G & C

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

DATE

6/15/19

ITEM #

128A

REQUESTED ACTIONS

1. Authorize the Department of Environmental Services to award a grant to the City of Rochester (VC# 177467-8002), Rochester, NH in the amount not to exceed \$3,800,000 for water system improvements under the provisions of RSA 485:F, effective upon Governor & Council approval through December 1, 2022. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the account as follows:
03-44-44-442010-3904-073-500580

FY 2019
\$3,800,000

Dept Environmental Services, Drinking Water and Groundwater Trust, Grants Non-Federal

2. Authorize the Department of Environmental Services to approve a loan agreement with the City of Rochester (VC# 177467-8002), Rochester, NH in the amount not to exceed \$1,293,000 to finance water system improvements under the provisions of RSA 485:F, effective upon Governor & Council approval. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the account as follows:
03-44-44-442010-3904-301-504059

FY 2019
\$1,293,000

Dept Environmental Services, DWGTF Trust, Loans

EXPLANATION

The Drinking Water and Ground Water Trust Fund was created in 2016, using \$276 million of MtBE trial judgement funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On August 30, 2018, the Advisory Commission voted to authorize grants and loans for nineteen drinking water improvement projects. The City of Rochester's Route 202A Water Main Extension Project request for \$5,093,000 was selected for grant and loan funding from the Drinking Water and Groundwater Trust Fund. The City will use the funds to extend water main along Route 202A connecting several small residential developments, the installation of a new storage tank, and connecting several properties with private wells impacted with MtBE. This agreement has been approved by the Attorney General's Office as to form, substance and execution.

Respectfully submitted,

Robert R. Scott, Commissioner

DES Website: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2513 • Fax: (603) 271-5171 • TDD Access: Relay NH 1-800-735-2964

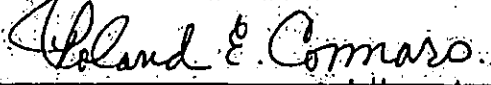
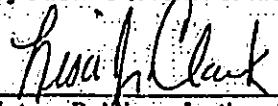
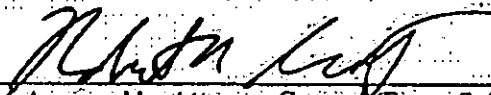
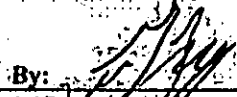
Subject: City of Rochester

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. Identification.

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03301	
1.3 Grantee Name City of Rochester		1.4 Grantee Address 31 Wakefield Street, Rochester, NH 03867	
1.5 Effective Date: Upon G&C Approval:	1.6 Completion Date December 1, 2022	1.7 Audit Date N/A	1.8 Grant Limitation \$3,800,000
1.9 Grant Officer for State Agency Erin Holmes, Drinking Water & Groundwater Trust Fund, NH Department of Environmental Services		1.10 State Agency Telephone Number 603-271-8321	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor Roland E. Connors Finance Director, City of Rochester NH	
1.13 Acknowledgment: State of <u>New Hampshire</u> , County of <u>Stafford</u>			
On <u>5/23/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or his/her agent, who is known to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace 			
Notary Public or Justice of the Peace JSA J. CLARK, Justice of the Peace State of New Hampshire My Commission Expires November 8, 2022			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Robert R. Scott, Commissioner NH Department of Environmental Services	
1.16 Approval by Attorney General (Form, Substance and Execution)			
By: 		On: <u>5/23/19</u>	
1.17 Approval by the Governor and Executive Council			
By:		On:	

2. SCOPE OF WORK. In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

4. EFFECTIVE DATE; COMPLETION OF PROJECT.

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as the "Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as the "Completion Date").

5. GRANT AMOUNT; LIMITATION ON AMOUNT; PAYMENT.

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities, which shall impose any obligations, or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. RECORDS AND ACCOUNTS.

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. PERSONNEL.

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grantee officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grantee Officer, and his/her decision on any dispute, shall be final.

9. DATA RETENTION OF DATA ACCESS.

9.1 As used in this Agreement, the word data shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, transmission, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. EVENT OF DEFAULT; REMEDIES.

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

- 11.1.1 failure to perform the Project satisfactorily or on schedule; or
- 11.1.2 failure to submit any report required hereunder; or
- 11.1.3 failure to maintain, or permit access to, the records required hereunder; or
- 11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 11.2.1 give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and
- 11.2.2 give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the grant amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and
- 11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
- 11.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall, in no

Grantee Initials: *VPC*

Date: *5-13-2019*

event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. **CONFLICT OF INTEREST.** No officer, member or employee of the Grantee and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. **GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workers' compensation or emoluments provided by the State to its employees.

15. **ASSIGNMENT AND SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

17. **INSURANCE AND BOND.**

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident, and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State.

18. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. **CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the law of the State of New

Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Grantee Initials *JEC*
Date 5-13-2019

EXHIBIT A
SCOPE OF SERVICES

City of Rochester:

The City of Rochester will use the grant funds to address contamination and poor water quality in certain sections of the City. The project includes installation of water main along Route 202A, Fiddlehead Lane, Strafford Road, Walnut Street, Winkley Farm Road and Bickford Road and the installation of a new water storage tank at the Highfield Commons development which will provide adequate pressure to properties along the new water main. Grant funds will cover engineering, bidding and construction costs for the project.

EXHIBIT B
BUDGET & PAYMENT METHOD

The NHDES shall pay to the Grantee the total reimbursable program costs in accordance with the following requirements:

Reimbursement requests for program costs shall be made no more than monthly by the Grantee using the Drinking Water and Groundwater Trust Disbursement form as supplied by the NHDES, which shall be completed and signed by the Grantee. The disbursement form shall be accompanied by proper supporting documentation based upon direct costs. The Grantee will maintain adequate documentation to substantiate all Program related costs. All work shall be performed to the satisfaction of the NHDES before payment is made.

In concert with the City's Drinking Water and Groundwater Trust Fund (DWGTF) loan for \$1,293,000 each disbursement request will be paid 74.6% grant funds and 25.4% loan funds. The total reimbursement shall not exceed the grant award of \$3,800,000.

EXHIBIT C
SPECIAL PROVISIONS

Changes to the Scope of Services require NHDES approval in advance. Work must be completed and request for reimbursement must be made by the completion date listed on the grant agreement (section 1.6).

Grantee Initials

Date 5-13-2019

A Certificate of Vote of Authorization is a certificate that states that a grant applicant is willing to enter into a grant agreement with the State of NH Department of Environmental Services, that whoever signs the Grant Agreement has the authority to do so. All certificates must include:

- Certificate should be completed and signed by someone other than the person being given authority (a signature other than the person that will sign the Grant Agreement)
- Must state that the person who signed the Grant Agreement has the authority to do so
- Must be notarized
- Original is needed for submittal. No copies.

Certificate of Vote of Authorization

City of Rochester-NH
Municipal Water System
31 Wakefield Street Rochester NH 03867

I, Kelly Walters, City Clerk of the City of Rochester NH do hereby certify that at a meeting held on April 16, 2019 by the City of Rochester City Council voted to enter into a Drinking Water and Groundwater Trust Fund grant agreement with the NH Department Environmental Services to fund a water system improvement project.

The City of Rochester further authorized the Rochester City Manager, Blaine M. Cox and the Rochester Finance Director, Roland E. Connors to execute any documents that may be necessary to effectuate this grant agreement.

IN WITNESS WHEREOF, I have hereunto set my hand as the Rochester City Clerk of City of Rochester NH Municipal Water System on the 9 day of May 2019.

Signature Kelly Walters

STATE OF NEW HAMPSHIRE

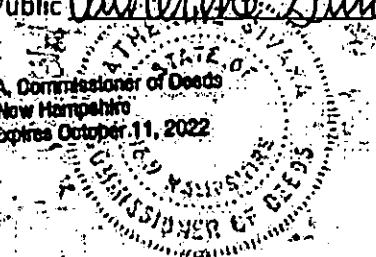
County of Strafford

On this 9 day of May, 2019, before me Catherine Givara (Notary Public) the undersigned Officer, personally appeared Kelly Walters, who acknowledged ^{her} herself to be the Clerk (TITLE) of Rochester (WATER SYSTEM NAME/TOWN), being authorized so to do, execute the foregoing instrument for the purpose therein contained.

In witness thereof, I have set my hand and official seal.

Notary Public Catherine Givara My commission expires: 10/11/22

CATHERINE GIVARA, Commissioner of Deeds
State of New Hampshire
My Commission Expires October 11, 2022





CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex²) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex² is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex² is entitled to the categories of coverage set forth below. In addition, Primex² may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex², including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex² Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex². As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City of Rochester 31 Wakefield Street Rochester, NH 03867	Member Number: 280	Company Affording Coverage: NH Public Risk Management Exchange - Primex ² Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
---	------------------------------	--

Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, If Not:	
<input checked="" type="checkbox"/> General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2018	7/1/2019	Each Occurrence	\$ 5,000,000
			General Aggregate	\$ 5,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2018	7/1/2019	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease - Each Employee	\$2,000,000
			Disease - Policy Limit	
<input type="checkbox"/> Property (Special Risk Includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: Proof of Primex Member coverage only.

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex² - NH Public Risk Management Exchange
Drinking Water & Groundwater Bureau New Hampshire Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095			By: <i>Mary Beth Purcell</i>
			Date: 4/30/2019 mpurcell@nhprimex.org
			Please direct inquires to: Primex ² Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

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STATE OF NEW HAMPSHIRE
DRINKING WATER AND GROUNDWATER TRUST FUND
CITY OF ROCHESTER, NEW HAMPSHIRE
(Project No. DWGT-32)

ORIGINAL LOAN AGREEMENT

6 I. This Agreement is between the State of New Hampshire Drinking Water and Groundwater
7 Trust Fund Loan Program (State) and the City of Rochester, New Hampshire (Loan Recipient)
8 in accordance with RSA 485-F for the purpose of financing, to the extent of the aggregate
9 amount of funds transferred (Disbursements) to the Loan Recipient made hereunder, the Route
10 202A Water Main Extension Project (Project) now being undertaken by the Loan Recipient.
11 The Project is described in Exhibit A. The Loan Recipient shall abide by all of the requirements
12 of RSA 485:F.

13
14 II. The State agrees to loan to the Loan Recipient, and the Loan Recipient agrees to repay to the
15 State, in accordance with the terms of this Agreement, the principal sum of One Million Two
16 Hundred Ninety Three Thousand and 00/100 Dollars (\$1,293,000) (Principal Sum) or such
17 lesser amount as shall equal the aggregate of Disbursements made hereunder by the State to the
18 Loan Recipient. In addition to the principal sum, the Loan Recipient agrees to pay the applicable
19 interest accrued as described in Paragraphs III, V, and VII. Any Disbursement or other payment
20 from the State to the Loan Recipient is contingent upon the availability of funds.

21
22 III. Disbursements shall be made on a periodic basis, as requested by the Loan Recipient, but not
23 more frequently than monthly, subject to the approval of the amount of each Disbursement by
24 the State. The State shall approve the amount requested if it determines that the costs covered by
25 the request are eligible under and consistent with the purposes of RSA485-F, and consistent with

1 the project application as approved by the N.H. Drinking Water and Groundwater Advisory
2 Commission. Such approval shall be within the sole discretion of the State but shall not be
3 unreasonably withheld. In concert with the City's Drinking Water and Groundwater Trust Fund
4 (DWGTF) grant for \$3,800,000 each disbursement request will be paid 74.6% grant funds and
5 25.4% loan funds. The total reimbursement shall not exceed the loan amount of \$1,293,000.
6 Interest on each Disbursement shall accrue on the outstanding principal balance from the date of
7 the Disbursement at the rate of 1% per annum computed on the basis of 30-day months and 360-
8 day years until the date of Substantial Completion of the Project or the date of Scheduled
9 Completion as noted in Paragraph VII, whichever is earlier. At the option of the Loan Recipient,
10 such interest may be paid (1) prior to the commencement of Loan repayment, (2) at the time of
11 the first Loan repayment, or (3) by adding the charges to the outstanding principal Loan balance
12 so long as the Loan Recipient's authority to borrow is not exceeded.

13
14 IV. The aggregate of the Disbursements shall be consolidated by a Promissory Note (Note) of
15 the Loan Recipient in a Supplemental Loan Agreement issued under and in accordance with the
16 applicable provisions of this Agreement and the Municipal Finance Act, RSA 33, as amended
17 and supplemented, including the provisions of RSA 485-F. The Note shall be substantially in the
18 form of Exhibit B.

19
20 V. The interest rate applicable to the Note will be 3.38%.

21
22 VI. The Loan Recipient hereby authorizes the State to compute the payments of principal and
23 interest on the Note. The principal shall be paid in full within twenty (20) years from the date of
24 the Note. Note payments shall commence within one year of the Substantial Completion date of
25 the Project or the Scheduled Completion date of the project, whichever is earlier. The Scheduled

1 Completion date is hereby determined to be December 1, 2022; however, should the project
2 experience an excusable delay, an extension may be granted by the Commissioner of the
3 Department of Environmental Services upon request in writing by the Loan Recipient.
4

5 VII. The Loan Recipient reserves the right to prepay, at any time and without penalty, all or any
6 part of the outstanding principal or interest of the Note.
7

8 VIII. In the event of a default in the full and timely remittance of any Note payment, any State
9 Grant funds payable to the Loan Recipient under RSA 486-A may be offset against and applied
10 to the payment of any obligations that are due hereunder. The Loan Recipient agrees to be liable
11 for all costs of collection, legal expenses, and attorney's fees incurred or paid by the State in
12 enforcing this Agreement or in collecting any delinquent payments due hereunder.
13

14 IX. No delay or omission on the part of the State in exercising any right hereunder shall operate
15 as a waiver of such right or of any other right under this Agreement. A waiver on any one
16 occasion shall not be construed as a bar to any right and/or remedy on any future occasion.
17

18 X. The Loan Recipient agrees to comply, and to require all of its contractors to comply, with all
19 applicable state requirements.
20

21 XI. The Loan Recipient is required to develop an asset maintenance and renewal plan for the
22 assets(s) being funded under the loan or incorporate the funded asset(s) into an existing asset
23 management plan. At a minimum the plan must include a commitment to asset management,
24 financing and implementation strategy and an inventory of the funded asset(s).
25

1 XII. The Loan Recipient agrees to permit an authorized representative of the State of New
2 Hampshire to have access to and the right to:

3
4 (i) Examine any of the Loan Recipient's, the contractor's or any subcontractor's
5 records that pertain to and involve transactions relating to this Agreement, the
6 Construction Contract, the Engineering Contract or a subcontract thereunder; and

7
8 (ii) Interview any officer or employee regarding such transactions.
9

10 The Loan Recipient shall insert subparagraphs (i). and (ii). into the Construction Contract and
11 require the Contractor to insert subparagraphs (i). and (ii). into all subcontracts thereunder.
12

13 XIV. The effective date of this Agreement shall be the date of its approval by the Governor and
14 Executive Council. This Agreement may be amended, waived, or discharged only by a written
15 instrument signed by the parties hereto and only after approval of such amendment, waiver, or
16 discharge by the Governor and Executive Council.
17

18 XV. This Agreement shall be construed in accordance with the laws of the State of New
19 Hampshire and is binding upon and inures to the benefit of the parties and their respective
20 successors. The parties hereto do not intend to benefit any third parties and, consequently, the
21 Agreement shall not be construed to confer any such benefit.
22


23 XVI. This Agreement, which may be executed in a number of counterparts, each of which shall
24 be deemed an original, constitutes the entire agreement and understanding between the parties

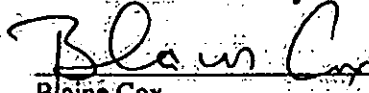
1 and supersedes all prior agreements and understandings relating thereto. Nothing herein shall be
2 construed as a waiver of sovereign immunity, such immunity being hereby specifically reserved.


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6 STATE OF NEW HAMPSHIRE by:

CITY OF ROCHESTER,

NEW HAMPSHIRE by:

7
8  5-21-19
9 Robert R. Scott Date
10 Commissioner
11 Department of Environmental Services

 5-13-19
Blaine Cox Date
City Manager
City of Rochester

11
12  5-13-2019
13 Roland Connors Date
14 Finance Director
15 City of Rochester

16
17 This Agreement was approved by Governor and Executive Council on _____
18 as Item No. _____

EXHIBIT A

**STATE OF NEW HAMPSHIRE
DRINKING WATER AND GROUNDWATER TRUST FUND**

PROJECT DESCRIPTION

The **CITY OF ROCHESTER** has applied for a Loan to be used for the Route 202A water main extension project. The project includes approximately 19,000 linear feet of water main extension along Fiddlehead Lane, Strafford Road, Walnut Street, Winkley Farm Road and Bickford Road, and a new storage tank at the Highfield Commons Development.

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EXHIBIT B

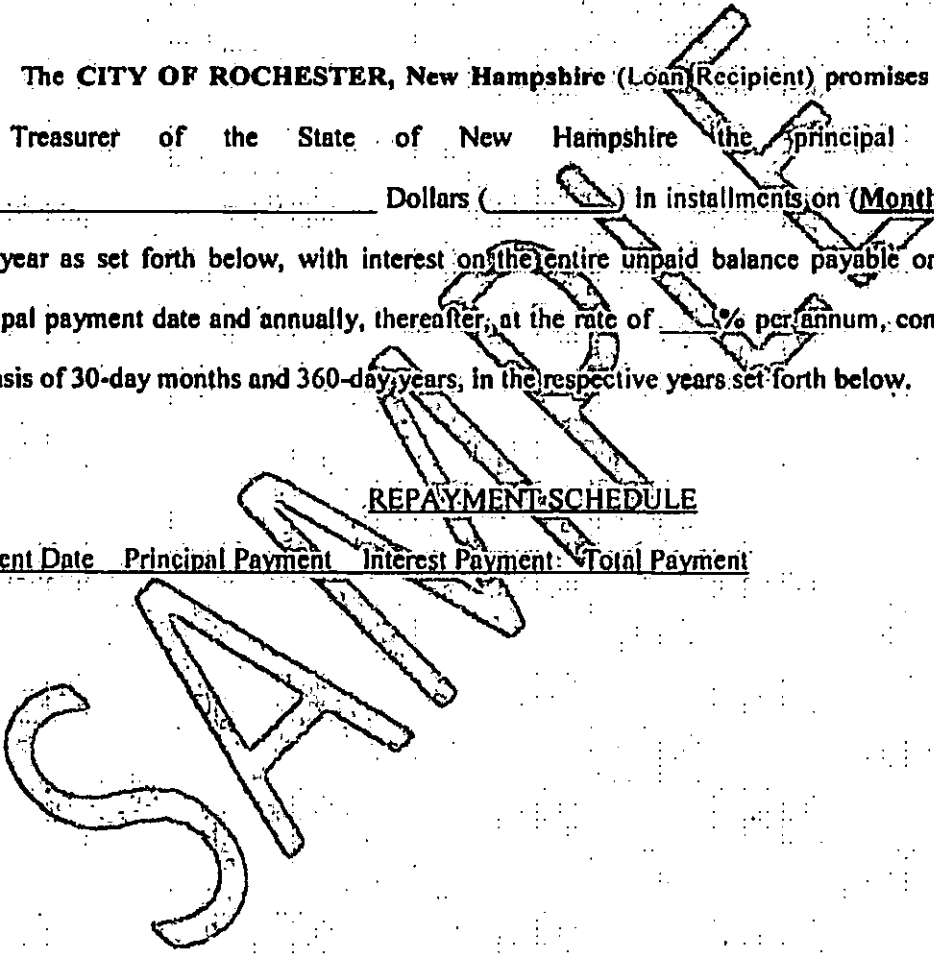
**STATE OF NEW HAMPSHIRE
DRINKING WATER AND GROUNDWATER TRUST FUND**

PROMISSORY NOTE AND REPAYMENT SCHEDULE

The CITY OF ROCHESTER, New Hampshire (Loan Recipient) promises to pay to the Treasurer of the State of New Hampshire the principal sum of _____ Dollars () in installments on (Month, Day) in each year as set forth below, with interest on the entire unpaid balance payable on the first principal payment date and annually, thereafter, at the rate of % per annum, computed on the basis of 30-day months and 360-day years, in the respective years set forth below.

REPAYMENT SCHEDULE

Payment Date Principal Payment Interest Payment Total Payment



1 12
2 13
3 14
4 15
5 16
6 17
7 18
8 19
9 20

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11 This Promissory Note (Note) is issued under and by virtue of the New Hampshire
12 Municipal Finance Act, an agreement duly entered into by the Loan Recipient and the Drinking
13 Water and Groundwater Trust Fund, and is issued for the purpose of financing the cost of the
14 Project as described in Exhibit A of the Supplemental Loan Agreement (Agreement);

15

16 The Loan Recipient reserves the right to prepay, at any time and without penalty, all or
17 any part of the outstanding principal or interest on this Note.

18

19 The terms and provisions of the Agreement are hereby incorporated in and made a part of
20 this Note to the same extent as if said terms and provisions were set forth in full herein.

21

22 It is hereby certified and recited that all acts, conditions, and things required to be done
23 precedent to and in the issuing of this Note have been done, have happened, and have been
24 performed in regular and due form and, for the payment hereof when due, the full faith and credit
25 of the Loan Recipient are hereby irrevocably pledged.

1 IN WITNESS whereof the Loan Recipient has caused this Note to be signed by its City
2 Manager and Finance Director, on the date below.

3
4 CITY OF ROCHESTER, NEW HAMPSHIRE by:

5 _____
6 Blaine Cox
7 City Manager
8 City of Rochester

_____ Date

(Seal)

9 _____
10 Roland Connor
11 Finance Director
12 City of Rochester

SAMPLE

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