



The State of New Hampshire **Department of Environmental Services**



Scott
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Robert R. Scott, Commissioner

November 23, 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 award a grant to the Town of Peterborough (VC#177459-B003), Peterborough, NH, in the amount not to exceed \$3,647,600 for water system improvements under the provisions of RSA 485:F, effective upon Governor & Council approval through September 1, 2023. 100% Drinking Water and Groundwater Trust Fund.

Funding is available in the following account:

03-44-44-442010-3904-073-500580	<u>FY 2021</u>
Dept. Environmental Services, Drinking Water and Groundwater Trust, Grants Non-Federal	\$3,647,600

2. Authorize the Department of Environmental Services to approve a loan agreement with the Town of Peterborough (VC#177459-B001), Peterborough, NH, in the amount not to exceed \$4,047,400 to finance water system improvements under the provisions of RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. effective upon Governor & Council approval. 100% Drinking Water State Revolving Loan Fund (DWSRF) Repayment Funds.

Funding is available in the following account:

03-44-44-441018-4791-301-500833	<u>FY 2021</u>
Dept. Environmental Services, DWSRF Loan Repayments, Loans	\$4,047,400

EXPLANATION

The Town of Peterborough requested a total of \$7,695,000 in funding from NHDES for a new drinking water supply source that will be shared with the Town of Jaffrey. NHDES, through the Drinking Water and Groundwater Trust Fund (DWGTF) and the Drinking Water State Revolving Loan Fund (DWSRF) has arranged with the Town to provide the full \$7,695,000 in a combination of grant and loan funds.

The water system improvements include a regional project with the Town of Peterborough. The Towns of Jaffrey and Peterborough intend to purchase the Cold Stone Springs site for use as a shared municipal water supply, construct a joint water treatment plant to improve the finished water quality from the

three groundwater wells and construct cross country connections to the Jaffrey and Peterborough water systems.

The Town requested grant funding through the DWGTF in 2020. The Town's request for \$3,647,600 was approved by the Advisory Commission on August 10, 2020. The final grant amount will be based on the total funds disbursed not to exceed \$3,647,600, and may be less than the approved amount. In the event that grant funds no longer become available, General funds will not be requested to support this program. This grant agreement has been approved by the Attorney General's Office as to form, substance and execution.

The final DWSRF loan amount will be based on the total DWSRF funds disbursed, and may be less than \$4,047,400. The loan interest rate may be adjusted downward if the DWSRF loan rate in effect upon project completion is less than the current rate of 0.810% for ten years. The Town is eligible for principal forgiveness under the 2019 DWSRF Intended Use Plan. The amount of principal forgiveness will be determined when the aggregate principal amount is established and the project is complete. There is currently a balance of \$27,688,354 in the DWSRF available for new loans. Attached is a tabulation of the DWSRF showing the effect of this loan on the funds available for loans.

We respectfully request your approval of this item.



Robert R. Scott
Commissioner

DEPARTMENT OF ENVIRONMENTAL SERVICES
WATER DIVISION

DRINKING WATER STATE REVOLVING FUND

Supplemental information to Governor and Council request of the loan agreement(s) under RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. for the public water system(s) listed below.

This request will affect the balance of the loan funds as follows.

	<u>REPAYMENT</u>
Repayment Account (Balance as of 11/17/20)	<u>\$31,733,354</u>
Less Loans Previously Approved	<u>\$4,045,000</u>
Funds Available for Loans	\$27,688,354
New Loans Being Requested	
Town of Peterborough (Project#: 1871010-02)	(4,047,400)
Net Change to Loan(s)	<u>(4,047,400)</u>
Balance Available After G & C Approval	<u><u>\$23,640,954</u></u>

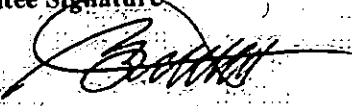
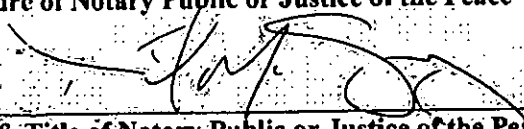
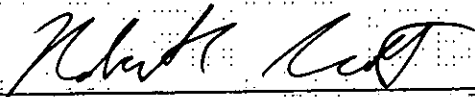
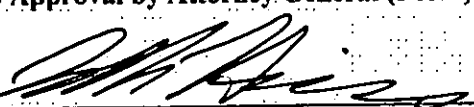
Subject: Town of Peterborough

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 Town of Peterborough		1.4 Grantee Address 1 Grove Street, Peterborough, NH 03458	
1.5 Effective Date Upon G&C Approval	1.6 Completion Date 9/1/2023	1.7 Audit Date N/A	1.8 Grant Limitation \$3,647,600
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 Rodney Bartlett, Town Administrator	
1.13 Acknowledgment: State of New Hampshire, County of Hillsborough On November 23, 2020, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven 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 [SEAL] 			
1.13.2 Name & Title of Notary Public or Justice of the Peace Nicole MacStay, Justice of the Peace		NICOLE M. MacSTAY, Justice of the Peace State of New Hampshire My Commission Expires August 23, 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: 11/25/2020			
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, translation, 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 OR 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 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.

Grantee Initials *CS*
Date *11/23/2020*

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 of 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 assigns. 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

Date


11/13/2020

EXHIBIT A
SCOPE OF SERVICES

Town of Peterborough:

The Town of Peterborough will use the grant funds to develop and place online the existing approved groundwater withdrawal supply wells associated with the Cold Stone Springs site in Sharon, New Hampshire. The project is a joint-project between the Towns of Peterborough and Jaffrey. Grant funds will be used for the Town of Peterborough's portion of the eligible costs including engineering, construction, and land purchase or easement costs for the following tasks:

- Purchase of the Cold Stone Springs property.
- Construction of the raw water transmission mains from the wells to the water treatment facility.
- Construction of a new water treatment facility.
- Connection of the treatment facility to the Town of Peterborough's existing water distribution system in Peterborough.
- Interconnection between the Town of Peterborough and Town of Jaffrey water systems.

The Town is required to develop and adhere to an asset maintenance and renewal plan for the funded improvements and provide documentation supporting this requirement.

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 once per calendar month by the Grantee using the Drinking Water and Groundwater Trust Fund (DWGTF) 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 Project related costs. All work shall be performed to the satisfaction of the NHDES before payment is made.

This grant is combined with non-DWGTF match funding of \$4,047,400 in loan funds from the New Hampshire Drinking Water State Revolving Fund (DWSRF). Each disbursement request will be paid in concert with the Town of Peterborough's non-DWGTF funds as 47% DWGTF grant funds and 53% DWSRF loan funds. The total reimbursement shall not exceed the grant award of \$3,647,600.

Grantee Initials: 


Date: 11/25/2020

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


11/03/2020

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.*
-

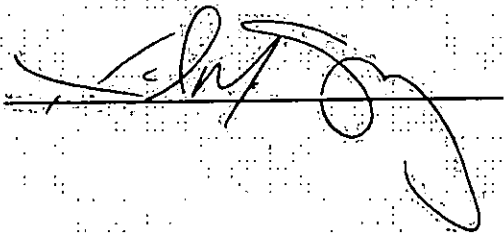
Certificate of Vote of Authorization

**Peterborough Water System
1 Grove Street, Peterborough NH 03458**

I, Nicole MacStay, Deputy Town Administrator of the Town of Peterborough do hereby certify that at a meeting held on November 17, 2020 the Select Board 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 Town of Peterborough further authorized the Town Administrator to execute any documents which may be necessary to effectuate this grant agreement.

Signature _____





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: Town of Peterborough 1 Grove Street Peterborough, NH 03458		Member Number: 268	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) <input type="checkbox"/> 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	\$ 2,000,000
			Each Accident	\$ 2,000,000
			Disease - Each Employee	
			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
State of New Hampshire, Department of Environmental Services 29 Hazen Drive, PO Box 95 Concord, NH 03302-0095			By: <i>Mary Beth Purcell</i>
			Date: 11/19/2020 mpurcell@nhprimex.org
			Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

1 **STATE OF NEW HAMPSHIRE**
2 **DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

3 **TOWN OF PETERBOROUGH, NEW HAMPSHIRE**
 (Project No. 1871010-02)

4 **ORIGINAL LOAN AGREEMENT**

5
6 I. This Agreement is between the State of New Hampshire Drinking Water State Revolving Loan
7 Fund Program (State) and the **Town of Peterborough, New Hampshire** (Loan Recipient) in
8 accordance with RSA 486:14 and New Hampshire Code of Administrative Rules Env-Dw 1100
9 (Rules) for the purpose of financing, to the extent of the aggregate amount of funds transferred
10 (Disbursements) to the Loan Recipient made hereunder, the **Cold Stone Springs Water Supply**
11 **Project** (Project) now being undertaken by the Loan Recipient. The Project is described in Exhibit
12 A. The Loan Recipient shall abide by all of the requirements of RSA 486:14 and the Rules.

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 **Four Million Forty**
16 **Seven Thousand Four Hundred and 00/100 Dollars (\$4,047,400)** (Principal Sum) or such lesser
17 amount as shall equal the aggregate of Disbursements made hereunder by the State to the Loan
18 Recipient. In addition to the principal sum, the Loan Recipient agrees to pay the applicable interest
19 accrued as described in Paragraphs IV, VI, and VIII. Federal financial assistance provided through
20 the Drinking Water State Revolving Loan Fund Program (CFDA #66.468) may comprise all or a
21 portion of the Principal Sum. Any Disbursement or other payment from the State to the Loan
22 Recipient is contingent upon the availability of funds.

23
24 III. The Loan Recipient is eligible for the Disadvantaged System Program as outlined in Section
25 8 of the 2019 State of New Hampshire Drinking Water State Revolving Loan Fund Intended Use

1 Plan. The amount of principal forgiveness will be determined when the aggregate principal loan
2 amount is established and the project is complete and will be applied to the loan upon the initial
3 repayment.

4
5 IV. Disbursements shall be made on a periodic basis, as requested by the Loan Recipient, but not
6 more frequently than monthly, subject to the approval of the amount of each Disbursement by the
7 State. The State shall approve the amount requested if it determines that the costs covered by the
8 request are eligible under Env-Dw 1104.01, as applicable. Interest on each Disbursement shall
9 accrue on the outstanding principal balance from the date of the Disbursement at the rate of 1%
10 per annum computed on the basis of 30-day months and 360-day years until the date of Substantial
11 Completion of the Project or the date of Scheduled Completion, whichever is earlier. At the option
12 of the Loan Recipient, such interest may be paid (1) prior to the commencement of Loan
13 repayment, (2) at the time of the first Loan repayment, or (3) by adding the charges to the
14 outstanding principal Loan balance so long as the Loan Recipient's authority to borrow is not
15 exceeded.

16
17 V. The aggregate of the Disbursements shall be consolidated by a Promissory Note (Note) of the
18 Loan Recipient in a Supplemental Loan Agreement issued under and in accordance with the
19 applicable provisions of this Agreement and the Municipal Finance Act, RSA 33, as amended and
20 supplemented, including the provisions of RSA 486:14. The Note shall be substantially in the
21 form of Exhibit B.

22
23 VI. The interest rate applicable to the Note will be **0.810%**, as determined in accordance with
24 RSA 486:14 and Env-Dw 1100 et seq.

1 VII. The Loan Recipient hereby authorizes the State to compute the payments of principal and
2 interest on the Note. The principal shall be paid in full within **ten (10)** years from the date of the
3 Note. Note payments shall commence within one year of the Substantial Completion date of the
4 Project or the Scheduled Completion date of the project, whichever is earlier. The Scheduled
5 Completion date is hereby determined to be **September 1, 2023**; however, should the project
6 experience an excusable delay, an extension may be granted by the Commissioner of the
7 Department of Environmental Services upon request in writing by the Loan Recipient. In no event
8 shall Note payments commence later than ten years from the effective date of this Agreement.

9
10 VIII. The Loan Recipient reserves the right to prepay, at any time and without penalty, all or any
11 part of the outstanding principal or interest of the Note.

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

18
19 X. No delay or omission on the part of the State in exercising any right hereunder shall operate as
20 a waiver of such right or of any other right under this Agreement. A waiver on any one occasion
21 shall not be construed as bar to any right and/or remedy on any future occasion.

22
23 XI. The Loan Recipient agrees to comply, and to require all of its contractors to comply, with all
24 applicable state and federal requirements contained in the Rules and applicable state and federal
25 laws, including those specific requirements outlined in Exhibit C.

1 XII. The Loan Recipient is required to develop an asset maintenance and renewal plan for the
2 assets(s) being funded under the loan or incorporate the funded asset(s) into an existing asset
3 management plan. At a minimum the plan must include a commitment to asset management,
4 financing and implementation strategy and an inventory of the funded asset(s).

5
6 XIII. The Loan Recipient agrees to permit the Comptroller General of the United States, an
7 appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of
8 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, or of
9 the State of New Hampshire to have access to and the right to:

10
11 (i) Examine any of the Loan Recipient's, the contractor's or any subcontractor's
12 records
13 that pertain to and involve transactions relating to this Agreement, the Construction
14 Contract, the Engineering Contract or a subcontract thereunder; and

15
16 (ii) Interview any officer or employee regarding such transactions.

17
18 The Loan Recipient shall insert subparagraphs (i). and (ii). in the Construction Contract and
19 require the Contractor to insert subparagraphs (i). and (ii). in all subcontracts thereunder.

20
21 XIV. The effective date of this Agreement shall be the date of its approval by the Governor and
22 Executive Council. This Agreement may be amended, waived, or discharged only by a written
23 instrument signed by the parties hereto and only after approval of such amendment, waiver, or
24 discharge by the Governor and Executive Council.

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

5
6 XVI. The Loan Recipient acknowledges that by accepting the Loan it will be a sub-recipient of
7 federal financial assistance and, as such, subject to requirements of the federal Single Audit Act
8 and subsequent amendments (SAA). The Loan Recipient further acknowledges that, if the Loan
9 Recipient expends more than the required threshold in federal financial assistance from all
10 sources in any fiscal year, it must perform an SAA audit in accordance with the requirements of
11 Office of Management and Budget Circular A-133. In that event, the Loan Recipient shall
12 provide the State with a copy of the SAA audit report within nine months of the end of the audit
13 period.


14
15 XVII. This Agreement, which may be executed in a number of counterparts, each of which shall
16 be deemed an original, constitutes the entire agreement and understanding between the parties
17 and supersedes all prior agreements and understandings relating thereto. Nothing herein shall be
18 construed as a waiver of sovereign immunity, such immunity being hereby specifically reserved.

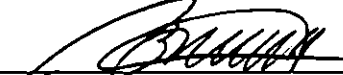
1 STATE OF NEW HAMPSHIRE by:

TOWN OF PETERBOROUGH, NEW

2

HAMPSHIRE by:

3  12/11/20
Date

 11/18/2020
Date

4 Robert R. Scott
Commissioner
Department of Environmental Services

Rodney Bartlett
Town Administrator

5

6

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18

This Agreement was approved by Governor and Executive Council on _____ as

Item No. _____

E X H I B I T A

**STATE OF NEW HAMPSHIRE
DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

PROJECT DESCRIPTION

The Town of Peterborough has applied for a Loan to be used for water system improvements. The Towns of Jaffrey and Peterborough intend to purchase the Cold Stone Springs site for use as a shared municipal water supply and construct a joint Water Treatment Plant to improve the finished water quality from the three groundwater wells (PW-1, BD-1, and BD-2) and construct cross country connections to the Jaffrey Water System and the Peterborough Water System.

1 **EXHIBIT B**

2 **STATE OF NEW HAMPSHIRE**
3 **DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

4 **PROMISSORY NOTE AND REPAYMENT SCHEDULE**

5
6 The **Town of Peterborough, New Hampshire** (Loan Recipient) promises to pay to the
7 Treasurer of the State of New Hampshire the principal sum of
8 _____ Dollars (_____) in installments on **(Month, Day)** in
9 each year as set forth below, with interest on the entire unpaid balance payable on the first principal
10 payment date and annually, thereafter, at the rate of _____% per annum, computed on the basis of
11 30-day months and 360-day years, in the respective years set forth below. A total of
12 _____ Dollars (\$_____) of principal will be forgiven and will be granted as reflected in the
13 repayment schedule shown below.

14
15 REPAYMENT SCHEDULE

16 Payment Date Principal Payment Principal Forgiveness Interest Payment Total Payment

17 1
18 2
19 3
20 4
21 5
22 6
23 7
24 8
25 9

1 10

2 This Promissory Note (Note) is issued under and by virtue of the New Hampshire
3 Municipal Finance Act, an agreement duly entered into by the Loan Recipient and the Drinking
4 Water State Revolving Loan Fund Program, and is issued for the purpose of financing the cost of
5 the Project as described in Exhibit A of the Supplemental Loan Agreement (Agreement).

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

9
10 The terms and provisions of the Agreement are hereby incorporated in and made a part of
11 this Note to the same extent as if said terms and provisions were set forth in full herein.

12
13 It is hereby certified and recited that all acts, conditions, and things required to be done
14 precedent to and in the issuing of this Note have been done, have happened, and have been
15 performed in regular and due form and, for the payment hereof when due, the full faith and credit
16 of the Loan Recipient are hereby irrevocably pledged.

17
18 IN WITNESS whereof the Loan Recipient has caused this Note to be signed by its Town
19 Administrator on the date below.

20
21 TOWN OF PETERBOROUGH, NEW HAMPSHIRE by:

22 _____
23 Rodney Bartlett
24 Town Administrator

Date

1 **EXHIBIT C**

2 **STATE OF NEW HAMPSHIRE**
3 **DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

4 **FEDERAL REQUIREMENTS**

5 **DUNS Number:** The Loan Recipient must obtain a Data Universal Numbering System (DUNS) number.

6 The federal government has adopted the use of DUNS numbers to track how federal grant money is
7 allocated. DUNS numbers identify your organization. A DUNS number may be obtained by visiting
8 <http://fedgov.dnb.com/webform/>.

9
10 **SIGNAGE REQUIREMENT:** The Loan Recipient must communicate to the public that EPA funds are
11 contributing to the project by constructing a sign in accordance with EPA Memo SRF 15-02. The type
12 and location of the sign shall be mutually agreed upon between the Loan Recipient and NHDES. The
13 Loan Recipient shall maintain the sign throughout the duration of the project.

14
15 **WAGE RATE REQUIREMENTS (DAVIS-BACON):** Davis-Bacon (DB) prevailing wage
16 requirements apply to the Project in accordance with the federal fiscal year (FY) 2014 Consolidated
17 Appropriations Act (P.L. 113-76). The Loan Recipient shall insert in full in any contract in excess of
18 \$2,000 which is entered into for Project construction the standard Davis-Bacon contract clause as
19 specified by 29 CFR §5.5(a). The Loan Recipient shall obtain the wage determination for the locality in
20 which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes
21 or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage
22 determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts
23 must contain a provision requiring that subcontractors follow the wage determination incorporated into
24 the prime contract.

1 **AMERICAN IRON AND STEEL (AIS):** The Loan Recipient agrees to comply with Section 436 of the
2 Consolidated Appropriations Act, 2014 (P.L. 113-76), which requires that all of the iron and steel
3 products used in the Project are to be produced in the United States (“American Iron and Steel
4 Requirement”) unless (i) the Loan Recipient has requested and obtained a waiver from the Environmental
5 Protection Agency pertaining to the Project or (ii) the State has otherwise advised the Participant in
6 writing that the American Iron and Steel Requirement is not applicable to the Project. The Loan
7 Recipient further agrees to maintain records documenting compliance with the American Iron and Steel
8 Requirement, and to provide records and certifications to the State upon request.

9

10 **GENERALLY ACCEPTED ACCOUNTING PROCEDURES:** The Loan Recipient shall maintain
11 project accounts in accordance with the Generally Accepted Accounting Principles (GAAP), including
12 standards relating to the reporting of infrastructure assets as issued by the Governmental Accounting
13 Standards Board (GASB). The full text of Governmental Accounting Reporting Standards is available
14 through the GASB website at: <http://www.gasb.org>

15

16 **DISADVANTAGED BUSINESS ENTERPRISE (DBE):** Pursuant to 40 CFR, Section 33.301, the
17 Loan Recipient shall make good faith efforts to utilize small, minority and women’s business enterprises
18 whenever procuring construction, equipment, services and supplies under an EPA financial assistance
19 agreement, and shall require that prime contractors also comply. Records documenting compliance with
20 the six good faith efforts shall be retained.

21

22 **EXCLUDED PARTIES LIST SYSTEMS (EPLS):** The Loan Recipient shall not knowingly award a
23 construction contract to a contractor which has been debarred or suspended by the federal government.
24 The Loan Recipient or its agent shall compare the names of contractors who have bid on the project

1 against the searchable list in the federal “Excluded Parties List System” (EPLS) database, which can be
2 found at <https://www.sam.gov/portal/SAM/#1>.

3

4 **SUPER CROSS-CUTTERS:**

5 -Title VI of the Civil Rights Act

6 -Section 13 of the Federal Water Pollution Control Act Amendments of 1972

7 -Section 504 of the Rehabilitation Act of 1973

8 -The Age Discrimination Act of 1975

9 -Equal Employment Opportunity requirements (Executive Order 11246)