

AMENDED MEMORANDUM OF AGREEMENT

This Agreement is entered by and between the Rhode Island Department of Environmental Management (the “RIDEM”) and the Town of Portsmouth, Rhode Island (“Portsmouth”).

WHEREAS, RIDEM issued a Notice of Violation (“NOV”) to Portsmouth on September 15, 2010 alleging violations of Rhode Island’s *Water Pollution Act* and the Rhode Island Code of Regulations titled *Water Quality Regulations (250-RICR-150-05-1)*.

WHEREAS, Portsmouth submitted a timely request for a hearing on the NOV with RIDEM’s Administrative Adjudication Division.

WHEREAS, on November 3, 2014, RIDEM and Portsmouth executed an agreement on a plan which could lead to a resolution of the NOV. The terms of such plan were set forth in a Memorandum of Agreement (the “MOA”).

WHEREAS, on March 5, 2018, Portsmouth requested an amendment to the MOA.

RIDEM and Portsmouth acknowledge and agree to amend the MOA as follows:

Paragraph 5, bullet 2 on page 1 of the MOA is deleted in its entirety and replaced with the following language:

- Inspections shall be sufficient to document and evaluate compliance with RIDEM design requirements for Island Park/Portsmouth Park (“IP/PP”) and sampling of any discharges from embankments or retaining walls for fecal coliform bacteria. Inspections of unpermitted systems outside of IP/PP must be a functional inspection. All other inspections must comply with the Ordinance adopted by Portsmouth on September 21, 2015. Portsmouth shall require that inspection results are reported using a form approved by RIDEM. RIDEM shall retain authority to define the term “failure” for purposes of these inspections.

Paragraph 5, bullet 3 on page 1 of the MOA is deleted in its entirety and replaced with the following language:

- Cesspools within 50 feet of a Town or State storm drain must be replaced by the earlier of the following: (1) immediately, if the system is failed, (2) the deadline specified in R.I.G.L.§23-19.15, if applicable and as amended, (3) the point of sale of the subject property, or (4) by January 1, 2020. Other cesspools in Portsmouth must be replaced by the earlier of the following: (1) immediately, if the system failed, (2) the deadline specified in R.I.G.L.§23-19.15, if applicable and as amended, (3) the

point of sale of the subject property, or (4) by January 1, 2025. Unpermitted systems within IP/PP within 50 feet of a Town or State storm drain must be replaced by the earlier of the following: (1) immediately, if the system is failed, (2) the deadline specified in R.I.G.L.§23-19.15, if applicable and as amended, (3) the point of sale of the subject property, or (4) by January 1, 2020. Other unpermitted systems within IP/PP must be replaced by the earlier of the following: (1) immediately, if the system is failed, (2) the deadline specified in R.I.G.L.§23-19.15, if applicable and as amended, (3) the point of sale of the subject property, or (4) by January 1, 2025. Unpermitted systems outside of IP/PP must be replaced immediately if the system is failed.

All the remaining terms of the MOA shall remain in full force and effect.

Janet Coit, Director
Rhode Island Department
of Environmental Management

Kevin Aguiar, Town Council President
Town of Portsmouth, RI