

WATER POLLUTION CONTROL AUTHORITY
Town of Trumbull
CONNECTICUT

TOWN HALL
(203) 452-5048



5866 MAIN STREET
TRUMBULL, CT 06611

MARCH 26, 2014
7:00 p.m. Long Hill Room

MEETING AGENDA

1. Minutes to previous meetings
2. Contract 4:
 - Progress Report
3. Wright-Pierce Update
 - Phase 3
 - Phase 4
 - I/I Study
 - Clean water fund
4. Old Business:
 - None
5. New Business:
 - Owens, Schine & Nicola: Monthly invoice
 - Ury & Moskow: Monthly invoice
 - 427 Shelton Road: Memorandum of clarification with DEEP
 - 5120 Main Street: Usage charge to State of Connecticut
6. Executive Session:
 - It is anticipated that the WPCA will vote to go into executive session to discuss preliminary drafts and/or notes as set forth by C.G.S. 1-210 (b)(1) and/or discuss with the Town Attorney strategy and negotiations with respect to pending litigation as defined by 1-200(6) and/or to discuss attorney client-privileged information as set forth by 1-210 relating to the following:
 - Mark IV – Contract 3 and Contract 4
 - Regionalization and/or Re-Negotiation of Bridgeport Sewer Treatment Contract
7. Any other business that may come before the Authority.

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Town of Trumbull
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TRUMBULL, CT 06611

MINUTES
Water Pollution Control Authority Special Meeting
March 6, 2014

Members Present:

Jeffrey Wright, Chairman
Laura Pulie
Timothy Hampford, Secretary (left 8:30)
Fred Palmieri, Vice Chairman
John Gray, Alternate
Paul Whetstone, Alternate

Also Present:

Frank M. Smeriglio, PE, Town Engineer (arrived 7:14)
Dennis Kokenos, Esq. Town Attorney
Christine Kurtz, Wright-Pierce

Chairman Wright convened and called the special meeting to order at 7:08 p.m.

1. Executive Session.

The Chairman read the executive session notice and made a motion to close the special meeting and go into executive session.

MOTION made Wright seconded Palmieri to close the special meeting and go into executive session to discuss preliminary drafts and/or notes as set forth by C.G.S. 1-210(b)(1) and/or discuss with the Town Attorney strategy and negotiations with respect to pending litigation as defined by 1-200(6) and/or to discuss attorney client-privileged information as set forth by 1-210 relating to the following:

- Regionalization and/or re-negotiation of Bridgeport Sewer Treatment Contract

No discussion. MOTION CARRIED UNANIMOUSLY.

Remaining in the executive session will be WPCA Commission members, Christine Kurtz, Attorney Kokenos and Frank Smeriglio.

At 7:10 p.m. the tape recorder was turned off, the clerk left the room and the Commission went into executive session. Frank Smeriglio joined the executive session at 7:14 p.m.

At 8:33 p.m. the clerk was called back into the room and the recorder was turned on.

MOTION made Wright seconded Pulie to close executive session at 8:34 p.m. and to state for the record that no vote was taken. No discussion. MOTION CARRIED UNANIMOUSLY.

MOTION made Wright seconded Palmieri to reopen the special meeting of the WPCA at 8:35 p.m. No discussion. MOTION CARRIED UNANIMOUSLY.

MOTION made Pulie seconded Wright to authorize commissioner Palmieri to instruct the town attorney as to how to move forward in light of the recent arbitration ruling. Commissioner Palmieri will report back to the commission on a monthly basis. No discussion. MOTION CARRIED UNANIMOUSLY.

Chairman Wright stated for the record that commissioner Hampford left the executive session early at 8:30 p.m.

There being no other business before the Authority, Chairman Wright asked for a motion to close the March 6, 2014 special meeting.

MOTION made Palmieri seconded Pulie to adjourn the March 6, 2014 WPCA special meeting at meeting at 8:40 p.m. No discussion. MOTION CARRIED UNANIMOUSLY.

Submitted by,

Joyce Augustinsky
Clerk of the Commission

WATER POLLUTION CONTROL AUTHORITY
Town of Trumbull
CONNECTICUT

TOWN HALL
(203) 452-5048



5866 MAIN STREET
TRUMBULL, CT 06611

MINUTES
Water Pollution Control Authority Meeting
February 26, 2014

Members Present:

Jeffrey Wright, Chairman
Laura Pulie
Fred Palmieri, Vice Chairman
Timothy Hampford, Secretary (arrived 8:00)
John Gray, Alternate (voting)
Paul Whetstone, Alternate (voting)

Also Present:

Frank M. Smeriglio, PE, Town Engineer
Joseph Solemene, Assistant WPCA Administrator
Dennis Kokenos, Esq. Town Attorney
Christine Kurtz, Wright-Pierce
John Marsilio, Director of Public Works
Edna Colucci, Town Council Member

Chairman Wright called the February 26, 2014 WPCA meeting to order at 7:05 p.m.

MOTION made Wright seconded Pulie to move out of order the first Agenda item under New Business, St. Joseph's High School sewer usage charges. No discussion. MOTION CARRIED UNANIMOUSLY.

5. New Business.

St. Joseph's High School: Sewer usage charges: Bill Fitzgerald president of St. Joseph's High School and Joe Dzurenda director of facilities were present. Mr. Fitzgerald thanked the Town of Trumbull for putting in sewers and said they are asking for the commission to adjust their water usage bill for the last quarter which is in excess of \$12,000. That was unexpected because they were billed on annual use rather than the winter use which they were told by Clair Gerard would be the basis of the billing. He said they are prepared to put in a meter with Aquarion to take care of the problem going forward, but on the advice of Mr. Gerard they assumed they would be billed on the winter usage. He said they have several athletic fields that they share with the town baseball, softball, the gym, the track, and the town band is there on Saturdays and they have a good relationship. It certainly is a budget buster and they are hoping the commission will see fit to adjust the bill.

Frank Smeriglio gave the following background. Our contract with Bridgeport is that we pay Bridgeport based on actual consumption. When they spoke with Claire back in September of 2011 that's what the billing was with the sewer users. In February of 2012 there was a public hearing to propose to make the change to go to actual consumption, there was a legal notice, there was a public hearing and there was a vote in March of 2012 and the policy was changed. In April of 2012 it went into effect where you could have a second meter installed. The issue at hand was that St. Joseph's didn't have a second meter and the policy was changed in 2012. Commissioner Pulie questioned if St. Joseph's was on the list and received the letter and notice that was sent to high users letting them know the change was going into effect. Frank noted they would not have been on that list because they were not a sewer user at that time because they were part of the contract 4 sewer project. But what was done as part of the sewer assessments is that we had public hearings and we had to produce a summary report of all the questions and answers that all the residents had and then we had to share that with all of the residents on the sewer project. One

of the questions talked about the sewer usage and we had to further explain that the sewer usage was part of the actual consumption and not the consumption for the winter quarters. We sent letters out to all the residents, including the high school, that said we have this summary of all questions and answers it's on our website and it could be provided to them and there were public hearings in December of 2012. Frank said the usage they are referring to and requesting a credit for is the summer usage of 2013 and our policy went into effect in February of 2012. He noted unless there is a credit from the water company we have to pay Bridgeport. Brief discussion regarding end of year true-up, payment to Bridgeport and billing change from averaging to actual consumption followed. Mr. Fitzgerald stated their argument is they had intended to put that meter in and then on the advice of Mr. Gerard they did not. Frank said the advice he is referring to is from 2011 and that was the policy in 2011 and in 2012 the policy changed. Joe Dzurenda noted they are watering fields and acres for baseball that they share with the town for little league, Babe Ruth, softball and they have a reciprocal agreements with Parks and Rec and the Board of Ed, the volley ball team plays there and the band is there on Saturdays. He also noted some of the information may have gone to the Diocese of Bridgeport on Jewett Avenue and they never got any of the information. They are taking action Aquarion is coming in and their plumber is coming in and it is going to be corrected by March. Mr. Fitzgerald said he thinks they were misled. Frank Smeriglio said the issue is that they had a conversation with our inspector in 2011 and his response was the correct response. In 2012 is when we went through a whole policy change with legal notice and public information that we are going to actual consumption and this was in March 2012. He said they hooked in between summer and December of 2012 and the usage they are referring to is the usage that was in the summer of 2013 which is year and a half after. He said he can't recommend to the board that credit should be given because it is a year and a half later. He noted the credit they are looking for is for the sprinkler use in the summer of 2013. So, the point that Frank is making is that we went through our proper notice to make a policy change and we can't give a credit unless Aquarion gives them a credit. Brief discussion regarding billing periods, policy change procedures, public hearing notices and legal notices followed. Mr. Fitzgerald inquired if a recommendation or notice was sent to the school regarding the building now being on an annual basis and Frank explained the procedure and notices for when policy changes are made. He also said as part of the assessments for the sewer assessments we did a summary of questions and answers for residents who asked questions and one of the questions was to explain the sewer usage process and we explained the sewer usage is based on actual consumption. What we did with it was we had a public information meeting in December of 2012 explaining this, we sent letters out to the residents that this information is available on our website and if you don't have access to the website call us and we can provide one to you. Frank again stated that we can't give a credit unless Acquarion provides a credit. Examples of when we can provide credits are if they connected December 15th and somehow the sewer usage bill started in October 1st or if there is a leak in the line and only if Acquarion reduces the usage. Chairman Wright said he looks at this from the position that it puts the board in a difficult, awkward position because if things move in the direction they wish them to move then every month there may be other entities coming through as well and now a precedent has been set. Mr. Fitzgerald wanted to know if other schools found themselves in the same situation that they are in. That information is not known. Frank said when this policy changed any resident that had a high usage received a letter and he noted St. Joseph's was not on the system, but as part of our sewer summary questions and answers that was a question that was asked and answered as part of the information meeting and it was part of letters that was sent out to all the residents. Mr. Fitzgerald said he feels they slipped through the cracks and are not asking for special treatment other than the adjustment. Chairman Wright said that would be setting a precedent and Frank noted he doesn't think the commission can vote on giving them a credit unless Acquarion changes the consumption. We have to pay Bridgeport based on the Acquarion water bill and Bridgeport bills the town for everything that is metered. Mr. Fitzgerald thanked the commission.

2. Contract 4.

Progress report. Frank Smeriglio:

There hasn't been much change since the last meeting because it's the winter. We are getting setup to deal with the last couple of easements. There are four roads left to pave and then the project is physically completed.

3. Wright-Pierce Update.

Phase 3. Christine Kurtz:

Two weeks ago Christine and another engineer from her office met with Bill and Frank and had a status meeting on various pieces of these projects. They were given the Phase 3 SSES report to review and they went over some of the highlights and recommendations of that project.

Phase 4. Christine Kurtz:

There is one more piece of fieldwork to do which is the CCTV work and the firm Green Mountain has been doing all the CCTV work for all three phases. They had them into their office last week to discuss the particulars of this area of study. Weather permitting they are planning to start that work mid-March. As it gets closer to that time they will work with Joe and Marc to let everyone know when Green Mountain will be out.

I/I Rehab Design Work. Christine Kurtz:

This is going to be one package with the design package and the bid construction to fix the cost effective leaks, manholes, and pipes. They will have a set to Joe and Frank within a week to review and the plan is currently to have that publically bid sometime this spring.

4. Old Business.

2014-2015 budget. Frank Smeriglio:

We had a Board of Finance meeting to present our budgets and went through the sewer budget and there were a lot of questions on our contract with Bridgeport. Now it goes to the Town Council and then to the Board of Finance and should be voted on next week. Frank indicated there were two line items that were reduced. The extraordinary expense item went down \$10,000.00 and the materials and supplies item went from \$25,000 to \$20,000. He will give an update at the next meeting.

5. New Business.

Owens, Schine & Nicola: Monthly invoices. The commissioners reviewed the invoice. Attorney Kokenos said it is for all the hours from the actual hearing and the post hearing briefs. Attorney Kokenos said the bill should be \$240.00 less because the last entry which is the February 10, 2014 time charge should be on the Mark IV bill and not this bill. He apologized for the error and said the corrected amount is \$38,860.00. The chairman asked if there were any questions and there were none he then asked for a motion to approve the invoice.

MOTION made Pulie seconded Wright to approve the invoice for Owens, Schine & Nicola for \$38,860.00. No discussion. MOTION CARRIED UNANIMOUSLY.

Blum Shapiro: Invoice. None.

Brandon Huseby Reporting & Video: Invoice. This is for the charge for the transcript of the video deposition of Mr. Abate.

MOTION made Wright seconded Pulie to approve the Brandon Huseby Reporting and Video invoice for \$731.26. No discussion. MOTION CARRIED UNANIMOUSLY.

6. Executive Session.

MOTION made Wright seconded Pulie to close the regular meeting and go into executive session to discuss preliminary drafts and/or notes as set forth by C.G.S. 1-210(b)(1) and/or discuss with the Town Attorney strategy and negotiations with respect to pending litigation as defined by 1-200(6) and/or to discuss attorney client-privileged information as set forth by 1-210 relating to the following:

- Mark IV – Contract 3 and Contract 4

- Regionalization and/or re-negotiation of Bridgeport Sewer Treatment Contract

No discussion. MOTION CARRIED UNANIMOUSLY.

Remaining in the executive session will be WPCA Commissioners, Attorney Kokenos, Christine Kurtz, Frank Smeriglio, Joseph Solemene, John Marsilio and Town Council Member Edna Colucci.

At 7:40 p.m. the tape recorder was turned off, the clerk left the room and the Commission went into executive session. Tim Hampford joined the executive session at 8:00 p.m.

At 8:45 p.m. the clerk was called back into the room and the recorder was turned on.

MOTION made Wright seconded Pulie to close executive session and to state for the record that no vote was taken. No discussion. ONE ABSTENTION (Hampford) MOTION CARRIED.

MOTION made Wright seconded Pulie to reopen the monthly meeting of the WPCA at 8:46 p.m. No discussion. MOTION CARRIED UNANIMOUSLY.

1. Minutes to previous meetings.

November 13, 2013. Commissioner Pulie asked about the location of the pool referred to by Christine Kurtz under the Phase 4 update. Christine and Joe Solemene said the pool she was referring to is Beaches pool.

The following correction and/or addition was requested:

Page 1 – third line from the bottom – “...time to get that extra work in by the pool.” requested it be changed to “...time to get that extra work in by Beaches pool.”

MOTION made Pulie seconded Hampford to amend the November 13, 2013 Minutes to include 'Beaches' pool and to approve the November 13, 2013 Minutes. No discussion. THREE ABSTENSIONS (Wright, Whetstone, Gray). MOTION CARRIED.

January 22, 2014. There were no questions, comments or additions regarding the January 22, 2014 Minutes.

MOTION made Wright seconded Pulie to approve the January 22, 2014 Minutes as written. No discussion. THREE ABSTENSIONS (Hampford, Whetstone, Gray). MOTION CARRIED.

7. Any other business that may come before the Authority.

MOTION made Wright seconded Pulie to approve Attorneys Owens, Shine & Nicola to retain outside counsel to assist them in the arbitration hearings and issues with respect to the Bridgeport situation. No discussion.

MOTION CARRIED UNANIMOUSLY.

Discussion – St. Joseph’s High School Request: Chairman Wright suggested making a motion to table St. Joseph’s for discussion to next month. Commissioner Pulie requested to have the discussion now and asked if they should be directed to go to Bridgeport Aquarion. Joe Solemene said we have an agreement with Acquarion if they decide to give a discount for a water bill then we would match the discount. However, that Acquarion agreement has to do with leaks when a person has a leak on their property after the water meter. In this case there is no contention and there’s no discussion of if they used the water so he does not see how Acquarion could give them a discount. Frank summarized St. Joseph’s had a conversation with Clair Gerard who was our inspector in 2011. Clair gave them the correct information. But, in February of 2012 we went through the whole policy change including public meetings and notices. He could see if there was an issue that first year, but they’re talking about the sprinkler use in 2013. They said they hooked in the summer 2012 and we have it in our office as December 12, 2012. Chairman Wright said he finds it hard to believe and they couldn’t have paid attention because that was such a contentious issue. Is it the town’s responsibility to make sure that everyone is up to date on a continual basis or is it the end users responsibility to be up-to-date with town codes and changes? His other concern is setting a precedent. Why open that door? It would be setting a precedent after previous residents came before the commission with those

questions and requests. If the commission grants them an approval we still have to pay Bridgeport and that is the bottom line. Joe Solemene said the town people would have to absorb the cost if it is approved. Chairman Wright also noted the commission does not really have the authority to grant it and he thinks it is the user's obligation to pay attention. Frank indicated the only way that would change is if in our next potential contract with Bridgeport that the readings are based on the winter usage then we could switch back. Frank's recommendation to the Commission is to deny it if there's an action we take tonight and if there's any questions that we have that's for next month. Attorney Kokenos recommended if maybe this is tabled for next month just so it's at least on the agenda again so if someone from St. Joe's does want to attend it at least allows them the opportunity to be here. Frank said the only thing to remember is that the usage bill is due March 3rd so he thinks the commission needs to vote on it so that they can make the payment. Dennis said he was unaware of that and then they would have some delinquent interest on the charges. They need to know what they're going to have to pay so they can pay it. If the commission is not going to authorize a reduction they should know so they could pay the bill so they won't have to pay the interest. Because then the next thing that could happen is that the tax collector's office is going to have to entertain all these phone calls about forgiving and waiving interest. So it would actually be in their best benefit if the commission made a decision tonight and let them know.

MOTION made Hampford seconded Pulie to deny St. Joseph's High School request regarding sewer usage charges. Discussion. MOTION CARRIED UNANIMOUSLY.

Attorney Kokenos requested we alert them as soon as possible prior to the due date so there will be no issues with delinquency. Chairman Wright asked for a letter to be sent as soon as possible indicating to St. Joseph's what our deliberated decision is with respect to the rate reduction in this matter.

There being no other business before the Authority, Chairman Wright made a motion to close the February 26, 2014 meeting.

MOTION made Wright seconded Hampford to adjourn the February 26, 2014 WPCA meeting at 9:07 p.m. No discussion. MOTION CARRIED UNANIMOUSLY.

Submitted by,

Joyce Augustinsky
Clerk of the Commission

Owens, Schine & Nicola, P.C.

799 Silver Lane
P.O. Box 753
Trumbull, CT 06611

Ph:203-375-0600

Fax:203-375-5003

Town of Trumbull
5866 Main Street
Trumbull, CT 06611

March 17, 2014

Attention: Maria Pires

File #: 14010-04035

Inv #: 13602

RE: Mark IV - Contract 4 Litigation

DATE	DESCRIPTION	HOURS	LAWYER
Dec-11-13	Drafting request to revise.	2.00	DJK
	Correspondence to Town Engineer re: Spath contract.	0.20	DJK
	Finalize request to revise. Efile with court. Correspondence to plaintiff.	1.50	DJK
Dec-12-13	Review Spath contract re: potential indemnification and cross complaints. Legal research re: indemnification action.	2.50	DJK
Dec-13-13	Correspondence from Joe Solemene re: Spath plan.	0.10	DJK
	Correspondence from/to Attorney Cohane re: request to revise.	0.20	DJK
Jan-10-14	Correspondence to Attorney Moskow.	0.30	DJK
Jan-21-14	Correspondence from court re: marking.	0.20	DJK
Jan-22-14	Correspondence to commissioners re: status update. Copy post trial brief.	1.50	DJK
	Correspondence to commissioners re: status update.	1.00	DJK
Jan-24-14	Review Spoth Contract. Correspondence to Town Engineer and T&B. legal research re: motion to cite in and SOL.	3.50	DJK

Drafting motion to cite in. Review WPCA minutes 2008-2009.

Feb-03-14	Correspondence from/to Attorney Cohane.	0.30	DJK
Feb-14-14	Correspondence to Attorney Moskow.	0.20	DJK
	Review request to revise and objections thereto. Correspondence to Attorney Cohane re: resolving objections in lieu of hearing.	1.00	DJK
Feb-21-14	Review revised complaint. Correspondence to Attorney Cohane.	1.00	DJK
Feb-24-14	Review SOL issue. Review all docs produced by client associated with Spath 97 agreement. Outline cross claims re: breach of contract, indemnity and negligence.	3.50	DJK
Feb-25-14	Correspondence to Attorney Cohane.	0.20	DJK

Totals	19.20	\$3,645.00
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Total Fee & Disbursements	\$3,645.00
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Previous Balance	374.00
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Previous Payments	374.00
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Balance Now Due	\$3,645.00
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**TIMEKEEPER
SUMMARY**

DJK	19.20	\$3,645.00
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URY & MOSKOW, L.L.C.

883 Black Rock Turnpike
Fairfield, CT 06825

Ph:(203) 610-6393

Fax:(203) 610-6399

Town of Trumbull

Mar 11, 2014

Owens Shine & Nicola
799 Silver Lane
Trumbull, CT 06611

Attention: Robert Nicola

File #: 10408

Inv #: 61902

RE: Contract Dispute- Town of Trumbull v Mark 4 Construction, et al

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-02-14	Preparation of pleading, research re: obj to motion to strike.	1.50	337.50	SDO
Jan-07-14	Research and draft obj to motion to strike.	4.00	900.00	SDO
Jan-08-14	Preparation of pleading, objection to Mark IV's motion to strike.	1.00	225.00	SDO
Jan-14-14	Preparation of pleading, revise obj to motion to strike, legal research.	1.00	225.00	SDO
Jan-15-14	Meeting with NLM regarding drafting discovery.	0.25	56.25	SDO
	Preparation of discovery--format changes to definitions, instructions, privilege matters, lost/destroyed docs sections.	1.00	225.00	SDO
Jan-16-14	Preparation of discovery--draft interrogatories regarding statements, materials, change orders, paving and compaction, and conspiracy (including reviewing file docs--applications for payments, pleadings--and research regarding construction best practices).	4.00	900.00	SDO
Jan-17-14	Preparation of pleading, finalize objection to motion to strike and legal reserach.	1.00	225.00	SDO
	Preparation of discovery--revise interrogatories.	2.00	450.00	SDO
	Preparation of discovery--draft requests for production.	1.00	225.00	SDO

	Review of judicial docket; revise certification page on discovery.	0.25	56.25	SDO
	Prepare, revise and finalize objection to Motion to Strike and supporting memorandum. Pull cases from Westlaw. Put together, scan and efile with court. Email copies to all parties.	3.00	675.00	SDO
Jan-20-14	Preparation of pleading - discovery	2.00	650.00	NLM
Jan-29-14	Preparation of pleading - revised discovery after consultation with team.	1.00	325.00	NLM
Jan-30-14	Preparation of discovery - revise and finalize Plaintiff's First Set of Interrogatories and Requests for Production; draft/prepare Notice of Filing of same.	1.25	281.25	SDO
Feb-10-14	Attendance at court in Waterbury re: status conf.	2.25	731.25	NLM
	Total Fees	26.50	<u>\$6,487.50</u>	

DISBURSEMENTS

Disbursements

Postage 32.12

Total Disbursements \$32.12

Total Invoice \$6,519.62

Previous Balance \$3,310.00
Previous Payments \$3,310.00

Balance Due Now \$6,519.62

**MEMORANDUM OF CLARIFICATION
AMONG THE
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION,
THE TOWN OF TRUMBULL AND
THE GOLDEN HILL PAUGUSSETT TRIBE**

**CONCERNING THE
SEWER LINES AT 427 SHELTON ROAD, TRUMBULL, CT**

This Agreement is entered into by the Department of Energy and Environmental Protection (DEEP), the Town of Trumbull (Town), and the Golden Hill Paugussett Tribe (Tribe), (the Parties), for the purpose of undertaking a project of mutual interest.

1. **Duration:** The period of this Agreement shall begin on Execution and shall expire on June 30, 2024.
2. **Purpose:** The purpose of this project is to identify the responsibilities among the impacted Parties for establishing and maintaining a sewer connection from the Town sewer system to the residence property located at 427 Shelton Road.
3. **Authorizations:** The DEEP is authorized to enter into agreements pursuant to Sections 4-8 and 47-65, as amended, of the General Statutes of Connecticut (CGS). The Town is authorized to enter into agreements pursuant to CGS §7-148(c) as amended. The Tribe is authorized to enter into agreements pursuant to CGS §§ 47-59a(b)(4) and 47-60(b) as amended.
4. **Project Directors:** The following individuals are designated to serve as Project Directors:

For the DEEP

Eric Ott
Assistant Division Director
DEEP – Field Support Services
163 Great Hill Road
Portland, CT 06480
E-Mail: eric.ott@ct.gov
Phone: (860) 342-2215

For the Town

Joseph Solemene
Assistant WPCA Administrator
Town of Trumbull
Water Pollution Control Authority
Town Hall, 5866 Main Street
Trumbull, CT 06611
E-Mail: jsolemene@trumbull-ct.gov
Phone: (203) 452-5048

For the Tribe

Shoran Piper
Golden Hill Paugussett Tribe
427 Shelton Road
Trumbull, CT 06611

5. **General Supervision:** Primary responsibility for general supervision of all activities and compliance with the terms of this Agreement rests with the DEEP.
6. **DEEP Responsibilities:**
 - A. Assess existing septic system and sewer connection needs associated with the property.
 - B. Apply for and obtain any required local and state permits and authorizations. All costs associated with obtaining the permits shall be borne by DEEP.
 - C. Disable present septic tank or arrange for a contractor to perform said work. Grounds affected by the work shall be restored to pre-existing conditions. All costs associated with disabling present septic tank shall be borne by DEEP.
 - D. Hire contractor to connect residence to sewer system. DEEP shall coordinate all scheduling of work and inspections associated with the connection. DEEP shall make all efforts to have the sewer connection completed within six months of final approval of this agreement. All costs associated with connection of the residence to the sewer system shall be borne by DEEP.
 - E. Pay the Town for any Sewer Assessment fees associated with this property.

- F. Pay the Town for reasonable Sewer User Fees associated with the property, provided DEEP has the resources available to pay such on-going fees for the duration of this Agreement and provided that the Tribe has fulfilled their responsibility to minimize water usage, in DEEP's sole discretion. If DEEP, in its sole discretion, determines that the Tribe has not fulfilled their responsibility to minimize water usage, the Tribe will be responsible to pay the Town for such associated Sewer User Fees.
- G. Maintain the sewer line from the sewer main line in the street to the building/structure connection.

7. Town Responsibilities:

- A. Issue any local permits for sewer connections and disabling old septic tank in accordance with any appropriate state and local rules and/or regulations.
- B. Maintain and repair the municipal sewer main lines in the street and treat effluents properly.
- C. Promptly notify both DEEP and the Tribe of any required changes to the connection, or any malfunctions of the system that may affect the property and its residents.
- D. Bill the DEEP for any unpaid sewer assessment fees associated with this property.
- E. Bill the DEEP for Sewer User Fees of the connected sewage system associated with the property. Inform DEEP of any changes to the Sewer User Fees and reasons for such changes.

8. Tribe Responsibilities:

- A. Allow Town and/or DEEP staff, and their contractors, access to the property to conduct an assessment of the existing septic system, make connections to the new sewer system and/or make necessary repairs to system.
- B. Authorize entrance to residence as needed to assess conditions, conduct sewer connection work and /or any necessary repairs.
- C. Maintain the property and residence, and use the sewer system appropriately, so conditions and use do not adversely affect the sewer connection.
- D. Use best efforts to minimize water usage by utilizing conservation efforts, thereby limiting the Sewer User Fees associated with the Property.
- E. Keep DEEP informed of problems/damages to sewer system.

9. Submission of Materials: For the purposes of this Agreement, all correspondence, summaries, reports, products and extension requests shall be submitted to:

Ed Sarabia
Indian Affairs Coordinator
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

All **invoices** for DEEP payment must include the amount, property address, dates and description of services covered by the invoice and shall be submitted to:

DEEP – Financial Management Division
Accounts Payable
79 Elm Street
Hartford, CT 06106-5127

10. Cancellation: For the purposes of this Agreement, cancel and terminate shall mean the same thing. The DEEP or the Tribe may cancel this Agreement for any reason upon sixty (60) days' written notice to the other

Party, using the relevant contact information listed in section 4 above. Expenses incurred prior to the date of cancellation plus the costs of all non-cancellable commitments, will be borne by the responsible Party, as outlined in sections 6, 7 and 8 above.

11. **Extensions/Modifications:** Formal written amendment of this Agreement is required for extensions to the final date of the Agreement period or due dates, and modification to any terms and conditions herein.

If it is anticipated that the project cannot be completed as scheduled, a no-cost extension must be requested in writing no later than sixty (60) days' prior to the expiration date of the Agreement. Said extension request shall include a description of what work has been completed to date, shall document the reason for the extension request, and shall include a revised work schedule and project completion date. If deemed acceptable, approval shall be received in the form of an amendment to this Agreement.

12. **Conflict of Laws and Severability:** Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the DEEP, the Tribe, or the Town. If any term of this Agreement is either inconsistent with such authorities or its application to any person, entity or circumstance shall, to any extent, held to be invalid or unenforceable, then that term shall be invalid, but the remaining terms of this Agreement shall remain valid and in full force and effect to the fullest extent possible by law.
13. **Assignability:** The Tribe shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of both the Town and the Commissioner of the DEEP thereto. Notice of any such assignment or transfer shall be furnished promptly to the Commissioner of the DEEP.
14. **Further Assurances:** The Parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by any of the other Parties which are not inconsistent with the terms and provisions of this Agreement and which do not involve the vesting of rights or assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.
15. **State Liability:** The State of Connecticut shall assume no liability for payment for services under the terms of this Agreement until the Party or resulting contractor is notified that this Agreement has been accepted by the contracting agency and, if applicable, approved by the Office of Policy and Management (OPM) or the Department of Administrative Services (DAS) and by the Attorney General of the State of Connecticut.
16. **Sovereign Immunity:** The Parties acknowledge and agree that nothing in this Agreement, or any resulting contractor solicitation, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, nor have, or will have, with respect to all matters arising out of the Agreement or resulting solicitations. To the extent that the terms of this section conflict with any other sections of this Agreement, this section shall govern.
17. **Tribal Rights:** The Parties acknowledge and agree that nothing in this MOU shall be construed as a modification, compromise or waiver of the Golden Hill Paugussett Tribe's status as a self governing entity possessing powers and duties over tribal members and reservations pursuant to Section 47-59a(b) of the General Statutes of Connecticut.
18. **Breach:** If any Party breaches this Agreement in any respect, the non-breaching Party or Parties shall provide written notice of the breach to the breaching Party and afford the breaching Party an opportunity to cure within ten (10) days from the date that the breaching Party receives notice. In the case of a contractor breach, any other time period which DEEP sets forth in the notice shall trump the ten (10) days. The right to a cure period shall be extended if the non-breaching Party or Parties are satisfied that the breaching Party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Agreement termination date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching Parties in writing prior to the termination date; no further action shall be required of any Party to effect the termination as of the stated date. If the notice does not set

forth an effective termination date; then the non-breaching Parties may terminate the Agreement by giving the breaching Party no less than twenty-four (24) hours' prior written notice. If DEEP believes that any Party or contractor has not performed according to the Agreement, the DEEP may withhold payment in whole or in part pending resolution of the performance issue, provided that the DEEP notifies the impacted Party or contractor in writing prior to the date that the payment would have been due.

19. **Forum and Choice of Law:** The Parties deem this Agreement to have been made in the City of Hartford, State of Connecticut. All three Parties agree that it is fair and reasonable for the validity and construction of this Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Town and the Tribe waive any objection which either may now have or will have to the laying of venue of any claims in any forum and further irrevocably submit to such jurisdiction in any suit, action or proceeding.
20. **Force Majeure:** The Parties shall not be excused from their obligation to perform in accordance with this Agreement except in the case of Force Majeure events and as otherwise provided for in this Agreement. A Force Majeure event materially affects the cost of the goods or services or the time schedule for performance and is outside the control of and not caused by the Parties. In the case of any such exception, the nonperforming Party shall give immediate written notice to the other Parties, explaining the cause and probably duration of any such nonperformance.
21. **Entirety of Contract:** This Agreement is the entire contract and agreement among the Parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the Parties, whether written or oral. This Agreement has been entered into after full investigation, none of the Parties relying upon any statement or representation by one of the other Parties unless such statement or representation is specifically embodied in this Agreement.
22. **Interpretation:** This Agreement contains numerous references to statutes and regulations. For purposes of interpretation, conflict resolution and otherwise, the content of those statutes and regulations shall govern over the content of the reference in this Agreement to those statutes and regulations.

23. **Approved by:**

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

TOWN OF TRUMBULL

APPROVED

APPROVED

Date: _____

Date: _____

By: _____
Authorized Signature pursuant to CGS § 4-8

By: _____
Authorized Signature pursuant to CGS Sec. 7-148(c)

GOLDEN HILL PAUGUSSETT TRIBE

APPROVED

Date: _____

By: _____
Authorized Signature