

81. AGREEMENT BETWEEN THE CITY OF GROTON AND THE TOWN OF LEDYARD, CONCERNING A WATER SUPPLY PLAN (SEPTEMBER 8, 1992)

WHEREAS, the City of Groton and the Town of Ledyard have negotiated a Water Supply Plan and reached a tentative agreement, and

WHEREAS, the City of Groton, Department of Utilities, has agreed to sell the Town of Ledyard as many as 250,000 gallons of water daily as early as July 1995, and

WHEREAS, the Department of Utilities has agreed to begin construction of the necessary facilities to supply the water to Ledyard by May 1994, and

WHEREAS, the Town of Ledyard has agreed to purchase water as specified in agreement as a resale customer, i.e. wholesale water customer, and

WHEREAS, the Ledyard Town Council has authorized Ledyard Mayor to sign said agreement, and

WHEREAS, extension of utility services is subject to the procedures established for the adoption of ordinances in Article V, Section 14 of the Charter,

THEREFORE BE IT RESOLVED that the Mayor and City Council approve the following agreement between the City of Groton and the Town of Ledyard concerning a Water Supply Plan:

The City of Groton and its Utility Commission and City Council (collectively "Groton") own and manage a water supply system. Groton and the Town of Ledyard ("Ledyard") hereby agree to the following matters related to Groton's water supply system:

Access to Property

1. Groton shall grant Ledyard residents the opportunity to participate in environmental or public health education courses taught by professional instructors acceptable to Groton on the property owned by Groton that includes Morgan Pond Reservoir, the general limits of which are delineated on Exhibit A attached hereto and made a part hereof ("the property") for five (5) mutually agreeable and scheduled days per calendar year.

2. Groton shall grant Ledyard residents the opportunity to hike on preexisting and predefined trails on the property for three (3) mutually agreeable and scheduled days per calendar year.

3. In conjunction with the activities described in paragraphs 1 and 2 above, swimming, fishing, boating, or other activities in, on, or in any way involving water shall not be allowed.

4. Groton shall have the right to establish reasonable terms and conditions of access for conducting the activities described in paragraphs 1 and 2 above including, but not limited to, liability insurance, numbers of people on the property, prohibition of pets and special constraints related to sensitive areas. The parties acknowledge that this is not intended to be a complete list of terms and conditions.

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5. Groton shall have the right to suspend any and all of the activities described in paragraphs 1 and 2 above and to require that the property be evacuated at any time that participants on the property fail to obey the terms and conditions established by Groton. In the event of a suspension of the privileges or evacuation of the premises contained in paragraphs 1 or 2, it is understood that Groton shall not be responsible for any damages arising out of such suspension or evacuation.

6. Groton shall have the right to suspend any and all of the activities described in paragraphs 1 and 2 above and to require that the property be evacuated at any time that the activities present any potential to impair the water quality of the Groton water supply system or the environment of the property. In the event of a suspension of the privileges or evacuation of the premises contained in paragraphs 1 or 2, it is understood that Groton shall not be responsible for any damages arising out of such suspension or evacuation.

7. Ledyard shall pay Groton for any and all actual costs incurred by Groton to organize, administer, police, or clean the property in conjunction with the activities described in paragraphs 1 and 2, to the full extent that such costs exceed Groton's normal and reasonable costs to operate and maintain the property. Ledyard shall pay Groton in advance of Groton incurring such costs. In arranging any of the activities described in paragraphs 1 or 2, Ledyard shall provide Groton with a detailed description of such activities at least one month in advance of the scheduled date. Groton shall provide Ledyard with the estimated costs for the same activities within two weeks of receiving Ledyard's description.

8. Ledyard shall hold harmless and indemnify Groton for any damages including damages to persons, property, or natural resources, that may occur on the property or in any way related to activities initiated by Ledyard. Groton shall be named as an additional insured on any and all liability insurance policies in effect at the time of the events described in paragraphs 1 and 2.

9. Representatives of Ledyard and the City of Groton shall meet annually, or more frequently, to evaluate the past year's public access program and to plan future access programs.

Water Supply Issues

10. By July, 1995, Groton shall fund the design and construction of a 16-inch water main from a location on the existing Groton system, as determined by Groton, north along the Route 12 corridor to the Ledyard Town line. Groton shall start design and construction of the water main no later than May, 1994, in accordance with standard engineering and safety practices and the requirements of Groton's Department of Utilities for similar projects.

11. By July, 1995, Ledyard shall fund the design and construction of a meter pit at the terminus of the new water main at the municipal boundary between the Town of Groton and the Town of Ledyard. Upon receipt of all necessary funds from Ledyard, Groton shall design and construct the meter pit within two (2) months in accordance with standard engineering and safety practices and the requirements of Groton's Department of Utilities for similar projects.

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12. Within one month of the completion of the improvements described in paragraphs 10 and 11 above, Groton shall install a water meter in the meter pit.

13. Upon installation of the water meter described in paragraph 12 above, Groton shall make available for Ledyard's purchase, subject to any necessary governmental approvals, a maximum of 250,000 gallons per day, subject to paragraphs 14 through 17 below.

14. Groton shall bill Ledyard for water at the same rate and in the same manner that it bills other wholesale water customers, such as Noank Fire District and Groton Long Point.

15. Upon commencement of delivery of water to Ledyard, or July 1, 1995, whichever is earlier, and providing that Groton has made water available at the meter pit by that date, Ledyard shall pay Groton monthly an amount equal to the monthly principal and interest needed to retire the debt incurred to pay for the cost of designing and constructing the improvements described in paragraph 10 above. By way of example, this monthly amount would be equal to the numbers in the column marked "Cash Paid" on Exhibit D, divided by 12. To the extent that the actual amount borrowed, or the terms of the debt varied from those used in Exhibit D, the actual payment by Ledyard would vary.

16. After completion of the improvements identified in paragraphs 10 through 12, Ledyard shall enjoy the same status as other customers within Groton's wholesale customer class, including the following:

- a. In the event of drought or other emergency conditions, Ledyard shall be subject to the same water conservation and water supply restrictions imposed on other wholesale customers.
- b. In the event that water is available in the Groton water supply system in excess of the then existing total demand on the Groton water supply system, Ledyard may purchase as much water from Groton as is consistent with an approved regional water supply master plan that includes Ledyard, and as is available within the Department of Health Services recommended margin of safety for the Groton system, and subject to any necessary government approvals.
- c. Groton and Ledyard agree to conduct joint resource planning studies to ensure the adequacy of long term water resources for the region. All studies will be reviewed annually and copies will be submitted to the appropriate State agencies.
- d. The City of Groton Department of Utilities, agrees to work with Ledyard in development of a Business Plan and to assist in the necessary engineering for development and operation of their water system, and to coordinate bidding and construction activities for the water main extension to the Ledyard Town line with the construction of Ledyard's water system.

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17. This agreement shall not be construed to confer upon Ledyard any rights to water from the Groton water supply system or any rights of access to the property other than the specific terms and conditions of this agreement.

18. The affirmative obligations of Groton and Ledyard expressed in paragraphs 1-17 of this Agreement do not apply until a final water diversion permit consistent with the draft water diversion permit prepared by the Department of Environmental Protection ("DEP") and attached hereto as Exhibit B is issued and all rights to appeal have lapsed without an appeal having been docketed. In the event that an appeal is docketed, the aforementioned affirmative obligations do not apply until such appeal is fully and finally resolved and the permit is issued.

19. This Agreement shall be a nullity if a final water diversion permit consistent with the draft water diversion permit prepared by DEP and attached hereto as Exhibit B is not issued to Groton within 130 days of the close of the hearing in the water diversion permit proceeding presently pending before DEP (DIV-90-36) ("pending proceeding"), or within an extension of time requested by the Commissioner of the DEP in this proceeding and approved by Groton, and all rights to appeal have lapsed without an appeal having been docketed.

20. Groton and Ledyard agree to proceed expeditiously and in good faith to advance the purposes embodied by this Agreement.

21. The Mayor of the Town of Ledyard shall express Ledyard's full support for Groton's application in the pending proceeding in a letter that shall be placed in the record of the proceeding.

22. But for the terms and conditions of paragraphs 10 through 21, this agreement and its terms shall not be introduced in the pending proceeding or in any other proceeding, except in a proceeding to enforce this agreement.

23. This agreement may only be modified with the written consent of both parties.

24. IN WITNESS WHEREOF, each of Groton and Ledyard has hereunto caused to be set its hand and seal this 8th day of September, 1992.

CITY OF GROTON

By:/s/Catherine J. Kolnaski

TOWN OF LEDYARD

By:/s/Joseph A. Lozier

Witnessed by:

/s/Stuart Sprague

/s/A.B. Chisholm

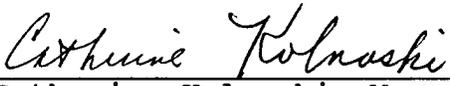
Witnessed by:

/s/Michael Seder

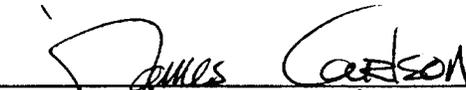
/s/John V. Lawrence

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Initially approved: August 3, 1992
Finally approved: September 8, 1992



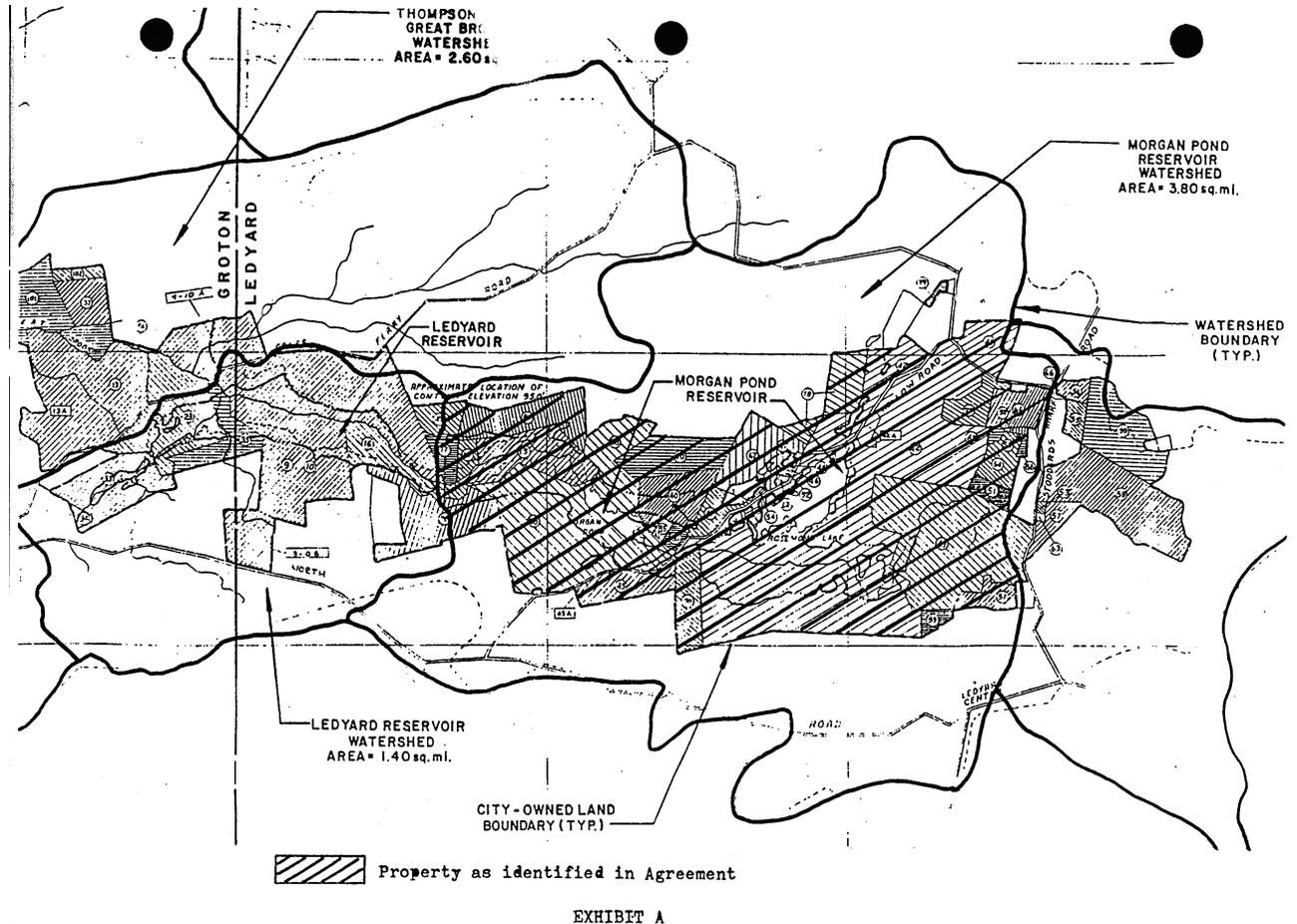
Catherine Kolnaski, Mayor



James C. Carlson, City Clerk

(EXHIBITS A THROUGH D ATTACHED)

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EXHIBIT B

PERMITTEE: City of Groton, Department of Utilities
295 Meridian Street
P O Box 820
Groton, CT 06340

PERMIT NO. : DIV-90-36
TOWN: Ledyard
WATERS: Morgan Pond Reservoir

Pursuant to Connecticut General Statutes section 22a-368 and the Commissioner’s Final Decision in this matter dated _____, you (the “permittee”) are hereby authorized to divert the waters of the State at Morgan Pond Dam, Town of Ledyard, (the “site”) in accordance with your application dated September 20, 1990, filed with this Department on October 4, 1990 and described herein. The purpose of the diversion is to increase the safe yield of the public water supply system by providing additional storage capacity at Morgan Pond Reservoir. Specifically, the permittee is authorized to install a crest gate at Morgan Pond Dam in accordance with plans entitled “MORGAN POND DAM CREST GATE INSTALLATION” (Drawing Nos. D1456 and D1457), dated 6/8/88, and submitted as a part of the above referenced application.

Terms and Conditions:

1. The permittee shall notify the Commissioner in writing two weeks prior to: (A) commencing construction or modification of structures or facilities authorized herein; and (B) initiating the diversion authorized herein.
2. The permittee may not make any alterations, except de minimis alterations, to any structure, facility, or activity authorized by this permit unless the permittee applies for and receives a modification of this permit in accordance with the provisions of section 22a-377(c)-2 of the Regulations of Connecticut State Agencies. Except as authorized by subdivision (5) of section 22a-377(b)-1(a) of the Regulations of Connecticut State Agencies, the permittee may not make any de minimis alterations to any structure, facility, or activity authorized by this permit without written permission from the Commissioner. A de minimis alteration means an alteration which does not significantly increase the quantity of water diverted or significantly change the capacity to divert water.
3. All structures, facilities, or activities constructed, maintained, or conducted pursuant hereto shall be consistent with the terms and conditions of this permit, and any structure, facility or activity not specifically authorized by this permit, or exempted pursuant to section 22a-377 of the General Statutes or section 22a-377(b)-1 of the Regulations of Connecticut State Agencies, shall constitute a violation hereof which may result in

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modification, revocation or suspension of this permit or in the institution of other legal proceedings to enforce its term and conditions.

4. Unless the permittee maintains in optimal condition any structures or facilities authorized by this permit, the permittee shall remove such structures and facilities and restore the affected waters to their condition prior to construction of such structures or facilities.
5. In issuing this permit, the Commissioner has relied on information provided by the permittee. If such information was false, incomplete, or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.
6. If construction of any structures or facilities authorized herein is not completed within three years of issuance of this permit or within such other time as may be provided by this permit, or if any activity authorized herein is not commenced within three years of issuance of this permit or within such other time as may be provided by this permit, this permit shall expire three years after issuance or at the end of such other time.
7. This permit is subject to and does not derogate any rights or powers of the State of Connecticut, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable federal, state and local law. In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this permit shall not create any presumption that this permit should be renewed.
8. In constructing or maintaining any structure or facility or conducting any activity authorized herein, or in removing any such structure or facility under paragraph 4 hereof, the permittee shall employ best management practices to control storm water discharges, to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and other waters of the State. The permittee shall immediately inform the Commissioner of any adverse impact or hazard to the environment which occurs or is likely to occur as the direct result of the construction, maintenance, or conduct of structures, facilities, or activities authorized herein.
9. This permit is not transferable without the prior written consent of the Commissioner.
10. This permit shall expire on (ten years from date of issuance).

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11. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee, a responsible corporate officer of the permittee, a general partner of the permittee, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachment may be punishable as a criminal offense in accordance with Section 22a-376 under 53a-157 of the Connecticut General Statutes.”

12. Any document or notice required to be submitted to the Commissioner under this permit shall, unless otherwise specified in writing by the Commissioner, be directed to:

Director, DEP/Inland Water Resources Division
165 Capitol Avenue, Rm. 207
Hartford, CT 06106

13. The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval on any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word “day” as used in this permit means any calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or legal holiday shall be submitted or performed by the next business day thereafter.
14. A minimum instantaneous flow release in the amount of 2.6 cfs (cubic feet of water per second) shall be provided to Great Brook from July 1 through October 31 of each year for the purpose of protecting and maintaining existing fish populations. The minimum instantaneous flow release to Great Brook is to be made at the existing outlet control structure of Ledyard Reservoir.
15. A staff gauge shall be installed in Great Brook at the point of release of the minimum stream flows required in condition no. 14 and a rating curve shall be developed for the staff gauge no later than 90 days after the date of issuance of the permit. A copy of the

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rating curve shall be provided to the Commissioner no later than 95 days after the date of issuance of this permit.

This authorization constitutes the permit required by section 22a-368(b) of the Connecticut General Statutes.

Issued as a permit of the Commissioner of Environmental Protection on _____.

Robert E. Moore
Deputy Commissioner

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EXHIBIT D

BOND AMORTIZATION SCHEDULE

Water Division– Ledyard Line Construction
1992 Bond Issue

Description

Scenario #1 -	<u>Construction</u>
Present Value	\$800,000
Interest Rate	7.00%
Years to Pay	20
Annual Payments	19
Principal Payment	\$42,105.26

LEVEL PAYMENTS

<u>Payment #</u>	<u>Cash Paid</u>	<u>Interest</u>	<u>Principal</u>	<u>Balance Due</u>
0				\$800,000.00
1	\$56,000.00	\$56,000.00	\$0.00	\$800,000.00
2	77,402.41	56,000.00	21,402.41	778,597.59
3	77,402.41	54,501.83	22,900.58	755,697.01
4	77,402.41	52,898.79	24,503.62	731,193.39
5	77,402.41	51,183.54	26,218.87	704,974.51
6	77,402.41	49,348.22	28,054.20	676,920.32
7	77,402.41	47,384.42	30,017.99	646,902.33
8	77,402.41	45,283.16	32,119.25	614,783.06
9	77,402.41	43,034.82	34,267.60	580,415.48
10	77,402.41	40,629.08	36,773.33	543,642.15
11	77,402.41	38,054.95	39,347.46	504,294.69
12	77,402.41	35,300.63	42,101.78	462,192.91
13	77,402.41	32,353.50	45,048.91	417,144.00
14	77,402.41	29,200.08	48,202.33	368,941.67
15	77,402.41	25,825.92	51,576.50	317,365.17
16	77,402.41	22,215.56	55,186.85	262,178.32
17	77,402.41	18,352.48	59,049.93	203,128.39
18	77,402.41	14,218.99	63,183.42	139,944.97
19	77,402.41	9,796.15	67,606.26	72,338.70
20	77,402.41	5,063.71	72,338.70	0.00
TOTALS	\$1,470,645.83	\$726,645.83	\$800,000.00	