

**CHITTENDEN COUNTY  
REGIONAL STORMWATER EDUCATION PROGRAM  
MEMORANDUM OF UNDERSTANDING  
FOR THE PERIOD MARCH 10, 2013 THROUGH MARCH 9, 2018**

This Memorandum of Understanding (“MOU”) establishes an agreement among the Parties (as specified in Section 1) for a group of Municipal Separate Storm Sewer Systems (“MS4s”) to contract to operate a Regional Stormwater Education Program (“Program”) that conforms with and satisfies the relevant requirements regarding Minimum Control Measure One (“Public Education and Outreach”) of the Phase II NPDES Permit for Program Years 2013--2018), as established in General Permit 3-9014 (2012) (MS4 Permit”) as continued or renewed by the Vermont Department of Environmental Conservation (“VTDEC”).

1. **Parties to the MOU** – The parties to this agreement are:

- a. **MS4s** – the undersigned municipalities and other entities and any other MS4 that may execute this agreement following approval of that MS4’s inclusion as a party to this MOU by a 2/3<sup>rd</sup>s majority of the voting members of the Steering Committee and
- b. **Lead Agency** – the Chittenden County Regional Planning Commission (“CCRPC”), unless a majority of the Steering Committee favors a different lead agency or the CCRPC no longer wishes to act as the Lead Agency.

2. **Steering Committee**

- a. **Composition** – The voting members of the Steering Committee shall consist of one representative from each of the MS4s who are signatory to this Agreement as designated by each MS4. The voting members may, by a 2/3<sup>rd</sup>s majority vote, invite one or more other organizations to each appoint a representative to serve as a new member, a non-voting member or as an advisory member of the Steering Committee. Such organizations may include, but not be limited to, the Lake Champlain Committee, the Champlain Water District, the Chittenden Solid Waste District, other MS4s, or other municipalities.
- b. **Duties** – The voting members of the Steering Committee shall advise the Lead Agency on the development and performance of Program Services and on matters bearing on the administration of this agreement. The Steering Committee will endeavor to meet, quarterly or more often as needed.

3. **Lead Agency**

- a. **Duties** – The Lead Agency will provide Administrative Services in terms of administering this MOU and agreements with contractors (including executing contracts, receiving and disbursing funds, and monitoring the provision of services) on behalf of the MS4s. The Lead Agency shall not provide services related to this program for entities outside of the MS4 signatories. Additional coordination shall be only at the direction of the Steering Committee or its chair. The Lead Agency may also provide other Non-Administrative services (including, but not limited to, public education and outreach activities, public relations, grant writing, web site editing, etc.) as

directed by the Steering Committee and at a level consistent with each year's Program Budget as described in Section 6.a. The Lead Agency is not a guarantor that services will be performed.

- b. **Compensation** – The MS4s agree to compensate the Lead Agency for the actual costs of performing Administrative and Non-Administrative duties defined in Section 3.a. Compensation shall be for hourly wages, appropriate overhead and expenses. Compensation for Administrative Duties shall not exceed ten (10%) percent of the Program Budget as specified in Section 6 without prior approval of a simple majority of the Steering Committee present at the time of the vote or by email response. Personnel costs for Lead Agency staff engaged in Administrative or Non-Administrative Duties shall be calculated at a rate of salary plus fringe. The Lead Agency shall submit invoices no more frequently than monthly. Invoices shall provide a description of work tasks completed by the Lead Agency for that billing period with sufficient detail to the satisfaction of the steering committee.
4. **Selection of Contractors** – In general, the Steering Committee shall competitively bid for contract(s) for Program Services that collectively satisfy the requirements for Minimum Control Measure One ("Public Education and Outreach") of the Phase II NPDES Permit for Program Years 2013 – 2018 as established by the MS4 Permit and as defined in Section 5. All contracts shall be awarded based on qualifications, price, and the ability of the entity to provide services that meet the relevant MS4 Permit requirements. However, upon consent of the majority of the voting members of the Steering Committee present, the RSEP may waive the bid process for select contracts. Contracts may be up to 5 years in length and shall include, but not be limited to, language specifying the right of the RSEP to cancel a contract if services are not being adequately provided and language specifying that payments to contractors shall be made only for services rendered.
5. **Program Services** – The Steering Committee, assisted by the Lead Agency and contractors, will implement a media advertising campaign and provide stormwater education services that satisfy the requirements of Minimum Control Measure One ("Public Education and Outreach") of the Phase II NPDES Permit for Program Years 2013 – 2018), as established by the MS4 Permit, in accordance with Section 5.a..
  - a. **Program Content** – The Program Content for each Program Year will be as defined in the Communications Plan for that year as approved by a majority of the Steering Committee. Annual Program elements will include, at a minimum: 1) operation of the Program's website, [www.smartwaterways.org](http://www.smartwaterways.org) or its equivalent, 2) the hosting of occasional educational seminars open to the public concerning stormwater pollution prevention and related topics, and 3) advertisements in various media.
6. **Program Budget, Costs, and Payments**
  - a. **Program Budget**
    - 1) The annual Program Budget shall consist of the sum of the annual \$5,000 payments for a given Program Year made by participating MS4s plus any Public Participation payment as described below in Sections 6b and 6c, respectively.
    - 2) Prior to March 1<sup>st</sup> of every year, the Steering Committee shall adopt a Program Budget governing expenditures for the subsequent program year. Budget categories shall include, but not be limited to: Lead Agency Administrative Duties, Lead Agency Non-Administrative Duties, Media Advertising Purchases, Media Marketing Consulting Services, and Other Contractual Services.

- b. **Participating MS4 Maximum Annual Costs and Payments** – Except as otherwise provided for in this section or in section 12c, each MS4 that is a party to this MOU shall by July 30 of each program year make a single annual payment of \$5,000 to pay for Program Services (as defined in Section 5) and Lead Agency services (as defined in Section-3.a.). In the event that costs are less than anticipated or that grants or other funding sources become available, a majority of the voting members of the Steering Committee may decide to reduce each MS4's payment by an equal amount. The Steering Committee may require additional dues from new members joining after March 9, 2013 to help defray program development costs incurred since the Program's inception.
  - c. **Public Participation Payments** – Any payments made by an MS4 (regardless of whether or not the MS4 is a Party to this MOU) to the Lead Agency as a part of compliance with Section 4.2.2.1 of the MS4 Permit (governing payments in lieu of undertaking specific Public Involvement/Participation Activities) shall pay for Program Services as defined in Section 5.
  - d. **Other Funds** – Any funds made available to the Program other than Participating MS4 Costs and Payments (pursuant to Section 6.b.) or Public Participation Payments (pursuant to Section 6.c.) shall be dedicated to reducing the annual costs of each MS4 participating in the Program, except as a majority of the voting members of the Steering Committee may decide.
  - e. **Excess Funds** – Any funds remaining at the end of a Program Year, less any earmarked set aside funds (such as survey funds, etc), shall be carried over to the next Program Year, unless a 2/3<sup>rds</sup> majority of the voting members of the Steering Committee decides otherwise. Following the payment for all Program Services and Lead Agency services at the end of Program Year 2018, any funds remaining shall be carried forward for successive years where program services continue under successive agreements. Any funds refunded to the MS4s participating in this MOU shall be refunded based upon a prorated portion depending upon the number of months of participation by that MS4, except that any additional payments made by a member beyond its \$5,000 annual payments shall be first refunded in full, except for payments made in lieu of performance of Minimum Measure #2.
  - f. **In-Kind Services** – Program Services (as defined in Section 5) that are provided by a member may be used to offset the Participating MS4 Costs and Payment of that member by such amount as may be determined by a majority of the voting members of the Steering Committee.
7. **Contracts Required** – All contracts with Contractors to provide Program Services shall be conditioned upon approval by a 2/3<sup>rds</sup> majority of the voting members of the Steering Committee.
8. **Withdrawal Prohibited** – No MS4 that is a party to this MOU may withdraw from this MOU, except for early termination as defined in Section 9 of this MOU. Early termination of a signatory may be considered by the Steering Committee with 12 months' notice of withdrawal for cause and with a 2/3<sup>rds</sup> majority approval of the voting members of the Steering Committee
9. **Early Termination** – This MOU shall become null and void with no further obligation of the parties if:
- a. a majority of the voting members of the Steering Committee does not approve one or more contracts for the provision of Program Services within 90 days after execution of this MOU or

- b. VTDEC determines that the Program outlined in this MOU does not meet the requirements for minimum control measure #1 ("Public Education and Outreach") of the Phase II NPDES Permit for Programs Years 2013 – 2018) and the parties to this MOU are unable to craft a Program to satisfy VTDEC.
- c. alternate contractual arrangements for MM1 compliance are developed and a vote to dissolve this MOU is approved by a 2/3<sup>rd</sup>s majority approval of the voting members of the Steering Committee.

10. **Automatic Termination** – This MOU will terminate at the end of Program Year 2018.

11. **Amendment** – Unless a specific section of this MOU provides otherwise, this MOU may be amended only upon the unanimous consent of all of the Parties.

12. **Adding New MS4 Entities** – New MS4 entities shall be allowed to become party to this MOU with a 2/3<sup>rd</sup>s majority approval of the voting members of the Steering Committee. The new party agrees to:

- a. pay for costs directly associated with re-evaluation and reconfiguration of the Program's existing Communications Plan to ensure that planned media advertising purchases appropriately cover the geographic area served by their MS4, unless waived by a 2/3<sup>rd</sup>s majority approval of the voting members of the Steering Committee. The new MS4 shall coordinate this work with the Lead Agency and RSEP Chair using existing RESP program contractors.
- b. The new MS4 obtains approval from the permitting agency indicating that their participation in the established Program would satisfy their requirements under minimum control measure #1 ("Public Education and Outreach") of the Phase II NPDES Permit for Programs Years 2013 – 2018)
- c. The new MS4 makes five additional annual payments of \$ 500.00 to the Program in recognition of Program development costs incurred since the program's inception.

13. **Counterparts** – This MOU may be executed in multiple counterparts, each of which is deemed an original and all of which constitute one and the same document. Each such counterpart may be a facsimile copy and such facsimile copy shall be deemed an original.

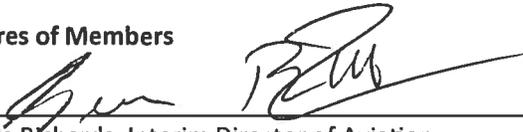
**Signature of Lead Agency**



Charles Baker, Executive Director  
Chittenden County Regional Planning Commission

5/1/13  
Date

**Signatures of Members**

 _____ Gene Richards, Interim Director of Aviation Burlington International Airport	<u>3-26-13</u> _____ Date
_____ Steven Goodkind, Director of Public Works The City of Burlington Department of Public Works	_____ Date
_____ Bryan K. Osborne, Director of Public Works The Town of Colchester	_____ Date
_____ Dennis E. Lutz, PE, Public Works Dir. / Town Engineer The Town of Essex	_____ Date
_____ Authorized Signer The Village of Essex Junction	_____ Date
_____ Brian M. Palaia, Town Manager The Town of Milton	_____ Date
_____ Dean Pierce, Director of Planning and Zoning The Town of Shelburne	_____ Date
_____ Bob Rusten, Interim Temporary City Manager The City of South Burlington	_____ Date
_____ Brian Searles, Secretary of Transportation The Vermont Agency of Transportation	_____ Date
_____ Linda Seavey, Director, Campus Planning Services The University of Vermont	_____ Date
_____ Richard McGuire, Town Manager The Town of Williston	_____ Date
_____ Katherine Decarreau, City Manager The City of Winooski	_____ Date

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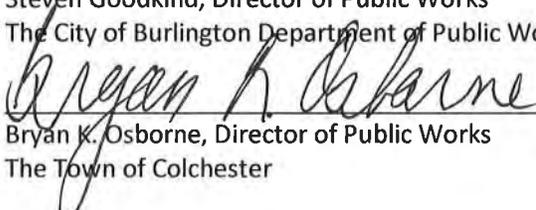
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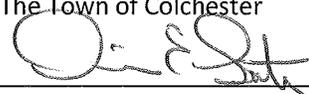
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*Susan McNamee-DeD, Interim Co. Mgr.*  
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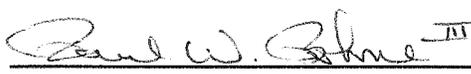
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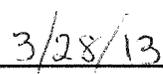
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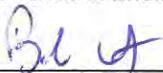
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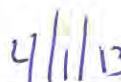
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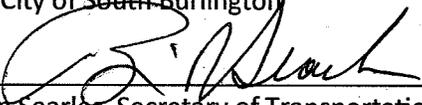
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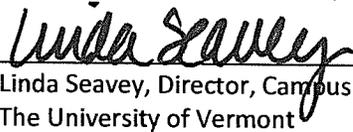
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Bob Rusten, Interim Temporary City Manager  
The City of South Burlington

\_\_\_\_\_  
Date

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Brian Searles, Secretary of Transportation  
The Vermont Agency of Transportation

\_\_\_\_\_  
Date

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Linda Seavey, Director, Campus Planning Services  
The University of Vermont

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Richard McGuire, Town Manager  
The Town of Williston

\_\_\_\_\_  
4/3/13

\_\_\_\_\_  
Date

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Katherine Decarreau, City Manager  
The City of Winooski

\_\_\_\_\_  
Date

**Signatures of Members**

_____ Gene Richards, Interim Director of Aviation Burlington International Airport	_____ Date
_____ Steven Goodkind, Director of Public Works The City of Burlington Department of Public Works	_____ Date
_____ Bryan K. Osborne, Director of Public Works The Town of Colchester	_____ Date
_____ Dennis E. Lutz, PE, Public Works Dir. / Town Engineer The Town of Essex	_____ Date
_____ Authorized Signer The Village of Essex Junction	_____ Date
_____ Brian M. Palaia, Town Manager The Town of Milton	_____ Date
_____ Dean Pierce, Director of Planning and Zoning The Town of Shelburne	_____ Date
_____ Bob Rusten, Interim Temporary City Manager The City of South Burlington	_____ Date
_____ Brian Searles, Secretary of Transportation The Vermont Agency of Transportation	_____ Date
_____ Linda Seavey, Director, Campus Planning Services The University of Vermont	_____ Date
_____ Richard McGuire, Town Manager The Town of Williston	_____ Date
_____  Katherine Decarreau, City Manager The City of Winooski	_____ 4.11.13 Date