



Town of Bristol

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**TEMPORARY CONSTRUCTION EASEMENT AND FINANCIAL AGREEMENT
BETWEEN THE TOWN OF BRISTOL AND LAWSON LANE PROPERTY OWNERS
FOR WATER CONNECTION TO THE PINE STREET WATER MAIN**

WHEREAS, Bruce Ladeau and Jeanie MacDonough applied on 11/04/2004 to the Bristol Water District for five new connections to the water system for a seven-lot subdivision between Pine Street and Liberty Street; and

WHEREAS, Bristol District Coordinator A. Scott Powell issued an “ability to serve” letter on 11/05/2004 that the Bristol Water District could accommodate the 3,430 gallons per day for five of the units; and

WHEREAS, Bruce Ladeau and Jeanie MacDonough received an approved Potable Water Supply and Wastewater System Permit on 12/28/2004 for Lots 2, 3, 5, 6, and 7 from the State of Vermont based in accordance with the plans submitted by Tyler Hart, P.E., sheets 1 and 2, dated 11/04/2004; and

WHEREAS, Lots 1 and 4 were already connected to the water system; and

WHEREAS, Bristol District Coordinator A. Scott Powell approved the connection application to the Bristol Water District on 11/10/2004 with the condition that “[e]ach subdivision unit shall be served with a dedicated pipe specific to that lot and controlled from within the Town right of way;” and

WHEREAS, Bruce Ladeau and Jeanie MacDonough received Act 250 Land Use Permit approval on 03/24/2005 to subdivide a 2.54-acre lot into seven residential lots for single family homes off of Pine Street and Liberty Street and establish a 200 foot access road off of Pine Street to serve three of the lots; and

WHEREAS, Consulting Engineer Tyler Hart, P.E., L.S. certified on 09/13/2005 that the potable water supply and wastewater systems for Lot 5 “... were installed in accordance with the permitted design and all permit conditions, were inspected, were properly tested, and have successfully passed those performance tests;” and

WHEREAS, Consulting Engineer Tyler Hart, P.E., L.S. certified on 10/13/2005 that the potable water supply and wastewater systems for Lot 3 “... were installed in accordance with the permitted design and all permit conditions, were inspected, were properly tested, and have successfully passed those performance tests;” and

WHEREAS, Consulting Engineer Tyler Hart, P.E., L.S. certified on 04/11/2007 that the potable water supply and wastewater systems for Lot 7 "... were installed in accordance with the permitted design and all permit conditions, were inspected, were properly tested, and have successfully passed those performance tests;" and

WHEREAS, Consulting Engineer Tyler Hart, P.E., L.S. certified on 11/06/2007 that the potable water supply and wastewater systems for Lot 6 "... were installed in accordance with the permitted design and all permit conditions, were inspected, were properly tested, and have successfully passed those performance tests;" and

WHEREAS, Consulting Engineer Tyler Hart, P.E., L.S. certified on 12/07/2007 that the potable water supply and wastewater systems for Lot 2 "... were installed in accordance with the permitted design and all permit conditions, were inspected, were properly tested, and have successfully passed those performance tests;" and

WHEREAS, the Pine Street water line was a 2-inch galvanized water main at the time and would have needed to be upgraded at significant expense to provide the necessary pressure to provide water to the additional residential units; and

WHEREAS, it is not known how it came about that the water lines for Lots 2, 5, 6, and 7 were instead connected to a new water service from Liberty Street, contrary to the approved permits and above certifications, as both Bruce Ladeau and Tyler Hart are deceased; and

WHEREAS, regardless of what role District Coordinator Scott Powell had in this egregious deception, the sole responsibility for compliance with all permits rested with Bruce Ladeau and Jeanie MacDonough; and

WHEREAS, the lots were sold to buyers without disclosure; and

WHEREAS, the deception was discovered when Chad and Michelle Perlee purchased Lot 4 on Liberty Street and proceeded through the state water, wastewater, and Act 250 permit processes to construct a single family residence on the site in 2011 with a water connection off of Liberty Street; and

WHEREAS, the discovery of the Ladeau-Hammond Subdivision water lines along their property ultimately resulted in an amendment to the original covenants requiring the water lines to be moved from the Liberty Street connection to the Pine Street water main when the Pine Street water line got upgraded. This First Amendment to Amended and Restated Declaration of Covenant including conditions & restrictions and grant of temporary easement" is recorded in the Book 144, pages 261-265 in the Bristol Land Records. Specifically, paragraph 4 states:

"The easements and rights contained herein are subject to a condition that once the Town of Bristol upgrades the water line (or lines) along Pine Street, so-called, to the westerly edge of the right of way of Lawson Lane, so-called, to allow water service to Lots 2, 5, 6, and 7, lot Owners 2, 5, 6, and 7 shall connect to the Town of Bristol's municipal water system along Lawson Lane to said Pine Street (in the case of Lot 2, the connection shall

be directly from Lot 2 to said water system from Pine Street), so-called, water line (or lines) and shall discontinue the use of the existing water lines (from Liberty Street, so-called), at which time the aforesaid easements burdening Lots 2, 3, 4, and 5 shall be automatically extinguished. Lot Owners 2, 5, 6 and 7 shall connect to the Town of Bristol's municipal water system within 60 days from the completion date of the Pine Street water line(s) upgrade, unless circumstances reasonably beyond the control of said Lot Owners, prevent such time frame. In such event, the work shall be completed as soon as reasonably practicable thereafter."

WHEREAS, paragraph 3 above it states:

"Any construction, repair, replacement of said water line shall be performed in a good and workmanlike manner and at the sole expense of the Lot Owner(s) benefiting from or requiring the work. Lot Owner(s) agree that when any construction takes place within the Easement Area, Lot Owner(s) performing the work shall return the surface of the Easement Area (including but not limited to grass, landscaping, trees, etc.) and any other property disturbed by the Lot Owner(s) to its original condition prior to such construction;" and

WHEREAS, the Town of Bristol, through its Water District and Green Mountain Engineering, Inc. and VTM Engineering, PLC completed final designs for the Pine Street waterline replacement project in 2022, received voter approval for a bond in November 2022, and bid the project for construction in spring 2023; and

WHEREAS, Munson Earth-Moving Corporation (Munson) was the low bidder at \$617,850.00 and commenced construction in mid-August 2023;

WHEREAS, the water line improvements from Liberty Street to Lawson Lane include a new 8-inch water main, appropriately-sized connections from the watermain to new curb stops, one replaced fire hydrant at Liberty Street and Pine Street, and a new fire hydrant at Lawson Lane; and

WHEREAS, Munson provided a quote of \$24,348.00 to install a 2-inch, copper water line approximately 220 feet in length, three curb stops and appurtenances, gravel, utility locating, seed and mulch in conformance with the 2004 permits.....;

NOW THEREFORE BE IT AGREED:

1. The Town of Bristol hereby agrees to facilitate the construction of the new water line connection from the new Pine Street watermain down Lawson Lane to serve Lots 5, 6, and 7, with curb stops at the edge of the Lawson Lane right-of-way.
2. A Temporary Construction Easement is hereby granted to the Town of Bristol, its contractors, consultants, subcontractors, subconsultants, materialmen, suppliers, workers, successor and assigns to facilitate the Town's construction of a new water line and appurtenances along Lawson Lane.

3. Munson Earth-Moving will construct and install the new municipal water line within the existing right of way of Lawson Lane. The Temporary Construction Easement shall be used for excavation and temporary soil stockpiling during installation of the new water line. The Town shall cause the land disturbed within the Temporary Easement to be restored to the condition it was in prior to the construction to the reasonable satisfaction of the property owners.
4. The term of the Temporary Easement shall begin upon the date of mutual execution hereof and shall extend until the Project has been completed.
5. To the extent allowed by law, the Town and its Contractor shall indemnify and hold the Grantor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the Town and its contractors, consultants or subcontractors except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of Grantor or its employees, contractors or agents.
6. Grantor covenants and agrees that it is the fee owner of the Temporary Easement Property and that it has the authority to grant this Temporary Construction Easement to the Town. Grantor warrants that no building, structure, or other above or below ground obstruction that may interfere with the purposes for which this Temporary Construction Easement is granted may be placed, erected, installed or permitted upon the Temporary Easement Property during the term hereof except for existing improvements, if any. Grantor reserves all rights attendant to its ownership of the Temporary Easement Property, including but not limited to the use and enjoyment of the Temporary Easement Property for all purposes not inconsistent with the terms and conditions of this Agreement. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph.
7. The Town of Bristol will finance the expenses associated with the project and seek proportional reimbursement from the owners of Lots 5, 6, and 7 (Property Owners) for actual expenses associated with the project.
8. The owners of Lots 5, 6, and 7 agree to reimburse the Town for their proportional share of actual expenses upon being provided an invoice and supporting documentation from the Town.
9. The final amount owed shall constitute a lien upon the Properties in the same manner and to the same effect that property taxes are a lien upon real estate under 32 V.S.A. §5061 and shall constitute an assessment which the Town agrees not to enforce against the Properties as a lien as provided in 32 V.S.A. chapter 133, subchapter 8 in the event that the Property Owners make full and final payment to the Town within six (6) months of project completion and closeout.

10. In the event of a dispute between the Town and any of the Property Owners about an expense or other matter(s) associated with the project that cannot be overcome, the parties agree to seek mediation to arrive at a resolution.

FOR TOWN:

FOR PROPERTY OWNER:

Signature of Duly Authorized Representative

Signature of Duly Authorized Representative

Valerie Capels, Town Administrator
Print name and title

Print name and title

Date

Date

Add signature and Notary blocks for each property as was done in the 2014 agreement ...

DRAFT