

EXHIBIT D

Information Technology Agreement

THIS AGREEMENT, made this ____ day of _____, 2022, by and between the Town of Essex, a Vermont municipality located in Chittenden County, (“Essex” or the “Town”) and the City of Essex Junction, a Vermont municipality located in Chittenden County, (“Essex Junction” or the “City” and together the City and Town are collectively referred to herein as the “Municipalities” or the “Parties”).

WHEREAS, the Town presently provides information technology (IT) infrastructure, data, and resources to the entire Town, including the incorporated Village of Essex Junction with the exception of the Brownell Library;

WHEREAS, with the separation of the Village from the Town and creation of the City of Essex Junction, the City will need to create its own IT system separate from the Town’s system, and will need to migrate Village related IT infrastructure, data, and resources to the City;

WHEREAS, the Town's IT Director and the City’s IT consultants will work together to develop a plan and facilitate this migration;

WHEREAS, the City agrees to provide the Town with a list of the IT consultants the City has hired and authorized to access the former Village’s IT infrastructure, data, and resources; and

NOW THEREFORE, based on the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and the City hereby agree as follows:

1. The City shall provide the Town with a list of IT consultants and staff (“IT Consultants”) the City has authorized to access the former Village’s IT infrastructure, data, and resources. The City shall keep this list current and provide updates to the Town of any changes to this list.
2. The IT Consultants will work with the Town’s IT Director to prepare a written plan for the migration of the former Village IT infrastructure, data, and resources to the City that will be in place prior to commencing the migration. The acceptance of the plan by the Town IT Director’s shall not constitute a warranty that the plan will achieve its stated objective, which is and shall remain the responsibility of the IT Consultants.
3. The Town’s IT Director shall oversee and provide the IT Consultants reasonable access to its equipment to plan and facilitate the migration of the former Village IT infrastructure, data, and resources to the City. This access shall be provided until

the City completes the migration or June 30, 2023, whichever occurs sooner. The IT Consultants and or the City shall be responsible for any damage to Town infrastructure stemming from their technology migration efforts and shall, to the fullest extent permitted by law, indemnify and hold harmless the Town against any claims and penalties resulting from such access. In the process of migration, the City and/or its contractor shall not violate any state or federal regulations concerning protected data. If there are IT related contracts with expiration dates after the last fiscal year in which City residents pay Town taxes that cannot be transferred to the City without penalty or would be canceled if the City were no longer a part of the contract, the Town and City shall maintain the contract through its expiration date and the City shall reimburse the Town fifty percent (50%) of the amount due. The Town shall provide a copy of the vendor's invoice and invoice the City the amount due with payment terms. The Town and City may consider future conversations of extending, renewing, or creating IT related contracts if they so desire. In the event the migration causes the cancellation of any contracts with third-party IT vendors, the City shall be responsible for the payment of any penalties resulting from such cancellation. Both the Town and City shall negotiate with those vendors on any claimed penalties.

4. The Town staff shall work cooperatively with the IT Consultants to facilitate the migration of the former Village IT infrastructure, data, and resources to the City. In no event shall the City have access to non-Village related data following completion of the migration.
5. In the event the migration is not complete by the end of the last fiscal year in which City residents pay Town taxes, the City shall thereafter reimburse the Town at a reasonable hourly rate based upon the salary and benefit costs of the Town IT Director for the costs incurred in providing staff and equipment to assist with the migration.
6. This Agreement shall terminate at the time the City notifies the Town the migration is complete or June 30, 2023, whichever occurs sooner. If this contract requires an extension, the Parties shall not unreasonably deny the extension because the migration is not complete. Prior to termination of the Agreement, the City shall reimburse the Town for any costs incurred pursuant to Section 5 above.
7. This Agreement may be amended or modified by mutual written agreement of the Parties.
8. Any notice required to be given under this Agreement shall be in writing and mailed to the addresses listed below (or such other address as a party may designate) or hand delivered to the other party at a duly warned meeting of the Town Selectboard or the City Council.

To the Town of Essex:

Town of Essex Selectboard
81 Main Street
Essex Junction, VT 05452-3209

To City of Essex Junction: City of Essex Junction City Council

2 Lincoln Street
Essex Junction, VT 05452

9. This Agreement shall be governed by the laws of the State of Vermont. All rights and remedies provided by this Agreement or by law or in equity or by statute shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy now or hereafter existing to enforce this Agreement. If any provision of this Agreement shall be deemed to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect and shall be enforceable to the fullest extent permitted by law.
10. In the event of any dispute arising out of this Agreement, the Municipalities shall first agree to mediate the dispute. The Municipalities may also agree to submit any dispute not resolved in mediation to binding arbitration. Otherwise all disputes arising out of or related to this Agreement shall be heard in the Vermont Superior Court, Chittenden Civil Division.
11. This Agreement represents the entire agreement between the Parties as to its subject matter. All prior agreements, offers, negotiations and representations not herein expressly contained shall be of no force and effect.
12. Neither party shall assign this Agreement or any interest hereunder without the written approval of all of the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
13. No failure by either party to insist upon the strict performance of any term hereunder or to exercise any right, power, or remedy consequent upon a breach thereof shall constitute a waiver of any breach of any such term. No waiver of any breach shall affect or alter this Agreement, which shall continue in full force and effect, or the rights of either party with respect to any other existing or subsequent breach.

DATED this ____ day of _____, 2022.

TOWN OF ESSEX

By: _____
Its Duly Authorized Agent

CITY OF ESSEX JUNCTION

By: _____
Its Duly Authorized Agent