

INTERMUNICIPAL AGREEMENT
FOR
WASTEWATER COLLECTION, TREATMENT AND DISPOSAL
BETWEEN
CITY OF FITCHBURG, MASSACHUSETTS
AND
TOWN OF LUNENBURG, MASSACHUSETTS

Preamble

THIS AGREEMENT made and entered into this 15th day of December 2013, and executed in quadruplicate (each executed copy constituting an original) between the City of Fitchburg (hereinafter "Fitchburg") and the Town of Lunenburg (hereinafter "Lunenburg").

WITNESSETH:

WHEREAS, the City of Fitchburg owns and operates a wastewater treatment system; and

WHEREAS, Lunenburg has constructed a limited sewer system along Route 2A in Lunenburg to the Lunenburg/Fitchburg line where it connects with the Fitchburg sewer system; and

WHEREAS, Lunenburg has constructed a limited sewer system along Summer Street in Lunenburg to the Lunenburg/Fitchburg line where it connects with the Fitchburg sewer system; and

WHEREAS, Fitchburg, subject to the terms and conditions of this Agreement, desires to sell sewage disposal capacity to Lunenburg; and

WHEREAS, Lunenburg, subject to the terms and conditions of this Agreement, desires to purchase sewage disposal capacity from Fitchburg, and

WHEREAS the parties recognize that Fitchburg must implement and enforce a pretreatment program to control discharges from certain users of its wastewater treatment system under the Clean Water Act, 42 U.S.C. § 1251 et seq. and requirements set forth at 40 CFR Part 403; and

WHEREAS, the parties are authorized by Chapter 40, Section 4 and 4A of the General Laws to enter into an Inter-Municipal Agreement for the purpose of the City of Fitchburg supplying sewage disposal to the Town of Lunenburg, subject to authorization by the Fitchburg City Council and approval of the Fitchburg Mayor, and the Lunenburg Board of Selectmen.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties agree as follows:

1. Term/Purpose/Intent

1.1 The term of this Agreement shall be for a period of twenty –five (25) years from date hereof, unless sooner terminated as herein provided. The parties intend that the municipal corporations entering into this Agreement are the sole and exclusive beneficiaries of the Agreement. Subject to the terms and limits of this Agreement and of applicable state and federal law, the City of Fitchburg acting through its Water/Wastewater Commission will provide sewer service to the Town of Lunenburg in consideration for payment of applicable sewer use rates and fees.

1.2 This Agreement shall not take effect until it has been authorized by the Fitchburg City Council and approved by the Fitchburg Mayor, and approved by the Lunenburg Board of Selectmen.

1.3 Fitchburg shall use its best efforts to be at all times in compliance with the NPDES permit issued for the facility and to comply with all state and federal laws, regulations, water quality standards, orders and decrees of any state and/or federal

governmental authority having jurisdiction over the treatment and disposal of waste waters.

1.4 Characteristics of waste delivered to the facility by or from Lunenburg shall at all times conform to standards set by Rules and Regulations of the U.S. Environmental Protection Agency (hereinafter called "EPA") and the Massachusetts Department of Environmental Protection (hereinafter Called "MA DEP") and Fitchburg's Sewer Use Ordinance, all as issued and amended from time to time.

2. Amendments

2.1 No officer, official, agent or employee of Fitchburg or Lunenburg shall have the power to amend, modify or alter this Agreement or waive any of its provisions or to bind Fitchburg or Lunenburg by making any promise or representation not contained herein except by an amendment, in writing, executed by both municipal corporations in the same manner as this Agreement is executed. Neither party may rely on any conduct, statements, action, inaction or course of conduct of the employees, agents or officers of the other party as having changed, modified or amended this Agreement. Neither party shall be construed as waiving any provision of the Agreement unless the waiver is executed in writing as an amendment to this Agreement. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach. Forbearance or indulgence in any form or manner by either party shall not be construed as waiver of any term or condition hereto nor shall it limit the legal or equitable remedies available to that party.

2.2 Interim reviews shall be performed and approved by Fitchburg and Lunenburg every five years to verify that all terms continue to be acceptable to both parties, to address any issues that were not known when the Agreement was signed, and to address any unintended consequences of the Agreement Terms through written amendments to this Agreement.

3. Assignment

3.1 This Agreement shall not be assigned or transferred by either party, without the express written consent of the other party given with the same formalities as are required for the execution of this Agreement.

4. Hold Harmless/Indemnification

4.1 To the extent permitted by law, Lunenburg hereby agrees to indemnify and save harmless Fitchburg, or its agents, against any and all liability or claims arising from the acts or omissions of Lunenburg, or its agents or employees, relating to Lunenburg's performance under this Agreement, including, but not limited to, liability deriving from state and federal environmental administrative findings or orders or actions or claims for damages on account of injury to person, or property or the environment caused by any act or omission of Lunenburg, its agents or employees, or any fine, penalties or monetary awards which arise out of Lunenburg's acts or omissions under the terms of this Agreement.

4.2 To the extent permitted by law, Fitchburg hereby agrees to indemnify and save harmless Lunenburg, or its agents, against any and all liability or claims arising from the acts or omissions of Fitchburg, or its agents or employees, relating to Fitchburg's performance under this Agreement, including, but not limited to, liability deriving from state and federal environmental administrative findings or orders or actions or claims for damages on account of injury to person, or property or the environment caused by any act or omission of Fitchburg, its agents or employees, or any fine, penalties or monetary awards which arise out of Fitchburg's acts or omissions under the terms of this Agreement.

5. Force/Majeure

5.1 No failure or delay in performance shall be deemed to be a breach of this Agreement when such failure or delay is occasioned by or due to any Act of God, strike,

lockout, war, riot, epidemic, explosion, sabotage, breakage or accident to machinery or lines or pipe, the binding order of any court or governmental authority, or any other cause whether of the kind herein enumerated or otherwise not within the control of the party against whom a breach is alleged.

6. Reports/Records/Rate Schedules

6.1 Upon Fitchburg's request, Lunenburg shall provide reports and records giving the addresses of all Lunenburg's customers and showing the location to which sewage is being accepted, character of occupancy, and the total amount of sewage produced by Lunenburg into the Fitchburg system on an annual, or if available, on a more frequent basis, by each customer; and any other reports, records, or data reasonably required by Fitchburg.

6.2 Lunenburg shall maintain written or electronic records and billing systems from which it can prepare the reports required under this Agreement. Fitchburg, by its officers or employees, shall have the right to inspect these original records and systems and to make copies thereof upon request.

6.3 Lunenburg shall notify Fitchburg in writing and keep Fitchburg informed of the name and title of its official or officials responsible for sewage services in Lunenburg and for implementation of the terms of this Agreement. If Lunenburg fails to do so, it shall be deemed to have designated the Town Manager as its Responsible Official

7. Inspections

7.1 Fitchburg has the right to inspect and test any equipment which Lunenburg is required to install and/or maintain under the Agreement. Fitchburg can require Lunenburg to repair and replace any such equipment if determined to be defective. If Lunenburg fails to replace or repair any such item, within a reasonable time under the circumstances, and as set forth in written notice to Lunenburg, Fitchburg may do so and bill Lunenburg for the cost thereof. Payment shall be due within thirty (30) days after Fitchburg mails or delivers a billing statement to Lunenburg.

7.2 Fitchburg has the right to inspect facilities and equipment in Lunenburg which may affect the sewer system. These inspections, and any inspections permitted under this Agreement, may include any and all tests that Fitchburg deems necessary. Lunenburg hereby consents to Fitchburg's entry onto or into property of Lunenburg for the purpose of any inspection or repair, installation or maintenance which Fitchburg may require under this Agreement. Fitchburg will not, except as expressly set forth in this Agreement, perform any work in Lunenburg but will require work, as needed, to meet Fitchburg's specifications for all extensions of sewer lines.

8. Remedies

8.1 In addition to the remedies, power and authority which the Water/Wastewater Commission has under ordinances of the City of Fitchburg, the following remedies apply:

a) If either party fails to fulfill any obligation or condition of this Agreement, the other party has the right to terminate this Agreement by giving sixty (60) days' notice, in writing, of its intent to do so. Upon receipt of such notice the party shall have the right to prevent termination by curing the default within thirty (30) days or a longer period if justified based on the nature of the obligation or condition. Any extension shall be agreed to in writing by both parties. Termination shall not release Lunenburg from its obligation to pay all bills or sums due in accordance with this Agreement.

b) Both parties reserve the right, either in law or equity, by suit, and complaint in the nature of mandamus, or other proceeding, to enforce or compel performance of any or all covenants herein.

c) Any bill remaining unpaid after the thirtieth day from the date of billing shall bear interest at the rate of the fourteen percent (14%) per annum computed from the end of the period that the payment is due.

d) If an administrative agency, board, commission or division of the state or federal government or any court impairs, alters, restricts, or limits directly or indirectly Fitchburg's rights, powers, or authority to maintain, sell, contract for, or permit sewage disposal as described in this Agreement, Fitchburg in its sole discretion may terminate and void this Agreement by written notice to Lunenburg. Termination under this clause shall not release Lunenburg from its obligation to pay any sum due and all bills owed for services previously rendered unless to do so would be in violation of a final administrative or judicial decree, order or ruling. The notice of termination shall be given as soon as possible, but not later than ten (10) business days after Fitchburg receives written notice of the action or decision of such agency, board commission, division or court. It is the intent of this notice provision to give Lunenburg as much advance notice as possible consistent with Fitchburg's need to terminate. Fitchburg will notify Lunenburg of the formal institution of any proceedings or the issuance of any formal order so that Lunenburg may, if it chooses, participate in such proceedings or challenge any such order.

e) If either party fails to perform any obligation under this Agreement, the other party may perform on behalf of the defaulting party and charge the reasonable costs thereof, including administrative time, to the defaulting party as a sum due under the Agreement provided written notice is given to the defaulting party allowing it time to cure the default as provided under Section 8.1(a) herein.

f) Fitchburg may, in its sole discretion, immediately stop providing service to Lunenburg if Lunenburg fails to cure any default as provided in paragraph 8.1 (a). Furthermore; Fitchburg may, in its sole discretion, immediately stop providing service to any consumer utilizing Lunenburg's access to Fitchburg's sewer system if any said consumer, by act or omission violates or fails to comply with any notice or order of the City permitted or required under EPA's pretreatment regulations or violates any requirement imposed by the EPA regulating wastewater discharge, treatment or pretreatment.

g) Either party may terminate this Agreement without cause, for any reason or no reason, by written notice to the other at least three (3) years in advance of the termination date. Termination shall not release Lunenburg from its obligation to pay all bills or sums due in accordance with this Agreement. During the termination notice period, both Fitchburg and Lunenburg shall be responsible for meeting all other applicable terms and conditions of this Agreement. In the event either party elects to terminate this agreement in accordance with this paragraph (Section 8.1.g) prior to the final payment of any debt obligation relating to the upgrade of the John Fitch Highway sewer line, the party electing to terminate shall be responsible for the remaining payments, owed to Fitchburg by Lunenburg, as of the effective date of termination. This notice provision shall not apply in the event either party must terminate the Agreement as a result of any order or directive received from any federal or state authority, or any court. Both parties agree to abide by any order or directive received federal or state authority or court, unless said order or directive is stayed due to any appeal. Both parties agree to provide the maximum amount of notice possible in the event of any force majeure or administrative court order that necessitates termination.

h) The remedies set forth in this Agreement are cumulative. The election of one does not preclude use of another.

8.2 The responsibility for enforcement and administration of this Agreement for the City of Fitchburg shall be assigned to the Water / Wastewater Commission. All reports, requests for extensions, permit applications, questions, etc. shall be addressed to the Water / Wastewater Commission or their designee.

8.3 In the event that a dispute, controversy, or claim exists which arises out of or relates to this Agreement, the parties hereto shall seek to resolve such dispute, controversy, or claim through good faith negotiations. Should such negotiations fail to achieve a resolution, the parties shall submit the dispute, controversy, or claim to a court of competent jurisdiction for adjudication thereof provided, however nothing herein shall prohibit the parties from seeking mediation or arbitration if mutually agreed to do so.

9. Emergencies

9.1 Each party shall as soon as practicable notify the other of any emergency or condition in either party's system of which it learns may affect the sewer disposal system in either municipality.

10. Wastewater Flow Meters

10.1 Wastewater flow meters will be installed at each point where the Lunenburg system enters the Fitchburg system. The purpose of these meters is to monitor Lunenburg's total flow into the Fitchburg system which shall be used for billing purposes.

10.2 When Fitchburg determines that a sewer meter has registered incorrectly, the Commission shall prepare an estimate of the amount of sewage accepted through the faulty meter for the purpose of billing Lunenburg. Fitchburg shall present evidence to Lunenburg demonstrating that the meter is reading incorrectly, justifying its estimate of sewage flow for the billing period. The estimate shall be based upon the average of three (3) preceding readings of the meters, exclusive of incorrect readings. When less than three (3) correct readings are available, fewer readings, including some obtained after the period of incorrect registration, may be used.

11. Lunenburg/Fitchburg Employees

11.1 Employees, servants, or agents of either municipality shall not be deemed to be agents, servants or employees of the other municipality for any purpose including but not limited to either Worker's Compensation or unemployment insurance purposes.

12. Method of Supply

12.1 Lunenburg agrees to purchase sewage disposal services and capacity from Fitchburg in accordance with the terms and conditions of this Agreement. Lunenburg shall be entitled to discharge up to 151,000 gallons per day of Normal Strength Wastewater into Fitchburg's sewer collection system at a location at the City of Fitchburg line on Route 2A in Lunenburg. Lunenburg shall also be entitled to discharge up to

10,000 gallons per day of Normal Strength Wastewater into Fitchburg's sewer collection system at a second location at the City of Fitchburg line on Summer Street in Lunenburg. The parties agree that upgrades to the John Fitch Highway sewer line are necessary and that Lunenburg will pay a percentage of the cost for the design and construction of these upgrades. The parties agree that the proportional share that Lunenburg will pay will be based on the percentage of Lunenburg's new requested reserve capacity divided by the total capacity of the new line. The parties further agree that the design flow basis, proportional cost shares, and term for payments of these upgrades will be mutually agreed upon when the final design and cost data becomes available. Lunenburg's share of the John Fitch Highway service line cost shall consist of Lunenburg's purchasing of 151,000 gallons per day of reserve capacity, of a total line capacity of one million, one hundred twenty six thousand (1,126,000) gallons, and reserving the right to discharge said flow into this line.

12.2 Fitchburg must approve all connections by Lunenburg to the Fitchburg wastewater system, said approval not to be unreasonably withheld or delayed. Lunenburg must construct and maintain wastewater flow meters at each approved connection suitable to continuously and accurately measure and record all flows entering the Fitchburg sewer system at all times. Fitchburg shall have the right of access to said wastewater flow meters for purposes of inspection and data acquisition.

12.3 All sewer (wastewater) flows expressed or referred to within this Agreement (unless otherwise noted) are monthly average daily flows and are computed based upon the most recent calendar month total flow measured at the Fitchburg connection, divided by the number of days in the month.

12.4 Upon receiving a request for a connection to the Fitchburg sewer system from the owner of property located, in whole or in part, in Lunenburg, Fitchburg shall notify Lunenburg of such request. In the event the property is located wholly in Lunenburg, no such connection shall be allowed without prior approval of Lunenburg. This Agreement shall not allow for additional extensions of the Fitchburg sewer system into Lunenburg beyond what is already in place upon the effective date of this Agreement. Any such extension shall be subject to approval by Lunenburg as well as all other applicable approvals and regulatory requirements.

In the event that a direct connection to the Fitchburg sewer system is permitted by Fitchburg for a property located in Lunenburg, Fitchburg shall be solely responsible for the sewer service serving that property, including the connection, the service line, and any maintenance and repair required for such service, including maintenance and repair within the bounds of the subject property or within the public or private right of way through which the service line or main line shall pass. Fitchburg shall further be responsible for all road repairs and restorations, including replacement of any landscaping disturbed during installation of such connection. Additional requirements for such connections shall be specified in any further agreements between Lunenburg and Fitchburg permitting such connections.

Fitchburg shall be responsible for providing appropriate sign-offs for applications for building permits and occupancy permits for properties located within Lunenburg and serviced directly by Fitchburg. It is the responsibility of the permit applicants to obtain such sign-offs from Fitchburg.

13. Use Restriction

13.1 Lunenburg shall use the sewage capacity furnished under this Agreement solely for its municipal wastewater and for wastewater generated by persons subject to its or Fitchburg's jurisdictional control and within Lunenburg's corporate limits. Lunenburg shall not permit any sewage capacity furnished hereunder to be used by any person outside of Lunenburg's territorial limits without the express written consent of Fitchburg in each instance.

14. Funding and Appropriations

14.1 Lunenburg agrees to appropriate annually sufficient money to pay for its obligations under this Agreement.

15. Connection Charge

15.1 Lunenburg agrees to pay Fitchburg a one-time connection charge of two thousand (\$2,000) for each new residential connection. A residential connection shall mean each residential unit connected to the sewer system. Each separate unit of a multi-family dwelling shall constitute a separate

residential connection. Commercial connection fees shall be due in accordance with the schedule in Attachment 1. Connection fees shall be payable and due to Fitchburg within sixty (60) days of any connection made to any line served through or by Fitchburg. Lunenburg shall submit to Fitchburg, by the 10th of the month, a list of all building permits issued during the prior month for properties sewered through Fitchburg. Any change in Fitchburg's sewer Connection Fee Schedule rate shall also be added to the rate charged to Lunenburg. The connection charges to Lunenburg will automatically change so as to be commensurate with the fees charged in Fitchburg, Fitchburg must notify Lunenburg of any changes in the fees. New fees shall become effective thirty (30) days after notification.

16. User Fee

16.1 In the spirit of fairness and equity, Lunenburg agrees to pay Fitchburg on a monthly basis the same user fee per hundred cubic feet of Normal Strength Wastewater as Fitchburg residents plus an agreed adder. The adder will be determined on an annual basis and will only represent documented costs that are the result of special costs to support this IMA which do not have an equivalent or offsetting cost within the Fitchburg system/rate structure. Both parties agree to work cooperatively to minimize and or eliminate this adder over time. These fees are due and payable within 30 days from the billing date. Any increase in Fitchburg's rate to its single family residential users shall also be added to the rate charged to Lunenburg, penny for penny per unit of flow. Fitchburg will provide Lunenburg with notification of any rate increase at least 90 days before it is to become effective. In no case will Lunenburg be responsible for the new rate less than 90 days after notification.

16.2 Fitchburg may surcharge Lunenburg for discharge of wastewater containing pollutant levels exceeding concentrations found in Normal Strength Wastewater, in proportion to the actual strength as compared to the maximum normal strength based upon BOD or suspended solids, at Fitchburg's option. If requested by Fitchburg, Lunenburg shall obtain samples at each connection point to Fitchburg and

forward the analytical results to Fitchburg. Parameters to be analyzed are Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), pH, and Oil and Grease. Parameters subject to analysis may be changed from time to time based on changes to Fitchburg's NPDES permit and local limits. All sampling and analysis shall be done in accordance with 40 CFR 136.

16.3 Unless mutually agreed, all capital costs required to support the collection or processing of the waste water will be included in the rate per paragraph 16.1

17. Infiltration/Inflow Correction

17.1 In accordance with the NPDES permit for the Fitchburg treatment facility, Lunenburg will actively identify and remove sources of excessive I/I from their sewer lines that discharge to the Fitchburg system. By January 31 of each year, Lunenburg will provide Fitchburg with an annual statement or summary of all I/I removal activities for the system tributary to Fitchburg.

18. Sewer Use Ordinance

18.1 The Town of Lunenburg shall adopt local sewer use regulations which are no less stringent in every particular and, is as broad in scope as, or stricter than, the Fitchburg Sewer Ordinance presently codified in Chapter 147 of the Code of the City of Fitchburg as amended through August 31, 1993. The Lunenburg regulations shall in any event be consistent with and meet all requirements of the EPA as presently codified at 40 CFR Part 403 and as the same may from time to time be amended. The regulations will designate the Commission as Lunenburg's agent to enforce its provisions. In the alternative, Lunenburg may adopt a sewer use by-law, meeting the same standards set forth herein. If it appears that the Lunenburg Sewer Commission lacks or may lack the authority to adopt such regulations, in whole or in part, then the Town shall adopt a by-law meeting the requirements of this Section. Fitchburg and Lunenburg shall notify the other, within thirty (30) days, of enacting any changes to their respective regulations or Sewer Ordinance or By-law.

18.2 Lunenburg's adoption of such valid regulations and its establishment of local limits as set forth in this section at (19.5) shall constitute a condition precedent to the existence of this Agreement. Fitchburg shall have no obligation to accept wastewater from Lunenburg until the regulations are duly enacted and effective.

18.3 Lunenburg shall submit a copy of its current regulations to Fitchburg for review within 90 days of the date of execution of this Agreement. Fitchburg shall endeavor to coordinate its review with that of the City of Leominster. Fitchburg shall submit its comments and proposed changes to Lunenburg. Lunenburg will adopt its regulations as modified by Fitchburg within 60 days of the receipt of Fitchburg's approval of the regulations.

18.4 Whenever Fitchburg revises its sewer use ordinance, it will forward a copy of the revisions to Lunenburg. Lunenburg will adopt revisions to its sewer regulations that are at least as stringent in every particular and as broad in scope as those adopted by Fitchburg. Lunenburg will submit its proposed revisions to Fitchburg for review within thirty (30) days of its receipt of Fitchburg's revisions and will adopt its revisions to rules and regulations within ninety (90) days of receiving approval from Fitchburg. Necessary Lunenburg bylaw changes shall be made within twelve (12) months of Fitchburg's approval, or sooner based on scheduled Town Meetings in Lunenburg.

18.5 Lunenburg will adopt pollutant specific local limits which address the same pollutant parameters and are at least as stringent as the local limits enacted by Fitchburg within 100 days of the date this Agreement is executed. If Fitchburg makes any revisions or additions to its local limits, it will forward those revisions to Lunenburg which will adopt such revisions within thirty (30) days after receipt thereof.

19. Enforcement Authority

19.1 Fitchburg, acting by and through its Water / Wastewater Commission, will perform the technical and administrative duties necessary to implement and enforce Lunenburg's sewer use regulations. Fitchburg may: (1) enforce the terms and conditions of all permits issued by Fitchburg under this Agreement; (2) issue permits only to

industrial users required to obtain a permit by Lunenburg's pre-treatment ordinance; (3) conduct inspections, sampling and analysis of permitted users; (4) take all enforcement actions against industrial users subject to pretreatment requirement, as set forth in Fitchburg's enforcement response plan and as provided in Lunenburg's sewer use ordinance; and (5) perform any other technical or administrative duties it deems appropriate. In addition, Fitchburg may, as agent of Lunenburg, take emergency action to stop, prevent or lessen any discharge which presents, or may present, an imminent or immediate threat or danger to the health, safety or welfare of human beings or which reasonably appears, in its discretion, to threaten the environment or which threatens to cause interference, pass through or sludge contamination.

19.2 Lunenburg hereby designates Fitchburg as the agent of Lunenburg for the purpose of the implementation and enforcement of Lunenburg's Pretreatment Requirements against users located in and/or subject to Lunenburg's and Fitchburg's jurisdiction. Except for the administrative duties and enforcement set forth in paragraph 19.1 which are the obligations of Fitchburg, Lunenburg shall have the primary duty to administer and enforce its sewer regulations. Upon Lunenburg's failure to enforce, Fitchburg shall take any enforcement action which it deems necessary or which is necessary to enforce or compel compliance with EPA pretreatment standards, regulations and policies. Fitchburg may take any action under Lunenburg's sewer use regulations which Lunenburg could take including, but not limited to, enforcement by administrative fines, or civil or criminal enforcement in any appropriate court. Lunenburg's regulations shall restate this agency and shall require any Lunenburg consumer connected to the Fitchburg system to consent formally to the provisions of this agency. All administrative and judicial civil penalties and fines assessed by or for Fitchburg pursuant to this agency authority shall be the property of, and paid to, Fitchburg.

19.3 Before an industrial user or any other user subject to pretreatment standards discharges into Lunenburg's sewer system any wastewater which will be discharged into Fitchburg's system under the terms of this Agreement the user shall obtain a permit from Fitchburg in accordance with the Fitchburg and Lunenburg sewer use ordinance.

19.4 Lunenburg will reimburse Fitchburg for all Fitchburg's reasonable costs, including reasonable attorney and court cost, incurred in implementing and enforcing Lunenburg's sewer use regulations within thirty (30) days after receipt of an accounting of all such costs; provided, however, that Fitchburg shall first use its best efforts to recover such costs from the users responsible for the violation.

19.5 If the authority of Fitchburg to act as agent for Lunenburg under this Agreement is called into question by any user, court, state or federal agency, department, board or otherwise, Lunenburg will take whatever action is necessary to ensure the implementation and enforcement of its sewer use regulations to the fullest extent against its users including, but not limited to, implementing or enforcing its regulations on its own behalf and/or amending this Agreement or its regulations to clarify Fitchburg's authority. If, for any reason, Fitchburg's authority as agent is not recognized and Fitchburg asks Lunenburg to enforce its regulations or clarify Fitchburg's authority, Lunenburg shall do so.

19.6 The parties will review and revise this Agreement to ensure compliance with the United States Clean Water Act, 42 U.S.C. § 1251 et seq. and the rules and regulations promulgated thereunder as necessary, but at least once every three (3) years on a date to be determined by the parties

19.7 Nothing contained herein shall be construed as limiting in any way Lunenburg's authority to enforce its sewer regulations.

20. Definitions of Terms

“EPA” shall mean the United States Environmental Protection Agency or where appropriate the Regional Water Management Division Director or other authorized official of the agency.

“Fitchburg or “City” shall mean the City of Fitchburg or where appropriate the City of Fitchburg acting by and through its Water / Wastewater Commission.

“Lunenburg” or “Town” shall mean the Town of Lunenburg.

“Act or “the Act” shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act as amended, 33 U.S.C. § 1251, et seq.

“DEP” or “MA DEP” shall mean the Massachusetts Department of Environmental Protection.

“Discharge” or “indirect discharge” shall mean the introduction of pollutants into the publicly owned treatment works from any non-domestic source regulated under the Act.

“BOD” or “Biochemical Oxygen Demand” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade expressed as a concentration (e.g. as mg/l).

“Person” shall mean every individual, partnership, corporation, municipal corporation, water district, firm, association or group of individuals.

“Lunenburg’s customers or consumers” shall mean those persons in Lunenburg to whom Lunenburg sells or distribute sewage disposal from Fitchburg under this Agreement.

“Normal Strength Sewage (Wastewater)” as expressed or referred to in this Agreement shall be defined as sewage having a five (5) day biochemical oxygen demand (BOD) less than or equal to 250 mg/l and a total suspended solids concentration less than or equal to 300 mg/l based upon a 24 hour composite sample comprised of at least 6 discrete samples.

“User” as used herein shall mean a source discharge or indirect discharge.

Any word or phrase used in this Agreement not otherwise expressly defined herein shall have the meaning assigned to them as set forth in the Fitchburg Sewer Ordinance.

21. Service of Notice

21.1 All notices or communications permitted or required by this Agreement must be in writing except in emergencies, and shall:

As to Fitchburg, be delivered or mailed by certified mail, return receipt requested, to the Mayor's Office, 166 Boulder Drive, City Hall, Fitchburg, MA 01420, and the office of the Water / Wastewater Commission at the same address.

As to Lunenburg, be delivered or mailed by certified mail, return receipt requested, to the Board of Selectmen's Office, P. O. Box 135, 17 Main Street, Lunenburg, MA 01462, and the office of the official designated by Lunenburg pursuant to Section 6.6 of this Agreement.

22. Extension of Term

22.1 The parties during the 23rd year of this Agreement, unless it is sooner terminated, shall meet to negotiate in good faith for an extension or renewal of this Agreement subject to authorizations that may be required by then applicable law. This acknowledgment that the term of the Agreement, including any new terms or conditions, may be extended, does not impose on either party any express or implied obligations with regard to the potential negotiations or Agreement. Neither party has any added or implied obligation to extend or renew the terms of the Agreement (with or without modifications).

23. Forum and Choice of Law

23.1 This Agreement and any performance under it shall be interpreted and governed in accordance with the laws of the Commonwealth of Massachusetts except for those requirements, terms, duties and conditions regulated by federal

law. Any and all proceedings or actions relating to the subject matter herein shall be brought and maintained in the courts of the Commonwealth which shall have exclusive jurisdiction thereof. Any term or word used herein not otherwise defined shall have the same meaning as the term or word as defined in the Fitchburg Sewer Ordinance.

24. Regulatory Authority

24.1 This Agreement is subject to the lawful rules, regulations, decisions, order or directives of the EPA and of any agency of the state and federal government with jurisdiction over the parties or subject matter of the Agreement. Any and all conditions, rules, regulations, orders or other requirements heretofore or hereafter placed upon Fitchburg or Lunenburg by the EPA or by the Department of Environmental Protection or any other agency, division, office or department of the United States or the Commonwealth of Massachusetts or by any court of competent jurisdiction and by any other applicable Federal, state or county agency, shall be construed to become a part of this Agreement unless the Agreement is terminated hereunder. Further, any additional costs placed upon Fitchburg as a result of any orders of the above referenced court or agencies in connection with the supplying of sewage disposal to Lunenburg by Fitchburg shall be borne by Lunenburg, in proportion to Lunenburg's responsibility, and only for facilities that Lunenburg flows to or through. If Fitchburg is found to be grossly negligent in its operation of the publicly owned treatment works, any non-compliance fines shall be paid by Fitchburg only.

25. Severability, Headings, Integration

25.1 If any provision of this Agreement is declared or found illegal, unenforceable or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Agreement shall be enforced to the fullest extent permitted by law. The headings are used for reference only and shall not be a factor in the interpretation of this Agreement. This Agreement shall supersede all other verbal and written Agreements and negotiations by the parties

relating to performance of the obligations under this Agreement and contains to full and complete and integrated agreement of the parties on the subject matters referred to herein. Any doubt as to meaning, any interpretation issue or any question as to intent of the parties shall be resolved to make this Agreement and the obligations of the parties under it, conforms to the letter purpose and intent of the EPA pre-treatment standards and the Act.

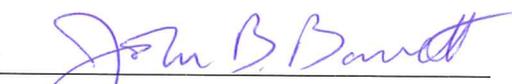
IN WITNESS WHEREOF, on the date first mentioned, the officials of the City of Fitchburg and the Town of Lunenburg hereto execute this Agreement, in quadruplicate copies. When executed, the Agreement shall be recorded in the office of the Clerk of each municipality.

CITY OF FITCHBURG

(Seal of the City of Fitchburg)

By 
Mayor of Fitchburg

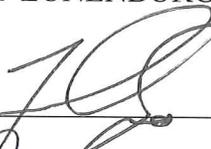
Approved as to form and legality

By 
City Solicitor

By 
Chairperson, Water / Wastewater Commission

TOWN OF LUNENBURG

(Seal of the Town of Lunenburg)

By 

By 

By 

By 

By 

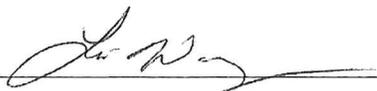
Approved as to form and legality

By _____
Town Counsel

IN WITNESS WHEREOF, on the date first mentioned, the officials of the City of Fitchburg and the Town of Lunenburg hereto execute this Agreement, in quadruplicate copies. When executed, the Agreement shall be recorded in the office of the Clerk of each municipality.

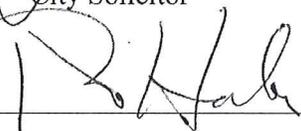
CITY OF FITCHBURG

(Seal of the City of Fitchburg)

By 
Mayor of Fitchburg

Approved as to form and legality

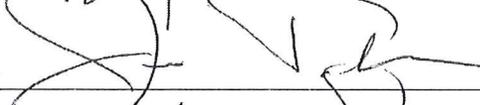
By 
City Solicitor

By 
Chairperson, Water / Wastewater Commission

TOWN OF LUNENBURG

(Seal of the Town of Lunenburg)

By 
By 

By 
By 
By 

Approved as to form and legality

By 
Town Counsel

ATTACHMENT 1

CONNECTION FEE SCHEDULE

Sewer Connections Fees as of March 2010

Commercial Rates

0 – 1000 gallons	\$2,000.00
1001 – 2000 gallons	\$2,000.00
add for each gallon over 1000	\$1.50
2001 - 10,000 gallons	\$3,500.00
add for each gallon > 2000	\$0.75
10,001 - 50,000 gallons	\$9,500.00
add for each gallon > 10,000	\$0.50
> 50,000 gallons	\$40,000.00

Residential Rates

Single Family	\$2,000.00
Multi-Family - First unit	\$2,000.00
Each additional unit	\$1000.00