

**Agreement for Sewage Treatment**  
**Old Lyme Beach Associations/Town of Old Lyme/City of New London**

THIS AGREEMENT FOR SEWAGE TREATMENT (hereinafter “Agreement”) is entered into and effective as of August \_\_, 2024 (the “Effective Date”) by and between the City of New London, Connecticut, a municipal corporation, with its principal place of business at 181 State Street, New London, Connecticut, 06320, acting through its City Council and Water & Water Pollution Control Authority (both hereinafter referred to as the “CITY”), and The Miami Beach Association and The Miami Beach Association Water Pollution Control Authority, each located in the Town of Old Lyme, Connecticut (collectively, “Miami Beach”); Old Lyme Shores Beach Association and Old Lyme Shores Beach Association Water Pollution Control Authority, each located in the Town of Old Lyme, Connecticut (collectively, “Old Lyme Shores”); and The Old Colony Beach Club Association and The Old Colony Beach Club Association Water Pollution Control Authority, each located in Old Lyme, Connecticut (collectively, “Old Colony”) (Miami Beach, Old Lyme Shores and Old Colony are sometimes individually referred to herein as a “BEACH ASSOCIATION” or are collectively referred to herein as the “BEACH ASSOCIATIONS”); and the Town of Old Lyme, a municipal corporation, and Old Lyme Water Pollution Control Authority with its principal place of business at Old Lyme Town Hall] (hereinafter referred to collectively as “OLD LYME”). Each entity identified in this paragraph is a “Party” and any number of them collectively are “Parties.”

WHEREAS, the CITY owns and operates a water supply, treatment, and distribution system, and a wastewater collection, treatment, and discharge system that serves the City of New London, as well as all or part of the Towns of East Lyme and Waterford in Connecticut (hereinafter referred to as the “Systems”).

WHEREAS, the BEACH ASSOCIATIONS and OLD LYME have the authority under the laws of the State of Connecticut (the “State”) and the BEACH ASSOCIATIONS and OLD LYME desire to enter into a contract for the CITY to provide use of the Systems for the BEACH ASSOCIATIONS and OLD LYME;

WHEREAS, the CITY has the authority under the laws of the State and the CITY desires to enter into a contract for the CITY to provide use of the Systems for the BEACH ASSOCIATIONS and OLD LYME;

NOW THEREFORE, in consideration of the mutual agreements herein contained, and subject to the terms and conditions herein stated, the Parties agree as follows:

**1.0 PURPOSE**

During the term of this Agreement, the CITY agrees to provide sewage treatment for the BEACH ASSOCIATIONS and OLD LYME pursuant to the terms and conditions of this Agreement.

**2.0 SCOPE OF SERVICES**

The scope of services to be provided by the CITY under this Agreement shall be to perform all services required for treating the BEACH ASSOCIATIONS' and OLD LYME'S sewage pursuant to the terms of this Agreement and all interlocal and tri-town agreements now in force, and as may be hereinafter amended, affecting the operation of the Systems. [OPEN: DD to discuss with OLSSPA the following comment – NL to provide an example of how an amendment to an interlocal or tri-town agreement may affect the services provided by the CITY under this Agreement. The concern is that the BEACH ASSOCIATIONS and OLD LYME may be adversely affected by agreements to which they are not a Party and thus have no control.] The CITY warrants that the sewage treatment services provided herein shall comply with all applicable local, State and federal laws, rules, regulations, ordinances [OPEN] and requirements.

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## 2.1 Daily Flow Rate

The CITY agrees to provide a maximum of one hundred and seventy thousand (170,000) gallons per day of sewage treatment pursuant to this Agreement. The treatment shall be allocated as one hundred and twenty thousand (120,000) gallons per day to the BEACH ASSOCIATIONS and fifty thousand (50,000) gallons per day to OLD LYME. The BEACH ASSOCIATIONS and OLD LYME reserve the right to purchase up to an additional 130,000 gallons per day (gpd) capacity in increments of 1,000 with a 25,000 gpd minimum.

## 2.2 Treatment Cost

The Parties agree that the System treatment cost pursuant to this Agreement shall be variable and based on actual audited costs associated with operation and administration of the wastewater treatment facility. Said System treatment cost to be billed by the CITY quarterly in July, October, January and April. BEACH ASSOCIATIONS and OLD LYME are to provide estimated usage flows for the upcoming treatment year no later than July 1 for the purpose of setting the estimated billing amount for the upcoming fiscal year. On the January bill, the CITY will reconcile to actual usage flows for the prior year based on said actual audited costs associated with the operation and administration of the wastewater treatment facility. Said treatment cost shall be variable and calculated in the same manner [OPEN] as it is for all other member communities. ~~Late~~The BEACH ASSOCIATIONS and OLD LYME shall pay said treatment cost bills within thirty (30) days of receipt. Thereafter, late fees in the amount of one and one-half percent (1.5%) per month shall be incurred for each month that the BEACH ASSOCIATIONS and OLD LYME fail to pay said bills for treatment cost. The current treatment cost rate as of the Effective Date of this Agreement is \$2.50/1000 gallons of sewage processed. It is understood by the Parties that this rate may be adjusted either upward or downward based on the calculation, rates and costs in effect at the time flow actually commences. Quarterly billing shall be calculated in the same manner [OPEN] as it is for all other member communities in terms of format [OPEN], content and timeframe. BEACH ASSOCIATIONS (individually and collectively) and OLD LYME shall be jointly and severally liable for payment of the treatment cost. The CITY shall send all treatment cost

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bills to:

Old Colony Beach Club Association  
P.O. Box 10  
Old Lyme, CT 06371  
Attention: WPCA Treasurer  
E-mail: [douglaswhalen@comcast.net](mailto:douglaswhalen@comcast.net)

Old Colony Beach Club Association will receive the bill and will be responsible for coordinating payment to the CITY and for obtaining payment from the other BEACH ASSOCIATIONS and OLD LYME for their shares.

### 2.3 Initial Connection Costs

A. The BEACH ASSOCIATIONS previously paid the CITY earnest money in the amount of \$10,000 pursuant to the terms and conditions of the September 14, 2021 Amendment One to the April 27, 2018 OLD LYME BEACH ASSOCIATIONS/NEW LONDON AGREEMENT, which terms and conditions are superseded by this Agreement. The BEACH ASSOCIATIONS hereby agree to an initial connection cost in the amount of one million five hundred seventy-five thousand and one hundred and forty dollars (\$1,575,140.00) (\$1,585,140.00 less the additional earnest money of \$10,000 to be paid by the BEACH ASSOCIATIONS at the signing of this Agreement) to be paid over twenty years plus a two and six two five percent (2.625%) interest to be compounded yearly, said payments to be made on a quarterly basis billed along with treatment costs. If the bill is not paid within thirty (30) days of receipt, late fees in the amount of one and one-half percent (1.5%) per month shall be incurred for each month that the BEACH ASSOCIATIONS fail to pay the billed initial connection cost. This cost is for the initial capacity of 120,000 gallons per day. Construction of project shall commence within 18 months of the signing of this Agreement. Every effort shall be made by the BEACH ASSOCIATIONS to expedite the commencement of the construction project. Payments under this section shall commence on September 1, 2028, or at the beginning of flow from the BEACH ASSOCIATIONS, whichever comes first. BEACH ASSOCIATIONS (individually and collectively) shall be jointly and severally liable for payment of the initial connection cost. Old Colony Beach Club Association will be responsible for coordinating payment to the CITY and for obtaining payment from the other BEACH ASSOCIATIONS for their shares. The CITY agrees to enter into negotiations to extend the start date for payments under this paragraph 2.3 in the event that the project has been delayed through no fault of the BEACH ASSOCIATIONS [(with the exception of claims of financial inability) OPEN] such that flow will not commence by September 1, 2028.

B. OLD LYME previously paid the CITY earnest money in the amount of \$10,000 pursuant to the terms and conditions of the September 14, 2021 Amendment One to the April 27, 2018 OLD LYME BEACH ASSOCIATIONS/NEW LONDON AGREEMENT, which are superseded by this Agreement. OLD LYME hereby agrees to an initial connection cost in the amount of seven hundred and two thousand and eight

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hundred and nineteen dollars and seventeen cents (\$702,819.17) (consisting of \$712,819.17 less the additional earnest money of \$10,000 to be paid by OLD LYME upon the signing of this Agreement) to be paid over twenty years plus a two and six two five percent (2.625%) interest to be compounded yearly, said payments to be made on a quarterly basis billed along with treatment costs. If the bill is not paid within thirty (30) days of receipt, late fees in the amount of one and one-half percent (1.5%) per month shall be incurred for each month that OLD LYME fails to pay the billed initial connection cost. This cost is for the initial capacity of 50,000 gallons per day. Construction of project shall commence within 18 months of the signing of this Agreement. Every effort shall be made by OLD LYME to expedite the commencement of the construction project. Payments under this section shall commence on September 1, 2028, or at the beginning of flow from OLD LYME, whichever comes first. The Old Colony Beach Club Association will be responsible for coordinating payment to the CITY and for obtaining payment from OLD LYME for its share. The CITY agrees to enter into negotiations to extend the start date for payments under this paragraph 2.3 in the event that the project has been delayed through no fault of OLD LYME [(with the exception of claims of financial inability) OPEN] such that flow will not commence by September 1, 2028.

OLD LYME agrees to pay for all reasonable attorney's fees and costs borne by the CITY in the preparation of this Agreement, not to exceed two-thousand five hundred dollars (\$2,500.00).

#### 2.4 Plant Capital Expenses

The BEACH ASSOCIATIONS agree to pay one and two-tenths percent (1.2%) and OLD LYME agrees to pay five-tenths percent (0.5%) of the annual plant capital expenses associated with the 120,000 gallon per day and 50,000 gallon per day capacity, respectively, payable on an as needed and billed basis along with treatment costs and initial connection cost; said payment is due thirty (30) days after receipt of bill by BEACH ASSOCIATIONS and OLD LYME. BEACH ASSOCIATIONS (individually and collectively) and OLD LYME shall be jointly and severally liable for payment of their respective shares of the annual plant capital expenses. The Old Colony Beach Club Association will receive the bills and will be responsible for coordinating payment to the CITY and for obtaining payment from the other BEACH ASSOCIATIONS and OLD LYME for their shares. The above-stated percent of annual plant capital expenses will increase proportionately with additional capacity purchased in the future. If the plant capital expenses bill is not paid within thirty (30) days of receipt, late fees in the amount of one and one-half percent (1.5%) per month shall be incurred for each month that the billed plant capital expenses remain unpaid. No plant capital expenses shall be charged to BEACH ASSOCIATIONS and/or OLD LYME by reason of any capacity expansion by CITY. ~~BEACH ASSOCIATION and OLD LYME shall maintain capital accounts at an initial pre-determined minimum as follows: BEACH ASSOCIATIONS—\$40,000.00 and OLD LYME—\$16,667.00. A separate ledger for each of the capital accounts will be maintained by the City on behalf of each of the Parties. Any of the Parties will be allowed to go below their minimum amount only with the approval of the other Parties. These~~

~~minimum balances will increase each year of this Agreement by a 2% escalation factor so that these minimum balances stay relatively current with inflation throughout the length of the Agreement. The parties would have the choice of directing the City to take capital costs from their capital account so long as they keep the minimum balance. The funds in the capital accounts shall be invested by the City in the same instruments and with the same prudence as is required by State statute and regulation for the investment of municipal funds generally. All income from the investment of the capital accounts shall be credited to each party's capital account in the same proportion as the respective balances of the capital account of each party at the time the income was accrued.~~ **[OPEN: In lieu of the deleted language that was newly-added by the CITY, the BEACH ASSOCIATIONS and OLD LYME are willing to provide the CITY with proof that they have the minimum balance amounts on deposit.]**

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## 2.5 Capacity Reservation Option

The Parties agree that the BEACH ASSOCIATIONS and OLD LYME, acting jointly, will have the option to reserve a combined total of an additional one hundred and thirty thousand (130,000) gallons per day of flow. The purpose of said reservation option is for the CITY to provide additional capacity for future needs of any of the Parties. The buy-in option for said additional capacity must be purchased in increments of 1,000 gpd with a minimum purchase of 25,000 gpd and shall be calculated utilizing the same formula as the initial connection cost set forth in Section 2.3 of this Agreement **[OPEN – Brian to confirm terminology is acceptable]** and shall be payable as follows: (a) For the first through fifth years of this Agreement, there shall be a cost of zero dollars (\$0.00), (b) For years six through ten of this Agreement, there shall be a one-time fee in the amount of five thousand dollars (\$5,000.00) payable within thirty days after the BEACH ASSOCIATIONS and OLD LYME have exercised the option to continue with the option, (c) For years eleven through fifteen, there shall be a one-time fee in the amount of ten thousand dollars (\$10,000.00) payable within thirty days after the BEACH ASSOCIATIONS and OLD LYME have exercised the option to continue with the option, and (d) For years sixteen through twenty and beyond **[OPEN]**, there shall be a one-time fee in the amount of fifteen thousand dollars (\$15,000.00) payable within thirty (30) days after the BEACH ASSOCIATIONS and OLD LYME have exercised the option to continue with the option as long as this Agreement remains in effect **[OPEN]**.

## 2.6 Source of Sewage

The sewage sent for processing by the BEACH ASSOCIATIONS and OLD LYME shall be generated solely from the BEACH ASSOCIATIONS and OLD LYME communities and from no other source. Any extension of this Agreement to additional communities is subject to the mutual written consent of all Parties. In determining the interest rate applicable to the buy in cost (also known as the initial connection cost) from an additional community to be added to this Agreement, the CITY agrees to use a reasonable historic interest rate beginning as of January 1, 2024 for any future extension of this Agreement to other sources of sewage not covered in this Agreement. The Parties agree to not unreasonably deny requests to add additional communities. It shall not be

considered unreasonable for the CITY to deny requests to add additional communities based upon an actual lack of [OPEN] capacity. Sewage shall be domestic only and have parameters based upon typical values of domestic sewage and must not be atypical. Atypical sewage is not ("Atypical Sewage"). Atypical sSewage is not covered by this Agreement. [OPEN]

### 2.7 Electronic Flow Signal

The BEACH ASSOCIATIONS and OLD LYME shall provide an electronic flow signal data to the New London WWTF Waste Water Treatment Facility of the CITY as part of the overall sewer construction project. The meter utilized for flow measurement shall be calibrated bi-annually two times per year and paid for by the BEACH ASSOCIATIONS and OLD LYME. Calibration data shall be submitted within 30 days of calibration. [OPEN]

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## 3.0 TERM AND TERMINATION

### 3.1 Term

This Agreement shall commence on the Effective Date and continue in full force and effect until terminated pursuant to the terms of this Agreement. The CITY shall commence services to the BEACH ASSOCIATIONS and OLD LYME under this Agreement on the day that flow commences from the BEACH ASSOCIATIONS and OLD LYME, and the initial term of this Agreement shall end twenty (20) years from such flow commencement date (the "Initial Term"), unless this Agreement is sooner terminated pursuant to the terms of this Agreement. Upon the expiration of the Initial Term, this Agreement shall automatically renew for additional one-year terms (each a "Renewal Term"), unless the Agreement has been sooner terminated pursuant to the terms of this Agreement. Treatment costs are variable and covered under Section 2.2 of this Agreement. In the event flow commencement from the BEACH ASSOCIATIONS and OLD LYME does not commence by September 1, 2028 and the BEACH ASSOCIATIONS and OLD LYME have not commenced payments under Section 2.3 of this Agreement, this Agreement shall automatically terminate on September 2, 2028 [unless the Parties have entered into or concluded negotiations to extend the start date for payments pursuant to Section 2.3- of this Agreement. For the avoidance of doubt, the Parties shall be deemed to have "concluded negotiations" if any Party provides written notice to another Party that it is terminating the negotiations. [OPEN]

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### 3.2 Termination

This Agreement may be terminated by the CITY for the material breach ("breach") of this Agreement by the BEACH ASSOCIATIONS and OLD LYME, and may be terminated by the BEACH ASSOCIATIONS and OLD LYME for the breach of this Agreement by the CITY, but only if (a) the Party claimed to have committed the breach (the "Breaching Party") received written notice of such breach from the other Party ("Non-Breaching Party") in accordance with Section 5.9, Notices, of this Agreement, and

(b) such notice of breach stated (i) with reasonable specificity the breach complained of and (ii) that the claimed breach is of such nature that it, in the opinion of the Non-Breaching Party, the Non-Breaching Party would have a right to terminate this Agreement unless the breach is cured within thirty (30) days from the date of the Breaching Party's receipt of said written notice of breach or, with respect to a breach which cannot be cured within said thirty (30)-day period, the Breaching Party fails to take within said thirty (30)-day period diligent steps to cure the breach as soon as reasonably possible. If, in the opinion of the Non-Breaching Party, the breach has been cured within said period, or diligent steps to cure the breach as soon as reasonably possible have commenced within said period, there shall be no cause for the termination of this Agreement. It is expressly understood and agreed that the notice required and the right to cure afforded by this Section shall apply to each and every obligation of the Parties under the Agreement, whether the obligation is a general or specific one.

For the purpose of this Section 3.2 only, the Parties agree that if the CITY is the Non-Breaching Party providing written notice of termination of this Agreement to the Breaching Party, the sending of such written notice and the termination of the Agreement by the CITY shall be determined by a majority vote of the City Council of New London. The City Council of New London shall first obtain a recommendation from the Water and Water Pollution Control Authority regarding any proposed written notice of termination. It is specifically agreed that any vote of the Water and Water Pollution Control Authority concerning termination shall be advisory only.

#### **4.0 RISK MANAGEMENT AND DISPUTE RESOLUTION**

##### **4.1 Indemnification**

With respect to any and all claims against the CITY, the BEACH ASSOCIATIONS and OLD LYME agree to indemnify and save harmless the CITY and each of its elected or appointed officers, employees and agents from and with respect to any claims, threatened claims, demands, suits, liabilities or obligations (whether brought by private parties or governmental agencies) for any and all loss, including but not limited to death, bodily injury, property damage, natural resource damage or any other injury or damage arising out of, or relating to, the services (including any cessation of services) provided by BEACH ASSOCIATIONS and OLD LYME which may be made against the CITY arising by reason of, or in connection with, any alleged negligent act or omission, any reckless or willful misconduct or any breach of this Agreement by BEACH ASSOCIATIONS and OLD LYME or any person claiming under, by or through BEACH ASSOCIATIONS and OLD LYME and if it becomes necessary for the CITY to defend any action seeking to impose any such liability BEACH ASSOCIATIONS and OLD LYME will pay the CITY any sums which the CITY is ordered to pay by reason of the entry of a final judgment against the CITY in the litigation in which such claim is asserted.

With respect to any and all claims against the BEACH ASSOCIATIONS and/or OLD LYME, the CITY agrees to indemnify and save harmless the BEACH ASSOCIATIONS

and/or OLD LYME and each of their elected or appointed officers, employees and agents from and with respect to any claims, threatened claims, demands, suits, liabilities or obligations (whether brought by private parties or governmental agencies) for any and all loss, including but not limited to death, bodily injury, property damage, natural resource damage or any other injury or damage arising out of, or relating to, the services (including any cessation of services) provided by the CITY which may be made against the BEACH ASSOCIATIONS and/or OLD LYME arising by reason of, or in connection with, any alleged negligent act or omission, any reckless or willful misconduct or any breach of this Agreement by the CITY or any person claiming under, by or through the CITY and if it becomes necessary for the BEACH ASSOCIATIONS and/or OLD LYME to defend any action seeking to impose any such liability the CITY will pay the BEACH ASSOCIATIONS and/or OLD LYME any sums which the BEACH ASSOCIATIONS and/or OLD LYME are ordered to pay by reason of the entry of a final judgment against the BEACH ASSOCIATIONS and/or OLD LYME in the litigation in which such claim is asserted.

## **4.2 Dispute Resolution**

It is the express intention of the Parties that all legal proceedings related to this Agreement or to any rights or any relationship between the Parties arising therefrom shall be solely and exclusively initiated and maintained in the Superior Court for the Judicial District for New London at New London, Connecticut. The BEACH ASSOCIATIONS, OLD LYME and the CITY each irrevocably consents to the jurisdiction of such court in any such actions or proceedings, waives any objection it may have to the laying of the jurisdiction of any such action or proceeding. With the exception of injunctive relief (which any Party may seek as it deems necessary to avoid irreparable damage or preserve its rights), any dispute between the Parties arising out of or related to this Agreement shall be resolved as follows:

4.2.1 Upon the written request of a Party, the other Party will appoint a designated representative whose task it will be to meet for the purpose of resolving such dispute. Each designated representative shall have the authority to reach a binding resolution of the dispute through discussion, the exchange of documents and/or meetings. The designated representatives shall negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding relating thereto.

4.2.2 All disputes which have not been resolved by the designated representatives within thirty (30) days after said initial written request by one of the Parties to appoint a designated representative, shall be subject to non-binding mediation as a condition precedent to the institution of legal proceedings by a Party. If the Parties do not agree on a mediator and mediation rules within a reasonable period of time, not to exceed twenty (20) days following the expiration of said thirty (30) day period, a Party may request the Superior Court for the Judicial District for New London at New London, Connecticut, to appoint a mediator. The Parties shall endeavor to resolve their disputes by mediation and shall share the mediator's fee and any filing fee equally (one-half to the CITY and one-half to the BEACH ASSOCIATIONS and OLD LYME). The mediation shall be held in New London, Connecticut. Agreements reached in mediation shall be enforceable as



settlement agreements in the Superior Court for the Judicial District for New London at New London, Connecticut. Any settlement agreements are required to be approved by The City Council of New London. If the mediator is unable to facilitate a settlement of the dispute within a reasonable period of time, as determined by a written statement from the mediator, the aggrieved Party may then seek relief through the Superior Court for the Judicial District for New London at New London, Connecticut.

BEACH ASSOCIATIONS, OLD LYME AND CITY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND BEACH ASSOCIATIONS, OLD LYME AND CITY HEREBY AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE PARTIES' CONSENT TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

## **5.0 MISCELLANEOUS**

### **5.1 Entire Agreement and Amendments**

This Agreement contains the entire agreement between the CITY, BEACH ASSOCIATIONS and OLD LYME and supersedes all prior or contemporaneous communications, representations, and understandings, written or oral, between the Parties with respect to the subject matter hereof. No change, deletion, modification, amendment, supplement to or waiver of this Agreement shall be binding upon a Party unless made in writing and signed by duly authorized representatives of all Parties.

### **5.2 Headings; Definitions**

The headings contained in this Agreement are solely for convenience of reference and shall not in any way affect the meaning or interpretation of this Agreement. Words, as employed in this Agreement, shall have their normally accepted meanings, unless otherwise specified in this Agreement. The terms "herein," "hereof," and "hereunder," unless specifically limited, shall have reference to the entire Agreement. The words "shall," "agree" and "will" are mandatory, the word "may" is permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, and the singular

includes the plural and vice versa.

### 5.3 Waiver

The failure or delay on the part of a Party to enforce any of its rights or remedies as to any provision of this Agreement shall not be construed as a waiver thereof in the future.

### 5.4 Assignment

This Agreement shall not be assigned by any Party without the prior written consent of the other Parties, which consent shall not be unreasonably withheld and which consent by the CITY shall not be withheld or conditioned in the event the BEACH ASSOCIATIONS and OLD LYME become part of a regional WPCA or other legal entity and the assignment by the BEACH ASSOCIATIONS and OLD LYME is to such regional WPCA or other legal entity (subject to the terms of Section 2.6 with regard to adding any additional communities).

### 5.5 Access and Inspection by CITY

The CITY shall have the right to inspect the BEACH ASSOCIATIONS' and OLD LYME's systems and equipment at any time; provided that a BEACH ASSOCIATION and OLD LYME representative shall first be notified by the CITY in writing (via email is acceptable) no fewer than five (5) days prior to the inspection and shall be permitted to observe the inspection.

### 5.6 Force Majeure

A Party's performance of any obligations under this Agreement, ~~other than an obligation to pay money,~~ shall be delayed or excused if, and to the extent that, the Party is unable to perform because of events of force majeure, which shall include but shall not be limited to, storms, floods and other Acts of God, the acts of civil or military authority, quarantine restrictions, riots, strikes, lockouts or other labor disputes, commercial impossibility, epidemics, pandemics, fires, explosions and bombings; the inability to obtain or delays in obtaining permits or other private or governmental approvals, or because of any other cause or causes beyond the reasonable control of the Party seeking to be excused for performance. In any such event, the Party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause which excused performance hereunder. [OPEN]

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### 5.7 Authority to Contract

Each Party warrants and represents that it has the power and authority to enter into this Agreement, including the performance and payment obligations set forth in this Agreement.

### 5.8 Governing Laws

This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut, exclusive of its choice of law rules.

## 5.9 Notices

All notices will be in writing and will be delivered in person or transmitted by certified mail, return receipt requested, or by commercial overnight carrier. Notice required to be given to BEACH ASSOCIATIONS will be addressed to:

The Miami Beach Association and The Miami Beach Association Water Pollution Control Authority:

The Miami Beach Association Water Pollution Control Authority  
P.O. Box 91  
Old Lyme, CT 06371

Old Lyme Shores Beach Association and Old Lyme Shores Water Pollution Control Authority:

Old Lyme Shores Beach Association  
P.O. Box 80  
South Lyme, CT 06376  
Attn: OLSBA President

Old Lyme Shores Beach Association Water Pollution Control Authority:  
P.O. Box 80  
South Lyme, CT 06376  
Attn: WPCA Chair

The Old Colony Beach Club Association and The Old Colony Beach Club Association Water Pollution Control Authority:

The Old Colony Beach Club Association Water Pollution Control Authority  
P.O. Box 10  
South Lyme, CT 06376

Notices required to be given to OLD LYME and OLD LYME Water Pollution Control Authority will be addressed to:

Town of Old Lyme and Old Lyme WPCA  
52 Lyme Street  
Old Lyme CT 06371

Notices required to be given to the CITY will be addressed to the following or their respective successors in office:

Mr. Michael Passero Mayor  
City of New London City Hall  
181 State Street  
New London, CT 06320

Mr. Barry Weiner  
Chairman  
Water & Water Pollution Control Authority  
15 Mechanic Street  
New London, CT 06320

The CITY shall send all bills to:

Old Colony Beach Club Association  
P.O. Box 10  
Old Lyme, CT 06371  
Attention: WPCA Treasurer  
E-mail: douglaswhalen@comcast.net

Any Party may at any time change its address for notices or invoices by sending written notice to the other Parties of such change in the manner for sending notices provided for herein. Notices sent in accordance with this Section shall be deemed to be given upon the earlier of (a) actual receipt; (b) upon delivery by commercial overnight carrier as evidenced by documentation from the delivering carrier; or (c) five (5) days after the mailing date, whether actually received (including attempted but failed delivery or obtaining of the addressee's signature).

#### **5.10 Severability**

Should any part of this Agreement, for any reason, be declared invalid or void, such declaration will not affect the remaining portions, which will remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated. Any portion of this Agreement declared invalid or void shall be renegotiated between the Parties.

#### **5.11 Third Party Rights; Counterparts**

Nothing contained in this Agreement shall be deemed to create third party rights. This Agreement may be executed in separate counterparts, any one of which need not contain the signatures of all Parties, but all of which when taken together shall constitute one and the same document. Each Party hereby agrees that, once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, facsimile, digital) is considered an original.

#### **5.12 Survival**

The following terms shall survive the termination of this Agreement: Section 4.1 Indemnification; Section 5.6 Force Majeure; Section 4.2 Dispute Resolution; Section 5.12 Survival; and all other terms which, by their nature, contemplate effectiveness beyond the termination of this Agreement, shall survive any such termination.

IN WITNESS WHEREOF, the Parties to this Agreement have caused it to be duly executed and delivered by their duly authorized representatives as of the Effective Date.

CITY OF NEW LONDON,  
CONNECTICUT

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Michael Passero  
Mayor

CITY OF NEW LONDON, WATER &  
WATER POLLUTION CONTROL AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Barry Weiner Chairman

THE OLD COLONY BEACH CLUB ASSOCIATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: Chairman

THE OLD COLONY BEACH CLUB ASSOCIATION WATER  
POLLUTION CONTROL AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: Chairman

OLD LYME SHORES BEACH ASSOCIATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Diane Duhaime  
Its: President

OLD LYME SHORES BEACH ASSOCIATION WATER  
POLLUTION CONTROL AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Its: Chairman

THE MIAMI BEACH ASSOCIATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: President

THE MIAMI BEACH ASSOCIATION  
WATER POLLUTION CONTROL AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: Chairman

THE TOWN OF OLD LYME

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: First Selectman

THE TOWN OF OLD LYME  
WATER POLLUTION CONTROL AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name:  
Its: Chairman

