

AMENDMENT TO AGREEMENT

THIS AGREEMENT, made and entered into this 17th day of February A.D., 2011, (hereinafter referred to as the "Amendment to the Agreement"), by and between the **Charles River Pollution Control District**, a body politic and corporate established pursuant to Chapter 21 of the General Laws of the Commonwealth of Massachusetts, as amended (hereinafter referred to as the "District"), and the **Town of Millis**, a body politic and corporate in the Commonwealth of Massachusetts (hereinafter referred to as "Millis").

RECITALS

WHEREAS, the District operates a regional system of water pollution control facilities; and

WHEREAS, under the laws of the Commonwealth of Massachusetts, the District and Millis have the power to contract with one another for the provision of wastewater management services; and

WHEREAS, the District and Millis have entered into an agreement on or about May 9, 1983, along with subsequent amendments thereto (hereinafter collectively referred to as the "Agreement") whereby the District would intercept, transmit, treat and dispose of wastewater collected and delivered by Millis; and

WHEREAS, on or about December, 2000, the District completed modifications to its wastewater facilities thereby increasing the District's reserved wastewater treatment capacity from 4.54 million gallons per day to 5.70 million gallons per day; and

WHEREAS, by the execution of this Amendment to the Agreement, the District and Millis both intend to amend the Agreement in accordance with the following provisions.

NOW THEREFORE THIS AGREEMENT WITNESSETH

That in consideration of the mutual promises and covenants set forth herein and within the Agreement, and in order to secure and maintain the services described herein and within the Agreement, the parties hereto, each binding itself, its respective representatives, successors, and assigns, do mutually agree as follows:

1. That Subsection D of Article II, Section 201, is deleted and, in lieu thereof, the following new Subsection D of Article II, Section 201, is added, to wit:

D. Capacity and Wastewater Strength Limitations. Millis agrees to the following limitations on its usage of the District's sewage works, unless through written amendments to this Agreement, other limits are mutually agreed upon.

1. Wastewater Volume

Facility	Millis Reserved Capacity (1)	
	Average Daily Flow in millions of gallons	Maximum Daily Flow in millions of gallons
<u>Wastewater Treatment Plant (2)</u>		
Modified CRPCD Facilities (2a)		
Primary Clarifiers	0.628	1.465
Aeration Tanks	0.628	1.465
Secondary Clarifiers	0.628	1.465
Filters	0.628	1.465
Core Facilities	1.36	3.41
<u>Black Swamp Interceptor (3)</u>		
Reach 0+00 to 19+14	1.08	2.83
Reach 19+14 to 56+86	0.92	2.15
Reach 56+86 to 57+42	0.92	2.15
<u>Charles River Interceptor</u>		
Reach 10-11	0.628	1.51
<u>Outfall Sewer</u>	1.36	3.41

- (1) In the event that Millis agrees to reduce its reserved capacity in any of the District's sewage works to accommodate any other municipality or user, the District shall require the payment by that other municipality or user of a one-time buy-in charge, which shall be paid to Millis in accordance with Article III, Section 308 of this agreement.
- (2) The District's wastewater treatment plant has been designed and is being constructed in part to handle 12.37 million gallons average daily flow and 31.0 million gallons peak daily flow (called the 'Core Facilities') and in part to handle 4.54 million gallons average daily flow and 13.3 million gallons peak daily flow (called the "Initial Franklin/Medway/Millis/Bellingham Facilities"). The Core Facilities include the administration building, raw sewage and primary pumping stations' structures and major equipment (except pumps themselves), sludge processing facilities (except plates), and the outfall; whereas the Initial Franklin/Medway/Millis/Bellingham Facilities include the remainder of the treatment plant, such as the primary sedimentation tanks, aeration basins, secondary clarifiers, gravity filters, and chlorination facilities. If at some future time it is determined, based upon operational experience or otherwise, that the actual capacity of the Core facilities is greater or lesser than 12.37 million gallons average daily flow, or that the actual capacity of the initial Franklin/Medway/Millis/Bellingham Facilities is greater or lesser than 4.54 million gallons average daily flow, the Millis reserved capacity shall be adjusted to equal **11.01 percent** of the actual capacity of the Core Facilities and **11.02 percent** of the actual capacity of the Initial Franklin/Medway/Millis/Bellingham Facilities.

- (2a) In 2000, the District's wastewater treatment plant was modified which included increasing the rated average daily flow from 4.54 to 5.70 million gallons per day by adding additional aeration capacity. Millis' effective design capacity is equal to the lowest average daily flow for the primary clarifiers, aeration, secondary clarifiers, and final filters.
- (3) Figure IV Recommended Plan (attached hereto) presents a schematic delineation of the Black Swamp Interceptor reaches; these reaches are specifically identified on record drawings. Millis has the right to use the Black Swamp Interceptor to the extent indicated.

2. That Sections 301 and 302 of Article III are deleted and, in lieu thereof, the following new Sections 301 and 302 of Article III are added, to wit:

Section 301. General. There shall be three types of payments by Millis to the District. Two of these payments shall be in proportion to Millis' actual and reserved usage of the District's sewage works, and shall be based upon: (1) the payment of principal and interest on all District debt instruments (see Section 302. Capital Cost Payments); and (2) the District's expenses for the operation and maintenance of its sewage works (see Section 303. Operation and Maintenance Cost Payments).

Section 302. Capital Cost Payments. Millis shall make payments to the District equal to Millis' proportionate share of the net yearly capital cost. Millis' share shall be determined on the basis of the reserved capacity in the District's sewage works assigned to Millis (see Article II, Section 201D) in proportion to the sewage work's total capacity. Capital cost payments shall be made by Millis to the District prior to dates specified by the District in order for the District to meet its principal and interest payments.

The Capital Cost Payments to be paid by Millis to the District shall be equal to the sum of the Treatment Capital Charges for the treatment facility modification, the capital improvement plan, and each of which shall be determined according to the following formulae:

$$A = (0.1101) (TCC_M) + (0.1101) (TCC_{CIPM}) + (0.1099) (TCC_{CIPC})$$

Where:

A = Annual treatment capital charge to offset principal and interest costs incurred by the District to treat and dispose of Millis' wastewater.

TCC_M = Net yearly capital cost incurred by the District in connection with the "modified CRPCD Facilities" completed in 2000, as indicated in Section 201(D)(1) of this Agreement.

(0.1101) = The proportion of Millis' reserved capacity in the "modified CRPCD Facilities" to the District's total capacity in the "modified CRPCD Facilities" (based upon 0.628 million gallons average daily flow for Millis in proportion to total capacity of 5.70 million gallons average daily flow).

- TCC_{CIPM} = Net yearly capital costs to be incurred by the District in connection with the capital improvement plan relative to the “modified CRPCD Facilities”, as indicated in Section 201(D)(1) of this Agreement.
- (0.1101) = The proportion of Millis’ reserved capacity in the “modified CRPCD Facilities” to the District’s total capacity in the “modified CRPCD Facilities” (based upon 0.628 million gallons average daily flow for Millis in proportion to total capacity of 5.70 million gallons average daily flow).
- TCC_{CIPC} = Net yearly capital costs to be incurred by the District in connection with the capital improvement plan relative to the “Core Facilities”, as indicated in Section 201(D)(1) of this Agreement.
- (0.1099) = The proportion of Millis’ reserved capacity in the “Core Facilities” to the District’s total capacity in the “Core Facilities” (based upon 1.36 million gallons average daily flow for Millis in proportion to total “Core Facilities” capacity of 12.37 million gallons average daily flow).

Millis Share
of CRPCD Facilities

<u>CRPCD Facility</u>	<u>Total</u>	<u>Capacity (MGD)¹ Millis</u>	<u>Millis Share</u>
Treatment Facility and Pumping Station	5.70	0.628	11.01%
Mine Brook Interceptor	----	0.00	0.0%
Charles River Interceptor And Outfall Sewer ²	12.37	1.36	10.99%
Chicken Brook Connector	----	0.00	0.0%
Black Swamp Interceptor ³	1.48	1.08	72.8%

¹Apportionment of capacity is based upon average daily flow.

²Millis share involves only the last reach of the Charles River Interceptor and all the Outfall Sewer.

³Composite average daily flow over entire length of Black Swamp Interceptor.

3. This Amendment to the Agreement may be executed in any number of counterparts, each of which when executed will be deemed to be an original, and all of which, taken together, will be deemed to be one and the same instrument.

4. In all other respects, the terms and conditions of the Agreement shall remain unchanged.

5. It being the intent here that, except as expressly provided in this Amendment to the Agreement, the provisions of the Agreement shall continue in full force and effect.

6. This Amendment to the Agreement (a) integrates all the terms and conditions mentioned in or incidental to the Agreement, (b) supersede all oral negotiations and prior and other writings with respect to the subject matter thereof; and (c) are intended by the parties as the final expression of the agreement and as the complete and exclusive statement of the terms agreed to by the parties. If there is any conflict between the terms,

conditions, and provisions of this Amendment to the Agreement and those of the Agreement, or other writing, the terms, conditions, and provisions of this Amendment to the Agreement shall prevail.

7. This Amendment to the Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. If any court of competent jurisdiction determines any provision of this Amendment to the Agreement to be invalid, illegal, or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal, or unenforceable portion had never been a part hereof.

[END OF TEXT]

IN WITNESS WHEREOF, the District has caused these presents to be executed by its Chairman and its corporate seal to be hereunto affixed, and Millis has caused these presents to be executed, its corporate seal to be hereunto affixed and attested by its Clerk.

CHARLES RIVER POLLUTION CONTROL DISTRICT


CHAIRMAN

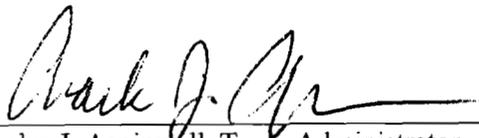
(Seal)

ATTEST:


DISTRICT CLERK

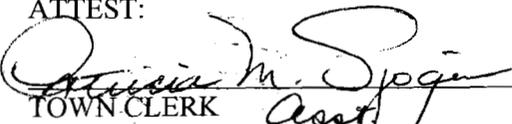
APPROVED BY:

TOWN OF MILLIS, MASSACHUSETTS


Charles J. Aspinwall, Town Administrator

(Seal)

ATTEST:


TOWN CLERK
Asst

APPROVED AS TO FORM:


TOWN COUNSEL