

**EAST LYME WATER & SEWER COMMISSION  
REGULAR MEETING  
TUESDAY JULY 26<sup>TH</sup>, 2016  
MINUTES**

PRESENT: Kevin Seery, Deputy First Selectman and acting Chairman, David Jacques, Dave Murphy, Carol Russell, Roger Spencer, David Zoller, Joe Mingo, David Bond

ALSO PRESENT: Attorney Theodore Harris, representing Gateway  
Attorney Edward O'Connell, Town Council  
Attorney Mark Zamarka, Town Council  
Joe Bragaw, Public Works Director  
Brad Kargl, Municipal Utility Engineer  
Anna Johnson, Finance Director

ABSENT: Steve DiGiovanna

**FILED**

*July 29 2016 AT 11:40 AM/PM*  
*(Carmen Russo, Clerk)*  
**EAST LYME TOWN CLERK**

**1. Call to Order**

Mr. Seery called the Regular Meeting of the East Lyme Water and Sewer Commission immediately following the Public Hearing at 7:03 PM

**2. Approval of Minutes**

**• Regular Meeting Minutes- June 28, 2016**

Mr. Seery called for a motion or any discussion or corrections to the Regular Meeting Minutes of June 28, 2016.

**\*\*MOTION (1)**

**Ms. Russell moved to approve the Regular Meeting Minutes of June 28, 2016.**

**Mr. Spencer seconded the motion.**

Mr. Kargl said there are two brief typos on page 2:

- Correction 1, 5<sup>th</sup> paragraph down, minutes read- "Attorney O'Connell said that it is a 'one-of' only." Minutes should read- "**Attorney O'Connell said that it is a one off.**"
- Correction 2, 9<sup>th</sup> paragraph down, minutes read- "Attorney O'Connell said that this is a binding methodology..." Minutes should read- "**Attorney O'Connell said that this is a non-binding methodology...**"

Mr. Bond said he was not listed as present for the June 28<sup>th</sup> meeting, when he was in fact present.

**\*\*MOTION (2)**

Ms. Russell moved to approve the Regular Meeting Minutes of June 28, 2016 as amended.

Mr. Spencer seconded the motion as amended.

Vote: 8-0-0. Motion passed.

**3. Delegations**

Ms. Hanney asked when the system would be up and ready. Mr. Kargl said the southern loop is available now and the northern loop should be ready in a month.

**4. Consider adoption of Proposed Sewer Benefit Assessments for Park Place Sewer Extension No.8****\*\*MOTION (3)**

Mr. Mingo moved to approve Proposed Sewer Benefit Assessments for Park Place Sewer Extension No. 8 as presented, with the caveat to eliminate the property known as 31 Park Place from assessment.

Mr. Murphy seconded the motion as amended.

Vote: 8-0-0. Motion passed.

**5. Finance Director Report**

Ms. Johnson brought attention to the revised month end May report in the Member packet; the billing for prison sewage use was previously posted incorrectly.

**6. Gateway Agreements**

Mr. O'Connell explained that there are two resolutions to review, which were discussed at the previous Water & Sewer Commission Meeting. Time was taken to add the desired addendums to the resolution authorizing the collection of water and sewer fees, and the word "deliver" was used as opposed to the word "execute," to ensure that all of Mr. Kargl's punch list items were completed.

The second resolution for joint operations and maintenance concerns the main water sewer pump station, and more specifically, the backup generator. Careful consideration was placed on the allocation of the operation expense since it serves the Water (Town Side) as well as the Sewer (Gateway Side.) The expense calculation will be a ratio of sewer usage verses overall facility usage.

Mr. Mingo and Mr. Kargl discussed monitoring wells in the sewer line which Mr. Kargl said, we do not have. Mr. Mingo said that during the decision making process he insisted that wells be put in; he questioned how else we would determine a leak. Mr. Seery said they would review the Water & Sewer and Wetlands Minutes to see if this charge was in fact omitted.

Ms. Russell noted that the Commission has not seen the language of the final agreement and Attorney O'Connell provided the Commission Members copies.

Attorney Harris said that only difference in the billing is where domestic water is used in the common areas. A third party does the billing which was approved by DPH. Mr. Mingo said there is a reason why we have a minimum charge. Mr. Harris said the Commission gets the same revenue- that the rate is based on the master bill.

Mr. Bond said this practice would prevent the Water Department from having to chase down 200 more bills for payment. Mr. Mingo said he does not agree with it.

Mr. Murphy asked if this agreement would transfer if the property was ever sold to a new owner and Mr. Harris replied that the authorization itself binds it beyond the owner.

**\*\*MOTION (4)**

Mr. Murphy moved to authorize the Chair of the East Lyme Water and Sewer Commission to execute and deliver the following agreements with GDEL Residential, LLC: An Agreement entitled "Authorization to Bill and Collect Water and Sewer Service Fees on behalf of the Town of East Lyme;" and an agreement entitled "Addendum to Authorization to Bill and Collect Water and Sewer Service Fees on Behalf of the Town of East Lyme."

Mr. Jacques seconded the motion.

Vote: 7-1-0. Motion passed.

Nye: Mr. Mingo.

**\*\*MOTION (5)**

Mr. Murphy moved to authorize the Chair of the East Lyme Water and Sewer Commission to execute and deliver an agreement with GDEL Residential, LLC: An Agreement entitled "Joint Operations and Maintenance Agreement."

Mr. Jacques seconded the motion.

Vote: 7-1-0. Motion passed.

Nye: Mr. Mingo

**7. Executive Session- Pending Litigation, Landmark Capacity Appeal**

**\*\*MOTION (6)**

Mr. Murphy moved to enter Executive Session at 7:34 PM and invited Attorney O'Connell, Attorney Zamarka, Mr. Kargl, Mr. Bragaw and Ms. Johnson to attend.

Mr. Jacques seconded the motion.

Vote: 8-0-0. Motion passed.

The Water and Sewer Commission exited Executive Session at 8:14 PM and took a 5 minute comfort break.

**8. Billing Adjustments**

There were none.

**9. Approval of Bills**

**a. Tighe & Bond**

**\*\*MOTION (7)**

Mr. Spencer moved to approve \$15,000 to pay Tighe & Bond for Inv #061690096 for the Well 1A & 2A Treatment Study.

Ms. Russell seconded the motion.

Vote: 8-0-0. Motion passed.

**b. Booster Station Upgrades**

**\*\*MOTION (8)**

Mr. Spencer moved to approve \$33,775 to pay Hungerfords Pump Service for Inv #80727 for the Booster Station Upgrades.

Mr. Murphy seconded the motion.

Vote: 8-0-0. Motion passed.

c. **Saunders Point Sewer Study**

**\*\*MOTION (9)**

Mr. Spencer moved to approve \$11,485.34 to pay Weston & Sampson for Inv #459030 for the Saunders Point Sewer Study.

Ms. Russell seconded the motion.

Vote: 8-0-0. Motion passed.

**10. Water Projects Updates**

a. **Well 1A & 2A Treatment Study**

Mr. Jacques asked what the priority of the well work is and Mr. Kargl said that Well 1A serves more people. Mr. Kargl noted that it is not a flexible process or cost effective to spilt into numerous projects and that he supports the findings of the Study.

The Commission reviewed the findings of the Study which were presented at the last meeting.

Mr. Mingo detailed his desire to obtain a Grant if available for the area north of I-95 by Pattagansett Lake. He thinks there is a place for another Well and a need to preserve that land. Mr. Mingo added that there is a tremendous amount of water coming through Boston Post Road and it would behoove us to explore this potential.

**11. Sewer Projects Updates**

a. **Saunders Point Sewer Study- Informational Meeting Scheduled for July 28<sup>th</sup>, 2016**

Mr. Kargl said the informational meeting will be a good opportunity to update the public and will focus on need analysis. A survey was sent to the residents to help fill in any data gaps in the analysis.

Mr. Kargl said the final draft plans are expected to be done in September and forwarded to DEEP for approval.

**12. Set Public Hearing Date for Proposed Sewer Assessments**

Mr. Seery set the Public Hearing for a half an hour before the next meeting, so it will occur on August 23<sup>rd</sup> at 6:30 PM.

**13. CTDOT Bridge Project Over Niantic River**

Mr. Bragaw and Mr. Kargl reviewed how Route 1 connects between East Lyme and Waterford and they would like to apply sleeves in case we decide on an interconnection in the future. The Town of Waterford has already approved their own resolution to apply the sleeves.

**\*\*MOTION (10)**

Ms. Russell moved to approve up to \$1,650 from the Sewer Assessment Fund and up to \$2,350 from the Water Capital Fund to perform modifications to the CTDOT Route 1 Bridge over the Niantic River in order to accommodate a future water and sewer crossing.

Mr. Jacques seconded the motion.

Vote: 8-0-0. Motion passed.

**14. Correspondence Log**

There was none other than the meeting minutes.

**15. Chairman's Report**

Mr. Seery said he had nothing to report and he is filling in this evening since Mr. Nickerson is under the weather.

The Commission discussed filtration systems for the Town Wells and the potential threats that Gas Stations have for our water.

**16. Staff Updates**

**a. Water Department Monthly Report- Water Supply Status**

Mr. Kargl presented the Commission with the July Water Supply Status. He observed that we have had much less rain than last July, and are 8 inches below normal.

Mr. Seery said he would see about adding a motion to the Selectmen Agenda for the voluntary conservation of water. Mr. Kargl said we can't afford to keep taking water like we have been.

Mr. Bragaw and Mr. Bragaw explained that we are producing more water but it is not reflected on our revenue side; they don't believe that the meters are capturing the true amount used and new meters are desperately needed.

**b. Sewer Department Monthly Report**

Mr. Kargl said there is nothing particular to report. Sewer usage this month was 7% down from last year while the water side set a record.

**17. Adjournment**

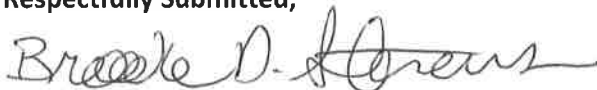
**\*\*MOTION (11)**

Mr. Murphy moved to adjourn the Water & Sewer Commission Meeting at 9:04 PM.

Mr. Spencer seconded the motion.

Vote: 8-0-0. Motion passed.

Respectfully Submitted,



Brooke D. Stevens  
Recording Secretary

**NOTICE OF PUBLIC HEARING  
TOWN OF EAST LYME  
WATER AND SEWER COMMISSION**

Notice is hereby given that the East Lyme Water and Sewer Commission, acting as the Town of East Lyme's duly designated Water Pollution Control Authority, will hold a Public Hearing on July 26, 2016 at 6:30 p.m. at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut to hear comments regarding a proposed benefit assessment resolution to be levied on the following properties benefited by the East Lyme Sanitary Sewer System.

The sewer system extension known generally as the "Park Place Sewer Extension," begins at the East Pattagansett/Flanders Interceptor north of Herster Drive and runs generally westerly along the Park Place loop to the Village Crossing Development located on Park Place for a distance of approximately 1,200 feet. The owners, properties and amounts of assessments to be levied are as follows:

**PROPOSED SEWER BENEFIT ASSESSMENT EXTENSION NO. 8**

OWNER	No.	Address	Map	Lot	Use	Unit	Assessment
<b>VILLAGE CROSSING</b>							
Village Crossing of Niantic LLC Village Crossing Units 1-49	Units 1-49	Village Crossing	11.1	19/1 – 19/49	Condo		\$9,049.50/ Each
Village Crossing of Niantic LLC Village Crossing Units 50-66	Units 50-66	Village Crossing	11.1	11/50 – 11/66	Condo		\$9,049.50/ Each
<b>PARK PLACE OPT-IN PROPERTIES</b>							
Coffey Daniel E & Susan	8	Park Place	11.1	12	SF	1	\$12,066.00
Wilson John C & Julie C	13	Park Place	11.1	25	SF	1	\$12,066.00
Hickey Eugene W & Elaine J	17	Park Place	11.1	24	SF	1	\$12,066.00
MacDonnell Deborah P & Robert E	21	Park Place	11.1	23	SF	1	\$12,066.00
Janus Kendall A & Carrie Deford	22	Park Place	11.2	19	SF	1	\$12,066.00
Caruso Elizabeth M	23	Park Place	11.2	30	SF	1	\$12,066.00
Grabigel James & Joyce	25	Park Place	11.2	29	SF	1	\$12,066.00
Smerek Ruth A	26	Park Place	11.2	20	SF	1	\$12,066.00
DeMarco Jayne B	31	Park Place	11.2	25	SF	1	\$12,066.00
Christy Jewel H	33	Park Place	11.2	24	SF	1	\$12,066.00
Capozza Shana R	34	Park Place	11.2	21	SF	1	\$12,066.00
Hanney T. Francis & Patricia	35	Park Place	11.2	23	SF	1	\$12,066.00
Hall Warren H & Catherine E	37	Park Place	11.1	18	SF	1	\$12,066.00
Pickett Barbara	39	Park Place	11.1	17	SF	1	\$12,066.00
Gill Carol A	40	Park Place	11.2	22	SF	1	\$12,066.00
Donahue Cathleen M & Brian P	41	Park Place	11.1	16	SF	1	\$12,066.00
Villa Brian	43	Park Place	11.1	15	SF	1	\$12,066.00
Kazee Robert M. & Melissa E	45	Park Place	11.1	14	SF	1	\$12,066.00
Village Crossing of Niantic LLC	47	Park Place	11.1	13	SF	1	\$12,066.00

The public is invited to attend and be heard regarding the proposed benefit assessment resolution. A copy of the proposed assessment resolution has been filed with the Town Clerk and is available for inspection by the public.

TOWN OF EAST LYME WATER AND SEWER COMMISSION

BY: \_\_\_\_\_  
MARK NICKERSON, Its Chairman

1671599

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WATER AND SEWER COMMISSION  
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BENEFIT ASSESSMENT  
EXTENSION NO. 8**

OWNER	No.	Address	Map	Lot	Use	Unit	Assessment
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The public is invited to attend and be heard regarding the proposed benefit assessment resolution. A copy of the proposed assessment resolution has been filed with the Town Clerk and is available for inspection by the public.

TOWN OF EAST LYME  
WATER AND SEWER COMMISSION

BY:   
MARK NICKERSON,  
Its Chairman



**SANITARY SEWER BENEFIT RESOLUTION  
FOR SEWER MAIN EXTENSION NO. 8**

RESOLUTION relative to an assessment of benefits for Extension No. 8 of the public sanitary sewerage system, known generally as the "Park Place Extension" installed in the Town of East Lyme, Connecticut; establishing the due date of said assessments; providing for installment payments of assessments and interest thereon;

WHEREAS, the East Lyme Water and Sewer Commission, (hereinafter the "Commission"), the duly established municipal Water Pollution Control Authority existing under the laws of the State of Connecticut within and for the Town of East Lyme exercising its statutory authority under the laws of the State of Connecticut, has heretofore accepted a portion of the public improvements known as Extension No. 8 of the Town's public sanitary sewerage system, said improvements being more particularly described in as-built plans and specifications on file with the Commission; and

WHEREAS, the Connecticut General Statutes provide in part that at any time after a municipality by its Water Pollution Control Authority has authorized the acquisition or construction of a sewerage system, or portion thereof, the Water Pollution Control Authority may apportion and assess the whole or any portion of the cost thereof upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut on such sewerage system or not, and upon the owners of such land and buildings according to said Connecticut General Statutes and such rules as the Commission adopts;

NOW, THEREFORE, BE IT RESOLVED by the East Lyme Water and Sewer Commission, as follows:

1. The area within which sewer assessments are due for Extension No. 8 of the Town's public sanitary sewers include all properties abutting or actually making use of the public sanitary sewer system in said extension area. By and large, the area of Extension No.8 begins at the East Pattagansett/Flanders Interceptor north of Herster Drive and runs generally westerly along the Park Place loop to the Village Crossing Development located on Park Place for a distance of approximately 1,200 feet. The owners, properties and the amounts of the assessments hereby levied upon said properties are listed on Schedule "A", attached hereto.

2. The Commission has considered the zoning classification and actual use in allocating assessments among the benefited properties as shown on Assessor's records of the Town of East Lyme on the Grand List of October 1, 2015. Because the current zoning classification and actual use of the properties benefited by Extension No. 8 is limited to residential use, the Commission has classified those benefits to a residential category, consisting of single family and two family residences and units of any common interest community used for residential purposes, and has established general rules of assessment for the above described assessment area, as follows:

a. All assessments shall be set at a Flat Rate. The Flat Rate for an assessable unit shall be as follows: Twelve Thousand and Sixty-Six (\$12,066.00) Dollars per unit.

b. In determining assessments the following shall equal one assessable unit: (1) a vacant lot; (2) a lot with single dwelling. A lot with multiple dwellings shall equal one unit plus one unit per dwelling for every dwelling after the first dwelling.

c. "Dwelling" shall be defined as a building, or any part thereof, containing complete housekeeping facilities for one family.

d. "Family" shall be defined as one or more persons who live together and maintain a common household.

e. "Lot" shall be defined as a separate parcel of land located in a residential zone and which lot is vacant or contains a residential dwelling as shown on the East Lyme Assessor's maps on October 1, 2015. Any lot created after the date of this resolution shall be assessed in accordance with the terms of this resolution.

f. When any lot subject to assessment under any provision of this Resolution is declared to be subject to the Connecticut Common Interest Ownership Act, each unit of such common interest community used for residential purposes shall be assessed as follows:

(i) "attached condominium units," which for purposes of this Resolution shall be defined as any unit of a common interest community which shares one or more common walls with any other unit, shall be assessed individually at 75% of the Flat Rate as of the date of the Declaration or the effective date of this Resolution, whichever is later;

(ii) "detached condominium units," which for purposes of this Resolution shall be defined as any unit of a common interest community which is freestanding or does not share a common wall with any other unit, shall be assessed individually at the Flat Rate as of the date of the Declaration or the effective date of this Resolution, whichever is later.

g. Later Expansion. Whenever any structure is constructed or expanded after the effective date of this Resolution, such structure shall be assessed according to the terms of the Resolution as if such structure had existed on the effective date of the Resolution, provided that the amount of any deferred assessment levied against the same land, or that portion of any deferred assessment levied against the same land which is the site of a subsequent structure shall be credited against any assessment due. The owner, builder or developer shall pay for the entire installation if a sewer extension is necessary to service the property, including all expenses incidental thereto in accordance with Section 5 of the Sewer Use and Sewage Disposal Ordinance. There shall be no credit against the benefit assessment for these costs.

h. Deferred Assessments. Deferred assessment shall be deferred until such excess land shall be built upon or a building-permit issued therefore, or until approval of a subdivision plan of such excess property by the planning commission having jurisdiction, whichever event occurs first, at which time assessment shall be made as provided herein. Provided further that the total deferred benefit to be assessed against lots used for single family residences shall not exceed the flat rate established herein times the number of such single family lots established. No lien securing payment shall be filed until property is assessed.

3. There is hereby assessed upon and against the lands and upon the owners of each property or unit of a common interest community affected by the foregoing public improvement which the Commission has found to be especially benefited by said public improvement, the benefit assessments shown after the name of the affected property owners and in the amount due column, being the amount of the

owners' due proportion of the public improvement as assessed in accordance with the decision of the Commission. The benefited properties are listed by street and number according to names of owners; indicating the number of units, and the total due assessment, as applicable, and are more particularly set forth in Schedule "A" attached hereto.

4. That the owners of houses, buildings, units of a common interest community or other structures used as residences and located on the parcels of land abutting sanitary sewer Extension No. 8, more particularly described in Schedule "A" attached hereto and referred to therein as "Village Crossing" Units 1-49 and Units 50-66, are required to connect said houses, buildings, units and structures to the sewer, at their own expense.

5. That the owners of houses, buildings, units of a common interest community or other structures used as residences and located on the parcels of land abutting sanitary sewer Extension No. 8, more particularly described in Schedule "A" attached hereto and referred to therein as "Park Place Opt-In Properties", may opt to connect said houses, buildings, units and structures to the sewer, at their own expense, by written application to the Water and Sewer Commission. The obligation to make payment of the benefit assessment, and the interest thereon, shall not accrue until such time as the owners connect to the sewer. Said assessment shall be due and payable at the time when the owners connect to the sewer. The owners may pay the entire amount of the assessment in full on or before the date of connection without interest or pay said assessment by installment payments made in accordance with Paragraph 7 hereof.

Provided, however, that if an existing subsurface disposal system servicing any of such houses, buildings, units or structures is not approved by the East Lyme Director of Health, or should the system fail at any time after said approval, or should a change in use of the premises require an expansion or improvement of an existing subsurface disposal system, a connection to the sewer system must be made within one hundred twenty (120) days after being ordered to do so by the Commission, subject to the public hearing and appeal rights provided for in Connecticut General Statutes Section 7-257, *et seq.* Provided further, that houses, buildings, units or structures constructed during or after the installation of sanitary sewer Extension No. 8 shall be connected with the sewer in accordance with the provisions of this ordinance, within one hundred twenty (120) days after being ordered to do so by the Commission.

6. That the assessments set forth in Paragraph 3 shall be due and payable on February 1, 2017. Payments shall be made payable to the order of the Treasurer of the Town of East Lyme. The owners of any assessed property may pay the entire amount of the assessment in full on or before *February 1, 2017* without interest or may pay said assessment by installment payments made in accordance with Paragraph 7 hereof.

7. If the election is made to pay said assessment by installment payments, the assessment for each property shall be made in fifteen (15) substantially equal annual installments, the first installment to be due and payable on the next February 1<sup>st</sup> following the date of this Resolution. Each subsequent payment of an installment will be due and payable on or before February 1<sup>st</sup> of each subsequent year. Payments shall be made payable to the order of the Treasurer of the Town of East Lyme. A notice of

installment payments will be recorded on the East Lyme land records as provided by the Connecticut General Statutes.

Notwithstanding any other provision herein, if any portion of any installment, including accrued interest, has not been paid by the first anniversary date after such installment was due and payable, then the entire principal sum, together with all accrued interest, shall become due and payable, together with attorney's fees and costs of collection.

8. The interest at the rate of three and one-half percent (3.5%) per annum on the unpaid balance of the assessment shall be due and payable at the time of the payment of each installment provided for in Paragraph 7 above. Any person may prepay an installment or installments for which he is liable at any time prior to the due date thereof. Property owners may pay the entire assessment in full at such time as determined by resolution of the Commission without incurring any interest charges. An assessment that is paid in full after February 1, 2017, or after the February 1<sup>st</sup> due date of a subsequent year, shall be charged interest *calculated by reference to the number of days from the last date of paid interest to the date the payoff is actually received in good funds*

9. Any installment payment not paid within thirty (30) days after the due date shall be delinquent and shall be subject to interest from such due date at the rate and in the manner provided by the General Statutes for delinquent property taxes, together with attorney's fees and costs of collection.

10. Each addition of interest shall be collectible as part of such assessment.

11. Whenever any installment of an assessment becomes delinquent, the interest on such delinquent installment shall be as provided in Paragraph 8 above or Five (\$5.00) Dollars, whichever is greater.

12. Any delinquent assessment or delinquent installment of any assessment and any interest due thereon shall constitute a lien against the real estate against which the assessment was levied from the date of such levy. Each such lien may be continued, recorded and released in the manner provided by the General Statutes for continuing, recording, and releasing property tax liens. Each lien shall take precedence over all other liens and encumbrances except taxes and may be foreclosed in the same manner as property taxes.

BE IT FURTHER RESOLVED, that the installation of said public improvements as described hereinbefore, shall now be deemed duly and legally authorized; that said improvements have been duly and legally accepted by the Town of East Lyme; and that all assessments and benefits stated herein and in the public record of the Town of East Lyme Water and Sewer Commission shall be deemed duly and legally made. The Chairman of the Water and Sewer Authority shall cause a notice to be published listing properties against which benefits have been assessed, with the amount to be paid by each such owner and a notice of the date when assessments are due and payable in accordance with Chapter 103 of the Connecticut General Statutes as amended. Said Chairman shall also cause to be mailed, postage prepaid, a copy of the assessment of benefits addressed to the owners of each property affected thereby at such owners' addresses as shown in the last completed grand list of the municipality or at any later addresses of which the Commission may have knowledge.



**AUTHORIZATION TO BILL AND COLLECT  
WATER AND SEWER SERVICE FEES  
ON BEHALF OF THE TOWN OF EAST LYME**

WHEREAS, KONOVER RESIDENTIAL CORPORATION, (“Management Company”) a Connecticut Corporation, is the duly authorized management agent on behalf of the owner, GDEL RESIDENTIAL, LLC, the owner of a certain residential complex located in the Town of East Lyme containing 280 dwelling units and known as “The Sound at Gateway Commons” (“The Sound”); and

WHEREAS, the Town of East Lyme Water and Sewer Commission (“Commission”) , the municipal authority supplying water and sewer services to “The Sound” has supplied and installed a master meter in each building, and individual water meters in each residential unit at “The Sound; and

WHEREAS, the Town of East Lyme Water and Sewer Commission, in its normal practice will be billing GDEL Residential, LLC , as the owner, for all water consumed on the premises based on such master meters; and

WHEREAS, it is the desire of GDEL Residential, LLC as well as the East Lyme Water and Sewer Commission to provide incentives for conservation of water by billing each tenant individually based on the readings on the individual apartment meters, notwithstanding the obligation of the owner to satisfy in full, all water consumed on the premises based on the master meter readings; and

WHEREAS, the Town of East Lyme Water and Sewer Commission would like to avoid the cost and administrative expense of individually billing such Tenants; and

WHEREAS, the Connecticut Department of Health (DPH) will not authorize the owner to bill such consumption directly to the tenants; but will allow a third party to do so based on authorization from the Water and Sewer Commission.

NOW THEREFORE, in order to accomplish the above stated goals, the Town of East Lyme Water and Sewer Commission hereby authorizes the following:

1. Konover Residential Corporation is hereby authorized on behalf of the Town of East Lyme Water and Sewer Commission to bill and collect water consumption to individual tenants at “The Sound” based on readings taken from time to time from the Town installed meters, using the established town rates as they may be applicable from time to time.

This authorization is contingent on the following:

- A) All such funds shall be deposited in a separate account established by Konover Residential Corporation for “The Sound” and from which account disbursements shall be made to the Town of East Lyme Water and Sewer Commission to satisfy water and sewer bills issued by the “Commission”. Said sums shall be disbursed together with such

additional sums to be paid by the owner, which shall necessary to satisfy such bill in full.

B) Nothing herein shall be construed to eliminate or diminish the obligation of GDEL Residential, LLC as owner for its obligation to pay for all water consumed on the premises in accordance with the billings based on the various master meters contained therein, nor shall it eliminate the right of the Town of East Lyme Water and Sewer Commission to lien said property for any non-payment of water and sewer bills as it would do in the normal course of business.

C) Nothing herein shall eliminate the obligation of the Town of East Lyme to maintain the water quality in its service to "The Sound" up to each individual apartment meter, as it would do in its normal course.

2. At the request of the Commission, the Management Company shall provide copies of such bills issued in accordance with the written authorization.
3. The Management Company shall respond to tenant's questions or complaints relative to meter readings and/or billings. Provided however, the Commission will at the request of the Management Company verify the meter accuracy if requested by the Management Company in the event of such tenant disputes.
4. This authorization shall continue unless revoked by the Commission, and it shall be binding upon the Owner, its successors and assigns.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

EAST LYME WATER & SEWER COMMISSION

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

GDEL RESIDENTIAL, LLC

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

**ADDENDUM TO AUTHORIZATION TO BILL AND COLLECT  
WATER AND SEWER SERVICE FEES ON BEHALF OF THE  
TOWN OF EAST LYME**

This Agreement, executed this \_\_\_\_\_ day of \_\_\_\_\_, by and between the TOWN OF EAST LYME WATER AND SEWER COMMISSION (hereinafter "Commission") and KONOVER RESIDENTIAL CORPORATION (hereinafter "Management Company") and GDEL RESIDENTIAL, LLC (hereinafter "Owner").

WHEREAS, the Commission executed an Authorization dated \_\_\_\_\_ (hereinafter "Authorization") allowing Management Company to bill water and sewer fees to bill water and sewer fees based on individual Town meters installed in various apartments at a residential complex known as "The Sound", which complex is owned by Owner; and

WHEREAS, this addendum is intended to define specific terms therein and/or express the parties understanding of certain terms.

NOW THEREFORE, the parties agree the following represents clarification/definitions of certain terms contained in said Agreement:

1. As used in said Agreement "water consumption", and/or "billing for water consumption" shall include charges for both water and sewer consumption, as are routinely billed by the Town of East Lyme, and in accordance with a rate structure as hereinafter defined.

2. Billing to each apartment shall be based on the quantity and gallons used by such apartments and the applicable rate applied to the periodic consumption as is billed to the master meter by the Commission in its normal interval. By way of example, based on current water and sewer rates, it is estimated that consumption will be governed by the rate applicable for usage up to six hundred

seventy-five thousand (675,000) gallons per month, or four and 81/100 (\$4.81) dollars, per thousand gallons, as described in the Schedule of Rates attached hereto. In addition, the sewer usage, which is based on water consumption, will be billed at seven and 10/100 (\$7.10) dollars, per thousand gallons, as also described in the Table of Rates as attached hereto for sewer charges. Based on these current rates, the chargeable rate per thousand gallons would be eleven and 51/100 (\$11.51) Dollars. This rate shall be adjusted from time to time to reflect (i) any change in the bracket rate chargeable to the master meter and/or; (ii) any change in the water or sewer schedule of rates promulgated by the East Lyme Water and Sewer Commission.

3. If the Commission provides any services to the Management Company over and above its normal master meter billing, the Commission shall be reimbursed for the reasonable cost thereof. In addition, to the extent that the Commission provides any meter reading and/or usage data, it makes no warranty as to accuracy, and shall have no liability thereon.

4. Notwithstanding the obligation described in 1(c) of the Authorization, the Owner shall be responsible for any water quality issues between the master meter and any apartment meter which shall result from contamination, faulty plumbing, or contaminated materials within the plumbing system between the master meter and the individual apartment meter. If such issue causes water contamination as described herein, then the Owner shall be fully responsible and reimburse the Town of East Lyme for any costs which it may incur in conjunction therewith. Further, in accordance with Section 5(d) of the Regulations of the Commission, the Owner shall be responsible for any unusual repairs attributable to any carelessness or neglect of the Owner or occupant.

EAST LYME WATER AND SEWER COMMISSION

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

GDEL RESIDENTIAL, LLC

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

KONOVER RESIDENTIAL CORPORATION

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

**TOWN OF EAST LYME  
WATER AND SEWER COMMISSION  
NOTICE OF ADOPTED SEWER RATE AND CHARGES**

NOTICE IS HEREBY GIVEN that on October 27, 2015, the East Lyme Water and Sewer Commission approved the following revised schedule of rates and charges for connection to and use of the East Lyme sewerage system.

	<u>Rate</u>
Application for Connection Permit	
Class 'A'- Residential	\$100.00
Class 'B'- Multi Family and Commercial	\$200.00
Class 'C'- Industrial	\$500.00
Demolition/Disconnect-Any Class	\$50.00
Sale of Stocked Material	Cost, incl. shipping, plus 12% admin fee
Inspection Services	
During Normal Working Hours	\$65.00/hour
After Normal Working Hours	\$97.50/hour
Usage, based on metered water readings at billing intervals	
Metered	\$7.10/1,000 gallons
Unmetered, per six 6 month period	\$177.50

These revised rates and charges shall be effective on November 1, 2015. Rates for usage shall be payable at six month intervals. All other rates shall be payable at the time services are rendered.

The owners of properties against which the revised rates and charges are to be levied are hereby notified that any appeals from the revised rates and charges must be taken within twenty-one days after the date this notice was filed with the East Lyme Town Clerk on October 30, 2015.

Dated at East Lyme, Connecticut on this 27th day of October 2015

EAST LYME WATER AND SEWER COMMISSION

By \_\_\_\_\_  
Mark Nickerson, W&S Commission Chair

## JOINT OPERATIONS AND MAINTENANCE AGREEMENT

WHEREAS, GDEL Residential, LLC (hereinafter referred to as "GDEL") is the owner of an apartment complex known as "The Sound at Gateway Commons", (hereinafter referred to as "The Sound") which complex is located on East Society Road and is served by municipal water and sewer; and

WHEREAS, THE TOWN OF EAST LYME is the owner of the municipal water and sewer system which is operated by THE EAST LYME WATER AND SEWER COMMISSION (hereinafter referred to as "East Lyme") serving residents of the Town of East Lyme; and

WHEREAS, as of the date hereof, GDEL has conveyed the water facilities serving The Sound to East Lyme, specifically including a certain generator which provides emergency backup service to the water and sewer pump stations ("Pump Stations") which is part of the facilities serving The Sound; and

WHEREAS, GDEL owns and will continue to operate and maintain a certain sewer pump station serving The Sound which is necessary for delivery of sewage to the Town of East Lyme system; and

WHEREAS the electricity provided to the pump stations is metered through a single meter, billed to East Lyme; and

WHEREAS, said backup generator will serve both Pump Stations;

NOW THEREFORE, the parties would like to provide for rights and responsibilities with respect to the maintenance and operation of said generator and electric service for operation (including electric bills) of each of said Pump Stations.

NOW THEREFORE, the parties agree as follows:

1. East Lyme, in accordance with its normal practice, shall operate, test and/or repair the common generator.

2. The parties hereto agree to apportion the cost of the costs of operation, maintenance repair, and replacement of the generator on a pro-rata basis based on the relative electric consumption used by each of the respective Pump Stations. In pursuance thereof, a submeter has been installed in the sewer pump station which will reflect the electricity usage with respect to said station. The percentage of maintenance to be borne by GDEL shall be based on the kilowatt hours shown on said submeter divided by the total kilowatt hours consumed by both Pump Stations x 100. This percentage shall be used for apportioning all maintenance, repair and replacement costs with respect to generator.

3. The parties, shall establish from time to time, the hourly rate which shall be chargeable with respect to the Town's maintenance activities which rate shall relate to the current cost to the Town of East Lyme for labor, materials and administration. Reimbursement to the Town, with the exception of the item described in Paragraph 5, shall be at such frequency and such time as shall be determined by East Lyme from time to time. The Town's current rate schedule is attached hereto as Exhibit "A".

4. The payment of maintenance/operation expenses shall be made monthly beginning July 1, 2016, based upon estimated costs of these items, and shall be "trued up" annually, not later than 3 months following each July 1<sup>st</sup>. Notwithstanding the foregoing, if there appears to be a substantial difference between the estimate and actual costs during an annual year, the parties may true up, by agreement, on an interim basis.

5. In the event that it becomes necessary or advisable to replace the generator, the Town shall give notice to GDEL of its intent to do so, and receive and consider input from GDEL prior



to such replacement. Provided however, in the event of an emergency, GDEL shall have not more than five (5) days to respond to notice of intent to purchase a new generator; and in any event, the Town shall have the right to purchase said generator in spite of any objection by GDEL. Apportionment of the purchase price shall be in accordance with Paragraph 2 herein, based upon billing for the preceding 12 months, and shall be due and payable to the Town of East Lyme upon sixty (60) days written notice to GDEL.

6. This Contract shall run from the date of execution and shall run continuously, unless East Lyme shall own or take control of the sewer pump station and/or facilities, or unless modified by the parties hereto.

7. In the event of a dispute pursuant to this Contact, the parties agree that such dispute shall be submitted to arbitration in accordance with the rules of the American Arbitration Association.

Dated at Niantic this \_\_\_\_ day of \_\_\_\_\_, 2016.

TOWN OF EAST LYME, by its Water and Sewer Commission

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

GDEL RESIDENTIAL, LLC  
By: GATEWAY DEVELOPMENT/EAST LYME, LLC  
its sole Member

By: \_\_\_\_\_  
Steven Konover, Co-Manager

GDEL RESIDENTIAL, LLC  
By: GATEWAY DEVELOPMENT/EAST LYME, LLC  
its sole Member

By: \_\_\_\_\_  
Anthony J. DeLuca, Co-Manager