

**AGREEMENT**  
**for**  
**TREATMENT AND DISPOSAL**  
**of**  
**WASTEWATER**

**OCTOBER, 1989**

TOWN OF HAMPTON  
NEW HAMPSHIRE

TOWN OF RYE  
NEW HAMPSHIRE

**AGREEMENT BETWEEN THE TOWN OF HAMPTON AND THE TOWN OF RYE, NEW  
HAMPSHIRE RE: TREATMENT AND DISPOSAL OF WASTEWATER**

The Town of Hampton and the Town of Rye (governmental subdivisions of the State of New Hampshire) covenant and agree pursuant to New Hampshire RSA Chapter 53-A as follows:

1. Purpose and Intent

(a) The purpose of this Agreement is to permit the wastewater system operated by the Town of Hampton to receive wastewater from the Town of Rye, New Hampshire to:

1. Effect economies and efficiencies in the treatment of wastewaters for the communities involved; and,
2. Improve the quality and protection of the area's beaches and waters.

(b) It is the intent of the parties that the sewer lines and appurtenant works contemplated by this Agreement for construction or enlargement will be so constructed or enlarged with capital funds received as aid from the federal and state government and with local capital funding in the portions and to the amounts stipulated under federal and state laws.

2. Consideration

The consideration for this Agreement is the mutual advantage referred to in Paragraph 1 hereof, the payments to be made by the Town of Rye as hereinafter provided and the construction to be undertaken by that Town, certain other construction and renovation of public works, and the provision by Hampton of wastewater treatment and disposal services for Rye wastewater.

3. Definitions

As used in this Agreement:

1. "Hampton" means the Town of Hampton.
2. "Rye" means the Town of Rye.
3. "North Hampton" means the Town of North Hampton.

4. "Wastewater" means the water-carried wastes from residences, commercial buildings and institutions in that area of Rye where the Town of Rye has been mandated by the State of New Hampshire to provide sewerage services, together with incidental infiltration as may be collected and transported in sewer lines.
  5. The "Administrator" shall be the Hampton Town Manager, or acting Town Manager, and in the event Hampton discontinues the Town Manager form of government, the Director or Supervisor of the Hampton Public Works Department.
  6. "WWTP" means wastewater treatment plant.
  7. O&M means operation and maintenance.
  8. "Effective Date" means the date of approval of project funding at a Rye Town Meeting.
4. Reception, Treatment and Disposal of Rye Wastewater
- (a) Rye shall, at its own expense, and with Hampton's approval, which shall not be unreasonably withheld, construct and maintain one or more sewer lines to collect wastewater and convey it to one or more appropriate sewer lines of Hampton at the existing termination point within Hampton.
  - (b) Upon the taking effect of this Agreement, Rye shall proceed with due diligence to plan, acquire land, secure easements, design, construct and place in operation all necessary works in Rye, North Hampton and Hampton for the discharge of wastewater from Rye into the Hampton system.

(c) In the planning, design and construction of such works, Rye will consider North Hampton's future needs and design the works to accommodate these needs. It is understood by the Parties to this Agreement that North Hampton will be allowed to connect to the sewer works passing through North Hampton when the parties to this Agreement negotiate separate agreements with North Hampton.

(d) Hampton shall not acquire any title, property interest or equity in any facilities or works within Rye or North Hampton, nor shall it have any responsibilities or authority with respect to any such facilities or works other than the right of entry for inspection, operation and maintenance provided pursuant to Paragraphs 5(c) and 8(c) hereof. By operation of this Agreement and in accordance with its terms, Rye shall have the right to the reception, treatment and disposal of its wastewater by Hampton, but Rye shall not acquire any title, property interest or equity other than purchased capacity in the facilities and works of or within Hampton or other Hampton assets, including that portion of the completed force main or sewer extending from the Hampton-North Hampton town line to the point of connection with the Hampton sewerage system. Nor shall Rye have responsibility for any debts of Hampton, except in accordance with its obligation to make proper and timely payments for services and to perform in good faith pursuant to this Agreement.

(e) Upon the coming into operation of the works necessary for the delivery and reception of Rye wastewater, and thereafter during the continuance of this Agreement, Rye shall be entitled to deliver and Hampton shall receive not to exceed **0.19 (MGD)** as an arithmetic average daily flow. The average shall be calculated on a calendar year basis. The allowable peak hourly flow shall not exceed a rate of **500 GPM (0.72 MGD)**. Maximum wastewater strength will not exceed **250 MG/L** calculated as a monthly average for 5 day BOD and **300 MG/L** for suspended solids. Flows shall be metered at a point or points where the only flows are those originating in Rye.

5. Construction and Maintenance

(a) Upon the taking effect of this Agreement, the Town of Rye shall proceed promptly and with due diligence to plan, design and construct and extend its sewer facilities to connect with Hampton at the northerly termination of the Hampton Gravity Sewer System.

(b) Rye shall construct the sewers and appurtenant facilities as necessary and appropriate to inspect, monitor, transport and deliver wastewater flow to Hampton, for treatment and disposal by Hampton. The right of Rye to reception of its wastewater in accordance with this Agreement shall commence on the first day following completion of construction.

(c) Upon completion of construction of present and future sewer facilities in Rye, North Hampton and Hampton, Hampton will be wholly responsible for the proper operation and maintenance of the sewer system delivering wastewater from Rye to the existing sewer system in Hampton, as per Exhibit B, Agreement for Operation and Maintenance Services, attached hereto and made a part hereof.

(d) Rye shall submit to Hampton for approval, which shall not be unreasonably withheld, all plans, specifications, shop drawings and O&M Manuals for any and all sewer facilities to be constructed for the purpose of delivering wastewater flows to the Hampton sewerage system.

6. Payments by Rye

(a) Within sixty days of the effective date of this Agreement Rye shall pay the following sums in recognition of equities in the Hampton system previously contributed by Hampton and which will inure to the benefit of Rye in that it will be enabled to utilize a system already in operation.

WWTP	\$18,700
Interceptor System (Including Pump Station)	\$122,410

Present Worth Value of existing bonded indebtedness will be

WWTP	\$3,462
Interceptor system (Including Pump Station)	<u>\$237,959</u>

\$382,531

(c) Assessments for future capital costs (as defined by the Hampton budget process for expansion and/or improvement of the facilities) for that portion thereof used by Rye shall be made on a flow proportionate basis with purchased capacity (.19 MGD average daily flow) as the basis for apportioning capital costs at the WWTP and peak flow rates as the basis of apportioning capital costs for the Interceptor system (including pump station).

(d) From and after the date when Hampton receives wastewater from Rye, and as long as Hampton continues to receive wastewater from Rye, Rye shall pay for the treatment and/or disposal thereof. In accordance with the procedures and practices of Exhibit A, Rye shall have the sole responsibility for making such payments and may levy sewer and other charges on persons within its town limits as may be authorized or allowed by its own laws and the laws of the State of New Hampshire.

(e) From and after the date that Hampton receives wastewater from Rye, Rye will pay Hampton a service charge for the operation and maintenance of the Rye sewer system. Pricing structure for this operation and maintenance service will be as per Exhibit B made part of this Agreement.

7. Full Waste Treatment and Disposal Services

On and after the first day of the month following the completion of the works necessary for the delivery and reception of Rye wastewater, Rye shall be entitled to have its entire wastewater flow allowance, or so much thereof as it may elect, received, treated and/or disposed of by Hampton. Hampton shall be responsible for the degree and character of wastewater treatment and for disposal of all effluents and sludges to the best of Hampton's ability in accordance with applicable law. The Rye entitlement shall be subject to the limitations set forth in Paragraph 4(e).

8. Discharges into Sewers

(a) The rules, regulations and requirements of Hampton prescribing and limiting the content of wastewater discharged, placed or otherwise permitted to flow into the sewers tributary to the treatment facilities of Hampton shall apply within Rye. On or before commencement of discharge into the Hampton system, Rye shall adopt such local laws and shall make such contractual arrangements as may be necessary to assure proper observance of the aforementioned rules, regulations and requirements with respect to wastewaters originating within Rye and delivered to Hampton for treatment and disposal thereby. Rye shall enforce the aforementioned rules, regulations and requirements within its territory with due diligence.

(b) Hampton rules, regulations and requirements relating to the content of wastewaters discharged, placed or otherwise permitted to flow into its sewers shall be nondiscriminatory and shall be applied to and administered equally to Rye and Hampton.

(c) The Town of Rye through its local ordinances shall facilitate the entry of representatives of Hampton for the purpose of inspecting sewers and appurtenance facilities owned by the Town of Rye, whether in Rye, North Hampton or Hampton, as well as any dischargers

into the sewers and appurtenant facilities owned by the Town of Rye. Hampton representatives may exercise the rights set forth herein for the purpose of ascertaining the state of compliance with the Rye's sewer use ordinance and any discharge permits which have been issued by Rye.

(d) Permits for residential, commercial and institutional discharges into the sewers of Rye shall be issued and administered by Rye in accordance with all applicable laws and subject to the provisions of this Agreement. Prior to issuance of any such permit, Rye shall provide a draft thereof to Hampton and shall have the appropriate consultation with Hampton to assure that the permit and any other arrangements in connection therewith are consistent with the sewer ordinances of Hampton and its rules and regulations. If the permit and any other arrangements in connection therewith are not consistent with the sewer ordinance of Hampton and its rules and regulations, Hampton shall have the right to disallow the permit. Rye will enact and keep in force a valid sewer use ordinance in accordance with law. It shall be the further responsibility of Rye to obtain such reviews and approvals and to furnish such information with respect to its permits as may be required by law. The Rye permit system shall be substantially consistent with that of Hampton.

(e) The discharge of septage or holding tank waste into the Rye sewer system discharging into the Hampton sewer system is strictly prohibited.

#### 9. Access to Books and Records

The duly designated representatives of Rye shall have access to all books and records of Hampton which relate to sewerage systems used by Rye at all reasonable times and shall be entitled to receive or make copies of any information contained therein.

#### 10. Insurance

(a) Rye will secure and maintain the appropriate insurance to cover its liability under this Agreement.

(b) Hampton will secure and maintain the appropriate insurance to cover its liability under this Agreement.

11. Disputes

If for any reason the parties hereto are in dispute over any part of this Agreement for more than thirty (30) days, Hampton and Rye agree to retain an independent third party acceptable to both Hampton and Rye for the purpose of resolving the dispute(s), which may be appealed to the Superior Court.

12. Rye agrees to forever defend and indemnify and hold Hampton harmless from any claims or damages resulting from or due to any incident in connection with the Rye Sewer System, excluding any incident occurring which is under the control of Hampton, and to forever defend and indemnify and hold Hampton harmless from any and all claims resulting from any natural event or catastrophe, or any accident or damage caused by others, to any site or facility observed, maintained, or inspected by Hampton pursuant to the Rye Sewer System.

13. Term

(a) The term of this Agreement shall be 20 years. It shall commence on the effective date.

(b) This Agreement may be amended or terminated earlier than its expiration date by duly authorized mutual action of Hampton and Rye.

(c) Both the Town of Hampton and the Town of Rye recognize that, due to the large capital expenditures associated with the Hampton-Rye Connection, renewal of the Agreement is contemplated. It is agreed that the renewal agreement will be based upon the same principles of proportionality that are contained in this Agreement and the Agreement shall be renewed for successive periods of not less than 5 years unless 2 years prior to the termination date of this Agreement either party notifies the other that the Agreement shall not be renewed.

(d) Upon termination of this Agreement those wastewater facilities within the bounds of the Town of Hampton shall remain the property of Hampton, all other wastewater facilities shall remain the property of Rye.

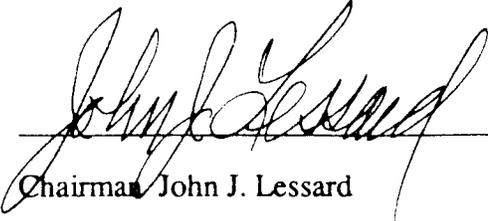
14. Default

In the event default is made by either of the parties hereto the other party may bring an action in the appropriate court for damages, specific performance, and/or any other legal or equitable relief, the costs of any litigation, including reasonable attorney's fees, costs of expert witnesses, and other court costs, shall accrue to the prevailing party.

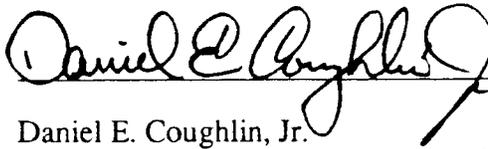
15. If the Town of Rye shall fail to hold a Town Meeting at which there is voted approval of the funding of this Agreement on or before April 1, 1990 then this Agreement shall be null, void and of no effect.

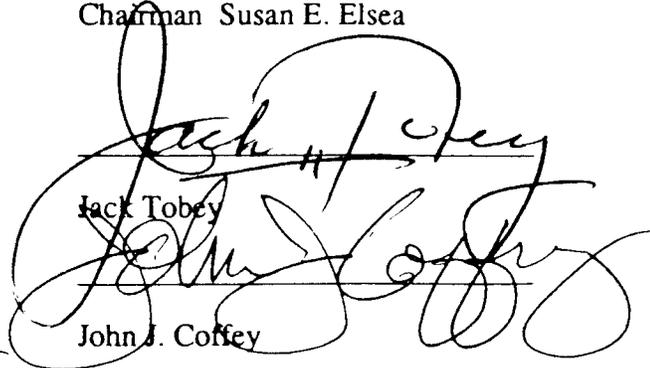
TOWN OF HAMPTON, NEW HAMPSHIRE

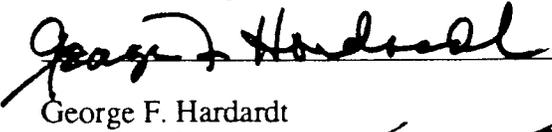
TOWN OF RYE, NEW HAMPSHIRE

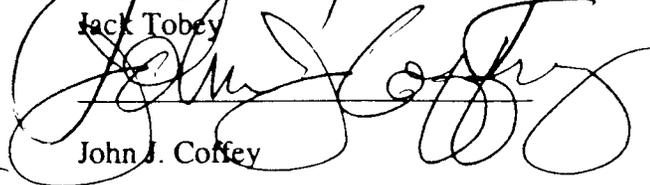
By   
Chairman John J. Lessard

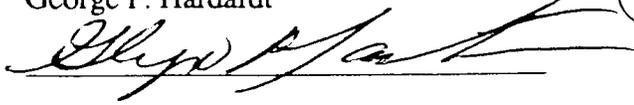
By   
Chairman Susan E. Elsea

  
Daniel E. Coughlin, Jr.

  
Jack Tobey

  
George F. Hardardt

  
John J. Coffey

  
Glyn P. Eastman

\_\_\_\_\_  
Mary-Louise Woolsey

Witness:

Witness:

By   
Philip G. Richards  
Town Manager

By   
Janet Thompson  
Administrative Assistant

10-23-89  
Date

10-23-89  
Date

## EXHIBIT A

Rye will pay Hampton a charge each quarter for the treatment and transport of wastewater in Hampton based on the estimated cost to process the total flow on a per 1000 gallon basis. Treatment and transport costs will be arrived at in the following manner:

$$\frac{\text{Projected Annual O\&M Budget for WWTP} \times 1000}{\text{Actual Total Flow From Previous Year}} = \text{Estimated Cost of Treatment and Transport Per 1,000 Gallons}$$

In addition to the above cost of treatment and transport, Rye will also pay 19.23%\* of the costs to operate and maintain the High Street East Pump Station.

Hampton will invoice Rye for services not later than 15 days after the end of each quarter. Rye will pay Hampton for invoiced services not more than 30 days of the billing date.

The budget categories included in the treatment and transport costs are:

1. Annual Labor Costs
2. Administration
3. Utilities
4. Chemicals
5. Laboratory
6. Maintenance
7. Insurance
8. Miscellaneous

\*19.23% is based on a Rye wastewater contribution at the rate of 500 gpm.

Between January 1 and April 1 of each year actual O&M expenditures for the system used by Rye will be calculated. This calculated figure will be divided by the total flow through the WWTP for the previous year and a cost per 1000 gallons arrived at. This cost will be multiplied by the total actual flow from Rye (per 1000 gallons) for the previous year. Based on this calculation, a credit or debit will be issued.

Included in the annual adjustments will be a fee to defray the Hampton cost of accounting for the Rye flows.

## EXHIBIT B

### AGREEMENT FOR OPERATION AND MAINTENANCE SERVICES

THIS AGREEMENT is attached and made a part of an Agreement for Treatment and Disposal of Wastewater between the TOWNS of HAMPTON and RYE, dated October \_\_\_\_, 1989. TOWN OF RYE, NEW HAMPSHIRE is hereinafter referred to as the "TOWN", and the TOWN OF HAMPTON, NEW Hampshire is hereinafter referred to as the "CONTRACTOR".

#### RECITALS

WHEREAS, TOWN contemplates constructing a Sewage Collection System hereinafter referred to as the "SEWERAGE SYSTEM"; and

WHEREAS, TOWN desires to employ the services of CONTRACTOR in the management maintenance and operation of the SEWERAGE SYSTEM during the term of said Agreement for Treatment and Disposal of Wastewater and CONTRACTOR desires to perform such services for the compensation set forth hereinafter.

NOW THEREFORE, for the mutual considerations set forth hereinafter, the parties hereto agree as follows:

#### I. EMPLOYMENT:

- A. TOWN hires CONTRACTOR to furnish the services hereinafter mentioned at and for the compensation herein provided, and CONTRACTOR accepts said hiring upon said terms and conditions set forth herein.
- B. It is expressly understood that the CONTRACTOR has been employed to manage, operate, and maintain the SEWERAGE SYSTEM and has no interest direct or indirect in said SEWERAGE SYSTEM.

II. SEWERAGE SYSTEM:

SEWERAGE SYSTEM as used herein includes the TOWN's equipment and facilities consisting of the TOWN's Sewage Collection System; sewage pumping stations including piping to and from sewage pumping stations. Operation and maintenance of additions to the collection system will be included by amending the contract from time to time as mutually agreed by the TOWN and the CONTRACTOR.

III. COMPENSATION:

The TOWN will pay the CONTRACTOR at standard hourly rates for personnel and equipment assigned, plus reimbursable expenses. Expenses will be charged at their direct out-of-pocket cost. All charges will be in accordance with billing rates indicated in "The Town of Hampton, Department of Public Works Billing Rates for 1989", included herein as "Schedule of Compensation".

Billings for services will be itemized and will be based on actual charges accrued. Payment will be due the CONTRACTOR within 30 days of the billing date.

Billing rates as indicated in the attached Schedule of Compensation may be adjusted on an annual basis.

IV. SCOPE OF SERVICES:

- A. CONTRACTOR represents to TOWN, by the execution of this Agreement, that it is qualified in all respects to perform the services that it herein agrees to perform. CONTRACTOR will utilize its knowledge and experience to control, maintain and operate the SEWERAGE SYSTEM.
- B. 1. CONTRACTOR shall pay all expenses except power, water and telephone, incurred in the maintenance and operation of the SEWERAGE SYSTEM including, but not limited to, wages, benefits, salaries, fuel, lubricants, materials and supplies, and contracted services, if any, except as otherwise limited herein, and be reimbursed therefor.
2. TOWN shall make arrangements for and pay directly all expenses for water, electric power, and telephone associated with the SEWERAGE SYSTEM.
3. CONTRACTOR shall within sixty (60) days of the start of contract services provide the TOWN with a preventive maintenance schedule. It will 1) define what is required and when it is to be performed; 2) inventory of equipment and spare parts; and 3) maintain a history of all maintenance.
4. TOWN represents to CONTRACTOR that all mechanical and electrical equipment and systems are operative, and are free from any known defects at commencement of services to be provided by this Agreement. Should there be inoperative or defective equipment or systems, the CONTRACTOR will within thirty (30) days of commencement of this Agreement, inform the TOWN citing the specific defects and piece of equipment or

systems. The CONTRACTOR shall also provide a cost estimate with documentation on "repair or replace" decisions made for said equipment or systems. The TOWN shall either immediately acknowledge or disclaim said pre-existing defect. If said pre-existing defect is acknowledged by the TOWN, the TOWN will approve, within thirty (30) days, repair or replacement of the defective equipment or systems.

4. CONTRACTOR warrants to TOWN that if and when services under this Agreement are terminated all mechanical and electrical equipment within the SEWER-AGE SYSTEM will be operative and free from known defects subject to normal and usual wear and tear.

C. Routine and normal maintenance and repairs for equipment and structures shall be provided by CONTRACTOR: provided however, that such routine and normal maintenance and repairs shall not include costs associated with: (1) Flood, fire or other similar extraordinary occurrences not within the control of CONTRACTOR: except those due to the sole negligence of the CONTRACTOR, (2) Excess costs due to the necessity of repairing or fabricating parts for equipment which has become obsolete and for which parts are no longer available in the open market. CONTRACTOR will pay for repair and maintenance of equipment and structures, including all parts necessary for equipment and repair or replacement during the term of services, and will invoice the TOWN for the repair or replacement, provided the amount shall not exceed \$5,000 per occurrence for each item, process or system. Repair and replacement cost determinations are exclusive of CONTRACTOR's labor costs and capital expenditures as defined below.

- D. CONTRACTOR will submit upon request, documentation of the cost-effectiveness of "repair versus replace" decisions made by CONTRACTOR.
- E. A capital expenditure is defined as any expenditure made for equipment or a facility item that is normally depreciated on a scheduled basis, or an expenditure item that is pre-programmed for purchase by the TOWN or, for repairs or replacement costs that exceed \$5,000 per occurrence whether it actually is a repair or not.
- F. Any capital expenditures, specialized work, or service the CONTRACTOR desires to have performed by an outside specialist or subcontractor, which is within the scope of services herein provided, will be subject to prior written approval by the TOWN.
- G. CONTRACTOR agrees to perform other services as shall be requested in writing by TOWN and for which appropriate compensation is agreed to by both parties in advance. Such additional services shall be made part of this Agreement by an addendum signed by the parties hereto.
- H. CONTRACTOR shall maintain all existing equipment in accordance with the requirements and as defined in the operation and maintenance manual. CONTRACTOR shall maintain all new equipment purchased after the effective date of the Agreement in accordance with equipment manufacturers' warranty requirements.

V. CHANGES IN SERVICES:

Any change in SEWERAGE SYSTEM operation, reporting requirements, monitoring requirements or in personnel qualifications required by any agency having jurisdiction to order such change

may be authorized by TOWN, in which event the parties shall mutually determine the increase or decrease in costs of operation to TOWN as recited under Article IV, Compensation , of this Agreement.

VI. HOLD HARMLESS AGREEMENTS:

A. CONTRACTOR shall defend at its own expense, in the name and behalf of the TOWN, and shall indemnify and save harmless the TOWN from any and all claims, suits, losses, damages, costs or expenses, including attorney's fees, due to the negligence of the CONTRACTOR, or the negligence of its officers, employees or agents, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part by reason of or arising out of the operation of the SEWERAGE SYSTEM. The duty of the CONTRACTOR to defend, and save harmless and indemnify the TOWN, shall extend to officers, employees and agents of the TOWN, to the extent the TOWN is obliged to defend, save harmless and indemnify same by law.

B. TOWN shall defend at its own expense, in the name and on behalf of the CONTRACTOR, and shall indemnify and save harmless the CONTRACTOR from any and all claims, suits, losses, damages, costs or expenses, including attorney's fees, due to the negligence of the TOWN or the negligence of its officers, employees or agents, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or part by reason of or arising out of the operation of the SEWERAGE SYSTEM. The duty of the TOWN to defend, and save harmless and indemnify the CONTRACTOR, shall extend to officers, employees, and agents of the CONTRACTOR, to the extent the CONTRACTOR is obliged to defend, save harmless and indemnify same by law.

VII. INSURANCE:

A. CONTRACTOR shall maintain, during the life of this Agreement, Worker's Compensation Insurance for all its employees employed at the SEWERAGE SYSTEM, and in case any work is sublet, CONTRACTOR shall require its subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CONTRACTOR. In case any class of employee engaged in work under this Agreement is not protected under any Worker's Compensation Law, CONTRACTOR shall provide, and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected.

B. LIABILITY INSURANCE

CONTRACTOR shall furnish TOWN with a comprehensive policy of public liability insurance insuring the TOWN and its agents, officers and employees against claims or liability, contingent and otherwise, for injury to, or death of, any person, or persons, or damage to real or personal property, arising in, by reason of, or in connection with, CONTRACTOR's operations herein contemplated, and also agree to defend against all claims, demands, actions or legal proceedings made or brought by any person by reasons of any such injury, death or damage and to pay all judgements, interest, costs, and other expenses arising out of or in connection therewith. The limits of liability of such policy shall be not less than \$1,000,000 combined single limits for bodily injury and/or property damage. Said comprehensive bodily injury and property damage liability insurance policy or policies shall contain the following endorsement:

"Notwithstanding any other provision of this policy, the insurance afforded hereunder to TOWN, its agents, officers and employees shall be primary as to any other insurance or re-insurance covering or available to said parties, and such other insurance or re-insurance shall not be required to contribute to any liability or loss until and unless the appropriate limits or liability afforded hereunder are exhausted."

2. The liability insurance requirement stated herein may be satisfied by CONTRACTOR endorsing its existing liability policy to name TOWN and its agents, officers and employees as additional named insureds thereunder, and to contain the standard cross liability and severability to interest clause. In such case, certificates of insurance under CONTRACTOR's liability policy as endorsed shall be furnished to TOWN.
3. CONTRACTOR shall furnish TOWN, concurrently with the execution hereof, satisfactory proof of said insurance coverage required, and will provide to TOWN at least thirty (30) days prior notice of the cancellation of any policy required herein during the effective period of this Agreement.
4. Should any of the policies affecting the TOWN be cancelled or materially modified prior to the expiration date thereof, the issuing company shall provide the TOWN thirty (30) days prior written notice of said cancellation or material change.

#### VIII. PRICE ADJUSTMENT:

Commencing with the second year of the term of this Agreement, annual adjustments in the compensation provided for hereinabove in Article III shall be made.

IX. AMENDMENT:

This Agreement may be amended or modified only by written agreement signed by both parties, and failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or provisions.

X. RELATIONSHIP:

It is understood that the relationship of CONTRACTOR to TOWN is that of independent contractor.

XI. ASSIGNMENT:

CONTRACTOR binds itself, its successors and assigns to TOWN in respect to all provisions of this Agreement. Except for the foregoing, neither TOWN nor CONTRACTOR shall assign, sub-contract or transfer their interests in this Agreement without the written consent of the other.

XII. ENTIRE AGREEMENT:

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing, signed by the party to be charged.

XIII. PARTIAL INVALIDITY:

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIV. ATTORNEY'S FEES:

If any litigation is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees which are directly attributed to such litigation in addition to any other relief to which it may be entitled.

XV. NOTICES:

- A. All notices shall be in writing and delivered in person or transmitted by certified mail, return receipt, postage prepaid.
- B. Notices required to be given to TOWN shall be addressed as follows:

TOWN OF RYE  
10 Central Road  
Rye, New Hampshire 03870

- C. Notices required to be given to CONTRACTOR shall be addressed as follows:

DIRECTOR OF PUBLIC WORKS  
TOWN OF HAMPTON  
136 Winnacunnet Road  
Hampton, New Hampshire 03842

or such other addresses as may be specified by written notice by either party to the other.

**XIV. RIGHT OF OWNERSHIP:**

- A. All permanent facilities and equipment within the SEWERAGE SYSTEM outside the TOWN of HAMPTON shall remain the property of TOWN, and such property cannot be disposed of by CONTRACTOR without the express written consent of the TOWN.
  
- B. Any non-permanent capital equipment provided by CONTRACTOR, at its sole expense, shall remain the property of CONTRACTOR. However, TOWN shall have the option to purchase any capital equipment, acquired during the term of the Agreement at its depreciated value at the termination of the Agreement. A detailed depreciation schedule shall be provided to the TOWN for any and all such equipment within sixty (60) days of its purchase by the CONTRACTOR.

**XV. FORUM:**

- A. The law governing the formation, construction and interpretation of this Agreement shall be the law of the State of New Hampshire.
  
- B. The parties to this Agreement hereby agree that as to the determination and rendering of judgment in any controversy arising hereunder, jurisdiction shall vest exclusively in the Courts of the State of New Hampshire.

1989 SCHEDULE OF COMPENSATION  
TOWN OF HAMPTON, NEW HAMPSHIRE  
DEPARTMENT OF PUBLIC WORKS

	Regular Rate	Over Time Rate
Labor		
Town Manager	\$35.10	---
Director of Public Works	29.50	---
Operations Manager	29.50	---
Pump Mechanic	20.90	\$31.40
Inspector	19.30	28.90
Equipment Operator	18.40	27.60
Laborer	14.30	21.50
Clerical	14.50	---
Equipment*		
High Velocity Sewer Jet	45.00	N/A
Dump Truck	20.00	N/A
Compressor	12.00	N/A
Rodding Machine	10.00	N/A
Other		
Mileage	.23/Mi	N/A
Copies	.04/Ea	N/A
Materials, Expenses, Insurance, Other	At Cost	N/A

\*Equipment costs do not include operator