



4 Kittridge Road  
Buzzards Bay, MA 02542

Email:  
masstc@capecod.gov

## **Barnstable County's Falmouth Urine Diversion Demonstration Project Operation, Maintenance, and Monitoring Agreement**

This agreement is entered into on \_\_\_\_\_, 202\_ ("Agreement"), by and between Barnstable County Regional Government, having an address of 3195 Main Street, Barnstable, MA 02630 ("Barnstable County") and the undersigned participating Property Owner (the "Property Owner") for the operation, maintenance, and monitoring of a urine diverting (UD) toilet system pursuant to the Falmouth UD Demonstration Project (the "Project"). The Project is funded by a grant ("the Grant") from the Massachusetts Department of Environmental Protection ("MassDEP") via the U.S. Environmental Protection Agency ("USEPA") Section 319 Nonpoint Source Competitive Grant Program. The Project provides operation, maintenance, and monitoring (OMM) assistance of UD toilet systems ("UD System") at participating locations to an owner of real property. OMM assistance will be provided to participating Property Owners per the terms listed below.

Property Owner(s)/Applicant(s)

Name(s) \_\_\_\_\_

Site Address \_\_\_\_\_

\_\_\_\_\_

City/Town \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone \_\_\_\_\_ E-mail \_\_\_\_\_

Address of Property \_\_\_\_\_

## **PROJECT TERMS**

### **CONTRACT TERM:**

1. The term of this Agreement shall extend for two years from the UD System start-up date as indicated by completion of installation of the entire UD System and receipt of all necessary permits relating thereto (“Start Date”). The parties shall specify the Start Date in writing. The Contract Term may be extended by written agreement of the parties (as may be extended, “Contract Term”).

### **OBLIGATIONS OF BARNSTABLE COUNTY:**

2. Barnstable County will assist Property Owner with the operation, maintenance, and monitoring of the Property Owner’s UD System during the Contract Term by performing the following on a quarterly basis (or at such other intervals as reasonably determined by Barnstable County in its sole discretion):
  - a. Inspection of the toilet fixture(s), plumbing system, compost system, and storage tank(s), as applicable, to observe proper system functionality.
  - b. Measurement of water usage, urine volume, and compost leachate volume, as applicable.
  - c. Sampling and analysis of Total Nitrogen (TN) and Total Phosphorus (TP) in urine and leachate, as applicable, removed from the site.
  - d. Sampling and analysis of TN and TP remaining in septic effluent.
  - e. Removal of collected urine and/or leachate, as applicable, from the site.

The above activities (a-e) to be performed by Barnstable County at its sole cost and expense. After the Contract Term, the Property Owner shall be responsible for all operation, monitoring, and maintenance as required by the Local Approving Authority (LAA) and the Massachusetts Department of Environmental Protection (MassDEP) or as otherwise required by law.

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3. Notwithstanding anything to the contrary contained herein, Barnstable County will not be responsible for management or disposal of solids collected in a composting toilet system or any operation and maintenance of an incinerating toilet system.

**OBLIGATIONS OF PROPERTY OWNER:**

4. Property Owners shall follow, in all respects, manufacturer's and Barnstable County's recommended operation and maintenance procedures for UD (as conveyed to Property Owner by Barnstable County from time to time), composting, and/or incinerating toilet systems.
5. Property Owners shall abide by all requirements and conditions of both state and local permits and all applicable laws related to the installation, operation, and maintenance of their UD Systems.
6. Property Owner agrees to allow Barnstable County staff, consultants, and other service providers access on to Property Owner's private property to conduct UD System inspections, operation, maintenance, and monitoring during the Contract Term as described above (Obligations of Barnstable County).
7. Property Owner gives consent for Barnstable County to collect and use data resulting from the Project for purposes of advancing governmental and other approvals for UD Systems as nutrient management technologies including, but not limited to, Property Owners' names and site addresses, system functionality and performance, water usage, urine and leachate volume, and total nitrogen and total phosphorus concentrations in urine, leachate, and septic tank effluent.
8. Except as otherwise specified herein, Property Owner, and not Barnstable County, is responsible for any and all costs associated with the operation, maintenance, repairs, and modifications of the UD System.
9. Property Owner agrees that no buildings, decks, other structures, or renovations of any kind shall be erected in, on, or over components of the UD System that would affect the function, performance, or access for operation, monitoring, and maintenance of the UD System, unless prior written approval is obtained from Barnstable County and applicable state and local regulatory authorities.

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10. Property Owner agrees to promptly disclose to Barnstable County, and in any event no less than thirty (30) days prior to closing on any such transaction, any intentions or actions to sell or otherwise transfer the property to a different Property Owner during the Contract Term.
11. Property Owner agrees to abide by all requirements and recommendations necessary for the proper operation and maintenance of the UD System to ensure proper functionality throughout the Contract Term. In the event that maintenance or repair is needed to ensure proper functioning of the UD System during the Contract Term, Property Owner agrees to notify Barnstable County as soon as possible and, in any event, within 24 hours. All repairs as well as costs of operation, maintenance and removal (if any) of the UD System (other than those specified above), shall be paid by the Property Owner.
12. Property Owner is responsible for any repairs needed to maintain functionality of the UD System after the Contract Term. Property Owner agrees that there shall be no liability on the part of Barnstable County to Property Owner if the UD System or the Project fails and further acknowledges that Barnstable County provides no warranty for the UD System or the Project of any kind, express or implied.
13. After the completion of the Contract Term, the Property Owner assumes sole responsibility in perpetuity for the operation, maintenance, repair, regulatory compliance, or removal of the UD System.

**INDEMNIFICATION:**

14. Property Owner shall, at its sole cost and expense, indemnify, defend, and hold harmless Barnstable County, its officials, employees, and agents from and against any and all claims, damages, losses, liabilities, and expenses, including but not limited to reasonable attorneys' fees and litigation costs, arising out of or resulting from the installation, operation, maintenance, or failure of the UD System, the Project or any other matter relating thereto (other than Barnstable County's obligations specifically provided for herein).
15. This indemnification specifically includes, without limitation, any claims brought by third parties for nuisance, property damage, or personal injury, as well as any fines, penalties, or remediation costs imposed by state or federal regulatory agencies (including MassDEP and USEPA) resulting from the Property Owner's (i) breach of this Agreement or (ii) failure to operate or maintain the UD System in accordance with Project Terms or applicable law.

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16. Property Owner hereby releases and forever discharges Barnstable County from any and all liability related to the public disclosure of Project data or the failure of the UD System or the Project to achieve specific nutrient reduction targets. Property Owner acknowledges that Barnstable County makes no representations or warranties, express or implied, regarding the merchantability or fitness of the UD System for a particular purpose.
17. The obligations of the Property Owner under this Section (Indemnification) shall survive the expiration or earlier termination of this Agreement and shall remain in effect for as long as the UD System remains on the Property.

**OTHER TERMS AND CONDITIONS:**

18. This Agreement may be modified or altered at any time, provided that such modification or alteration is evidenced in writing and signed by all parties hereto.
19. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.
20. Except as otherwise specifically provided herein, this Agreement shall terminate upon completion of the Contract Term without the necessity of any further action, notice, or execution of additional documents by either party.
21. This Agreement contains the entire agreement of the parties with respect to the subject matter hereto and is not subject to any other oral or written agreement, statements, or representations not expressly set forth herein.
22. This Agreement shall be binding upon the parties hereto, their heirs, executors, representatives, successors, and assigns. Notwithstanding the foregoing, this Agreement shall not be assigned or transferred by the Property Owner without the prior written consent of Barnstable County.
23. This agreement shall be governed by the laws of the Commonwealth of Massachusetts.



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**DEFINITIONS:**

UD System: A permanently installed toilet and associated plumbing system that consists of one or multiple alternative toilets and/or urinal fixtures that divert and manage urine separately from the conventional wastewater system.

I/we understand that by signing below, I/we agree to all the above stated for participation in the Project. This Agreement is signed under seal.

By and Between:

Property Owner Name(s) \_\_\_\_\_

Property Owner Signature(s) \_\_\_\_\_

Date \_\_\_\_\_

And:

Barnstable County  
Name(s) \_\_\_\_\_

Barnstable County  
Signature(s) \_\_\_\_\_

Date \_\_\_\_\_