

**INTERLOCAL AGREEMENT
TO ESTABLISH A JOINT SOLID WASTE FACILITY
FOR THE MUNICIPALITIES OF BROWNVILLE AND MILO,
LAKE VIEW PLANTATION AND PISCATAQUIS COUNTY**

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FOR THE MUNICIPALITIES OF BROWNVILLE AND MILO, LAKE VIEW
PLANTATION AND PISCATAQUIS COUNTY**

WHEREAS, the Town of Brownville ("Brownville"), the County of Piscataquis, acting herein on behalf of the unorganized townships (the "County"), Lake View Plantation ("Lake View") and the Town of Milo ("Milo") have the duty to provide solid waste disposal facilities for domestic and commercial solid wastes generated within their limits under 38 M.R.S.A. § 1305(1); and

WHEREAS, the parties hereto have determined that it will be a more efficient use of their powers and resources, and to their mutual advantage, to enter into this Agreement; and

WHEREAS, the parties hereto are authorized, pursuant to the Maine Interlocal Cooperation Act, Title 30-A M.R.S.A., Chapter 115, to contract and to organize pursuant to Title 38 M.R.S.A., Section 1304-B(5), a public waste disposal corporation under Title 13-B M.R.S.A., to own and operate such solid waste management facility.

NOW, THEREFORE, the parties hereto, for and in consideration of the mutual promises and agreements herein stated, do hereby promise and agree as follows:

PART 1. PURPOSE.

The purpose of this Agreement is to establish a public waste disposal corporation pursuant to Title 38 M.R.S.A. § 1304-B(5) and Title 13-B M.R.S.A. to provide for the planning, development, acquisition, operation, and closure of a cost-effective, environmentally sound, and reliable solid waste management and/or disposal facility and for the collection, transportation, storage, processing, salvaging and disposal of solid waste, as hereinafter defined. It is also the purpose of the corporation, as hereinafter defined, to enter into contracts with other member municipalities or governmental organizations for the

disposal of solid waste, construction debris and recyclables, as hereinafter defined, at the site, and to enter into agreements with the State of Maine or any agency thereof to accept solid waste, construction debris and recyclables at the site. Any agreement for the acceptance of solid waste, other than from the member municipalities, must comply with all rules and regulations of the State of Maine, the United States of America and the bylaws of the corporation, as hereinafter defined, and must have the prior approval of the Board of Directors of said corporation, as hereinafter defined.

PART 2. DEFINITIONS.

2.1 The following defined terms shall have the meaning set forth below.

2.1.1 Solid Waste. "Solid Waste" shall have the same meaning as is set forth in Title 38 M.R.S.A. §1303-C, as amended from time to time, except that in any event it shall include construction and demolition debris.

2.1.2 Member Municipality. "Member Municipality" means any municipality or governmental organization which is a party to this Agreement or which subsequently becomes a party to this Agreement and which appoints representative members of the Board of Directors of the public waste disposal corporation as hereinafter defined.

2.1.3 "Facility" means any waste facility used for the landfilling, final placement or recycling of solid waste and construction and demolition debris, and any waste facility used for purposeful, systematic and unified control of

the collection, storage, transportation, processing, salvaging and disposal of solid waste and construction and demolition debris.

2.1.4 Recycling. "Recycling" shall mean the collection, separation or recovery and sale or reuse of materials that would otherwise be disposed of or processed as waste.

2.1.5 Construction and demolition debris. "Construction and demolition debris" shall have the same meaning as is set forth in Title 38 M.R.S.A. §1303-C, as amended from time to time.

PART 3. ADMINISTRATION.

3.1 Waste Disposal Corporation.

The actions of the member municipalities pursuant to this Agreement shall be undertaken by and through a public waste disposal corporation incorporated by a board of directors as representatives of the member municipalities under 38 M.R.S.A. § 1304-B(5) ("the Corporation").

3.2 Board of Directors.

The directors of the Corporation (the "Directors") shall be designated the "Board." The Directors shall be appointed by the municipal officers of the Member Municipalities. Each participating Member Municipality shall have three (3) directors. Each director shall be entitled to one (1) vote. The term of each Director shall be three years, which term may be staggered in accordance with the by-laws of the corporation to be adopted upon incorporation (the "By-laws").

To the extent possible, the Board shall contain one municipal officer or commissioner for each of the Member Municipalities, chosen by the Boards of Selectmen or Commissioners of each Member Municipality, to serve as Director. If one municipal officer cannot be found to serve, then the Boards of Selectmen or Commissioners may designate other individuals with sufficient managerial, technical, financial or business experience to execute their duties effectively and efficiently. Appointments shall be by vote of the municipal officers or commissioners and attested to by municipal clerks or county clerk. The municipal officers or commissioners, by majority vote, may remove their appointed representatives during his or her term for stated reasons. The Directors shall keep the municipal officers of their municipalities informed of the financial and technical condition of the Facility and the Corporation.

The Board shall manage the business and affairs of the Corporation, and may exercise on behalf of the Corporation those powers and functions which are necessary or convenient to the accomplishment of the purposes of the Corporation in accordance with the terms and conditions of this Agreement and the Bylaws as same may be amended from time to time, all as permitted by the provisions of Title 13-B, M.R.S.A., as same may be amended from time to time.

No member of the Board may be employed, for compensation, as an employee of the Facility or the Corporation.

Upon the effective date of this Agreement, or as soon thereafter as possible, the Directors shall hold an organizational meeting to incorporate the Corporation,

adopt the Bylaws, elect officers, and perform all other actions necessary, appropriate or convenient to this Agreement.

3.3 Meetings.

(a) Board meetings shall be held at least quarterly. Special meetings may be called in accordance with the provisions of the Bylaws.

(b) A quorum for any meeting shall consist of at least a majority of Directors representing the Member Municipalities.

3.4 Powers.

The Board shall have all necessary and incidental powers granted to directors of non-capital stock corporations under Title 13-B, M.R.S.A., subject to such limitations as are required by law, this Agreement and the Bylaws.

3.5 Contracts.

In order to encourage and facilitate the financing and development of the Facility, including but not limited to resource recovery and deposits of demolition debris, the Directors may recommend, by majority vote, that long-term contracts be entered into by and between the Corporation and non-Member Municipalities or governmental organizations for the acceptance, processing, salvaging and disposal of certain waste. Such contracts may be for a term of up to three years. If any of such contracts exceed three years, then the Directors shall obtain the approval of the municipal officers of each of the Member Municipalities, before entering into any such contracts. The Board shall determine the fees to be charged to any such municipalities or organizations for use of the Facility.

PART 4. FINANCE.

4.1 Initial Capitalization.

The initial capitalization ("Initial Capitalization") of the Corporation shall be all funds deposited by the Member Municipalities to initially facilitate the purposes of this Agreement and the Corporation.

4.2 Apportionment

4.2.1 Initial Capitalization. The Initial Capitalization for which each Member Municipality will be responsible is as follows:

Brownville	\$ 9,000.00
Milo	\$12,000.00
Lake View Plantation	\$ 1,900.00
County of Piscataquis	\$ 600.00

It is anticipated that the Initial Capitalization will provide sufficient funds to acquire assets, including but not limited to real estate, necessary to accomplish the purposes of the Interlocal Agreement.

4.2.2 Additional Appropriations. To the extent that the cost of acquiring necessary assets is not covered by the Initial Capitalization, all costs incurred by this Corporation shall be paid for by appropriations from the Member Municipalities.

4.2.3 Allocation.

4.2.3.1 Original Members. Additional appropriations, operating costs and indebtedness of the Corporation shall be allocated among Member

Municipalities listed below in accordance with the following proportionate shares:

Brownville	32%
Milo	54%
Lake View Plantation	9%
County of Piscataquis	5%

4.2.3.2 Subsequently Accepted Members. The allocated share of the Initial Capitalization, subsequent appropriations and any indebtedness incurred by the Corporation of any Member Municipality accepted after the date of this Agreement shall be equal to that portion of the subsequent appropriations or indebtedness incurred by the Corporation, or the total Initial Capitalization, which is yielded by dividing the "Member Municipality's population" by the "total population," as determined in accordance with the following provisions:

(a) For each Member Municipality which is an organized township or municipality, the phrase, "Member Municipality's population," shall mean the Member Municipality's population as shown in the most recent U.S. Census unless another reliable population index is accepted by majority vote of the Directors.

(b) For each Member Municipality which is not an organized township or municipality, the phrase, "Member Municipality's population," shall mean the sum of the number of permanent residents of the Member Municipality as shown in the most recent U.S. Census unless another reliable population index is accepted by majority vote of the Directors, plus the number of taxed waterfront lots with buildings thereon located within the boundaries of the Member Municipality.

(c) The "total population" is the sum of the populations of all Member Municipalities determined in accordance with subparagraphs (a) and (b) above.

4.2.4 Change in Allocated Share. By a two-thirds (2/3) majority vote of the assembled Directors, the Board may change the allocated shares of the Member Municipalities in accordance with the formula set forth in this Article for the determination of the allocated shares of subsequently accepted Member Municipalities.

4.2.5 Allocation of Indebtedness. A Member Municipality's share of any indebtedness incurred by the Corporation shall be determined by application of the percentage applicable to a determination of the Member Municipality's allocated share of appropriations for the year in which the debt was authorized. Each Member Municipality's share of indebtedness of the Corporation shall be fixed as of the date the debt is authorized. The Corporation shall have the assessment authority and shall use the assessment procedures set forth in Title 20-A M.R.S.A. § 1310 as amended, but no collection action shall be initiated until 90 days after the date of the Member Municipality's annual town meeting. Appropriations from Member Municipalities shall be determined by the annual budget adopted each year by the Corporation and by the cost of such emergency expenditures that may be required from time to time.

4.3 Financial Procedures.

4.3.1 Budget. During the first year of activities hereunder, the Board shall prepare a budget, determine shares of costs and transmit the same to the Member Municipalities on or prior to June 15, 1996; thereafter, the budget and cost allocations shall be transmitted on or prior to January 1 of each year. These allocations shall constitute the assessment (the "Assessment") for debt service and operating expenses for each Member Municipality. Each Member shall (1) raise its Assessment annually, and (2) pay one-quarter of its annual operating assessment five working days prior to the beginning of each quarter. The fiscal year shall be the calendar year.

4.3.2 Surplus. Any surplus remaining in the operating budget shall become a part of the budget for the ensuing year.

4.3.3 Penalty. A Member Municipality may be assessed a penalty for overdue quarterly payments, based on a majority vote of the Board, such penalty to be the same as the maximum permissible by the state for overdue taxes.

4.3.4 Contingency. A contingency account shall be established to cover costs of emergency repairs and capital improvements as determined by the Board. No less than five percent of each annual operating budget shall be deposited in said contingency account.

4.3.5 Audit. The Board shall engage a qualified public accountant to conduct an annual audit of the Corporation's accounts. The audit shall be conducted

on the basis of auditing standards and procedures prescribed by the State Auditor for municipalities.

4.3.6 I.R.C. 501(c)(3) Election. The Board may, if it deems to be in the interest of the Corporation, elect to apply for 501(c)(3) status under applicable provisions of the Internal Revenue Code.

4.4 Debt.

The Corporation shall have the power, through its Board, to incur indebtedness for any purpose under Section 1304-B of Title 38 of the Maine Revised Statutes, as same may be amended from time to time, in a principal amount not to exceed at any time outstanding One Hundred Fifty Thousand Dollars (\$150,000.00). The full faith and credit of each Member Municipality shall be pledged to the payment of such indebtedness and the periodic assessments necessary to pay installments of principal and interest thereon. The Corporation shall cause each Member municipality to levy upon and raise from the taxable estates within each municipality by general taxes amounts required to pay each municipality's share of the indebtedness of the Corporation pursuant to Section 1304-B of Title 38, Maine Revised Statutes, as amended.

PART 5. OPERATION.

5.1 The Facility shall be open at least two days per week, one being Saturday. Establishment and modification of the operating schedule shall be a function of the Board. Special exceptions may be allowed through the attendant on a limited basis

and a fee for such exceptions shall be applied based on actual costs, as determined by the Board.

5.2 All users ("Users") of the Facility shall be required to display a user identification sticker showing that the user is a resident of a Member Municipality, which sticker shall be available at each Member Municipality's administrative office.

5.3 Users shall comply with provisions of any rules or regulations promulgated by the Board, as same may be amended from time to time. Failure to do so may result in revocation of the right to use the Facility. Penalties may be administered at the discretion of the Board.

5.4 The Facility will be operated in accordance with the laws of the State of Maine, Department of Environmental Protection rules and regulations and Site Operations Manual, and the Bylaws.

PART 6. PROPERTY.

6.1 Title.

The Corporation shall hold title to all real and personal property acquired pursuant to the purposes for which it is established, subject to the following:

- (a) In the event a site for any Facility is acquired through the exercise of the power of eminent domain by any one of the Member Municipalities, then the municipality taking such property may (1) retain title to the property so taken and lease the property to the Corporation, or (2) transfer title to such property to the Corporation. If any such Member Municipality (the "Lessor

Municipality") decides to lease such property, the term of the lease shall be the term of this Agreement or the useful life of the site as a solid waste disposal facility, whichever is shorter. The Lessor Municipality may elect to receive in-kind contributions and/or credit for the cost of acquisition. If the Lessor Municipality does not so elect, the other Member Municipalities shall pay sums equivalent to the cost of the taking reduced by the Lessor Municipality's proportionate share, or such other method as the Board shall prescribe.

6.2 Improvements.

The Corporation shall develop and construct all improvements, keep the same in good repair, and insure all properties owned or leased by it. The Corporation may lease any such property, or any portions thereof, to persons other than the parties to this Agreement.

6.3 Distribution of Assets.

Assets of the Corporation remaining at the time of termination of this Agreement or liquidation of the Corporation, whichever is earlier, shall be divided among the Member Municipalities in accordance with their proportional payments or contributions to the corporation during the full term of this Agreement, subject to the following:

- (a) Any real estate or personal property owned by the Corporation shall be offered for sale to the Member Municipalities, and awarded to the highest bidder. Property not purchased by any Member Municipalities shall be sold at

public auction and the proceeds thereof shall be distributed in accordance with the distribution procedure described above.

(b) Upon termination of any lease under Section 6.1(a) of this Agreement, Member Municipalities shall retain a claim against the Lessor Municipality for a share of the proceeds of any resale of such land, or, should the Lessor Municipality elect to retain land for other public or non-public uses, it shall pay the other Member Municipalities for their proportionate interest in the land as appraised by a qualified appraiser or appraisers accepted by the Corporation according to a payment schedule as established by some readily available third party chosen by the Board.

PART 7. AGENCIES AND CONSULTANTS.

7.1 Consulting Services.

The Board may employ such agencies or consultants as it deems necessary to accomplish the purposes of this Agreement and to conduct the activities of the Corporation.

Staff time may be contributed without compensation to the Corporation by the Member Municipalities. Persons performing work under such contribution arrangements shall be under the supervision of the Board or its designated supervisory personnel, but shall otherwise retain the status of an employee of the contributing Member Municipality.

PART 8. NEW MEMBERS

8.1 Any town, county or other governmental organization or County desiring to become a Member Municipality and permitted to do so by applicable state law, shall submit a request for such status to the Board which after due consideration of the request may accept the application and upon such acceptance determine the applicant's share of future operations and maintenance costs in accordance with the formula set forth in Part 4 hereof.

8.2 A party seeking to become a Member Municipality shall be required to pay to the Corporation that share of the Initial Capitalization which it would have been required to pay if it became a Member Municipality on the date of this Agreement. Any such payments made to the Corporation shall reduce the operating expense share of all other Member Municipalities in accordance with the formula set forth in Part 4 hereof.

8.3 A new Member Municipality shall be accepted only after its acceptance of this Agreement as evidenced by a majority vote of the applicant's legislative body.

8.4 The composition of the Board shall be adjusted to accommodate the new Member. Such adjustment shall be formalized by amending Section 3 of this Agreement, if necessary. A new Member Municipality's representation on the Board shall be as set forth in Part 3 hereof.

PART 9. REMEDIES.

9.1 Default.

A Member Municipality shall be deemed to be in default of this Agreement if it fails to appropriate or make timely payment of its Assessment, or if it fails to perform or comply with any of the terms, provisions, or conditions of this Agreement or the Bylaws. The Board shall give any Member Municipality written notice of default, specifying the acts or omissions which constitute the default. The Member Municipality so notified shall have thirty (30) days to remedy the default. In the event any such default is not remedied within such thirty (30) day period, then such defaulting Member Municipality shall be expelled from this Corporation. A Member Municipality expelled in accordance with the provisions of this Part 9 shall be subject to the requirements of payment and indemnification, set forth in Sections 9.2 and 9.3 below, provided, however, that its obligations under Section 9.3 shall only be effective as to claims arising during its period of membership in the Corporation.

9.2 Withdrawal.

Any Member Municipality may withdraw from this Agreement subject to the following:

- (a) The withdrawing Member shall give written notice of its intent to withdraw from this Agreement to the Board three hundred sixty five (365) days prior to the date of the proposed withdrawal. The effective date of such withdrawal shall be 365 days from the date of such written notice. The

Member Municipality shall make any payments required to be made during any year prior to the effective date of withdrawal by this Agreement or the By-laws.

(b) The Member proposing withdrawal shall provide the Board with written notification of intent to submit the withdrawal proposal to the Member's legislative body.

(c) Withdrawal is contingent upon a majority vote of the Member's legislative body affirming the withdrawal proposal.

(d) The withdrawing Member shall be reimbursed its proportionate share of contingency and operating accounts less any expenditures prior to the effective withdrawal date. It shall not be reimbursed for capital equipment expenses occurring prior to the notice of withdrawal. Reimbursement shall not include payment of interest on funds to be reimbursed.

(e) In the event the withdrawing party fails to comply with Subsection (a) above, it shall pay to the Board an amount equal to its share of costs due through the following year.

(f) The withdrawing party shall pay to the Corporation the entire amount of its share of any outstanding debts of the Corporation and any outstanding lease payments due to any Lessor Municipality.

9.3 Liability after Termination of Membership.

Any Former Member shall be responsible for its proportionate share of any liability for clean-up or closure costs and expenses relating to any operations conducted or any

facility operated at any time by the Corporation, including all costs and fees of any kind incurred in proceedings before governmental agencies or entities and administration of the closure or clean-up process, which liability attaches to the Corporation or the Member Municipalities or any of them individually, at any time before, during or after termination of the Former Member's membership, as a result of the Corporation's operations as authorized in this Agreement and the By-laws. A Former Member's proportionate liability shall be determined, at such time as the total liability becomes a liquidated amount regardless of when that event takes place, by the performing the following calculations in the order below:

(a) Calculate the *Annualized Total Liability of the Corporation* by dividing the total liability of the Corporation and the Members by the number of years in which the Corporation conducted operations;

(b) For each year or part thereof during which the Former Member was a Member Municipality, apply the allocation percentages or formula used to determine the Member Municipality's allocated share of appropriations under Part 4 of the Interlocal Agreement to the *Annualized Total Liability of the Corporation* to calculate the Former Member's *Annual Share* of the *Annualized Total Liability*; and

(c) For each Former Member, add together all *Annual Shares* to calculate that Former Member's *Total Share of Liability*.

Before withdrawal or other termination shall become effective, each Member Municipality shall execute appropriate contracts and other documentation as necessary to demonstrate and memorialize its binding agreement to pay its proportionate share of liability under this Section and indemnify the Corporation or the other responsible Member Municipality(ies) to the extent of its proportionate share.

PART 10. ADOPTION, AMENDMENT.

10.1 Duration.

This Agreement shall continue in force until either of the following, whichever is later, occurs:

- (a) the expiration of thirty (30) years from the date of this Agreement;
- (b) all Members withdraw or mutually agree to dissolve the Corporation; or
- (c) any and all Facilities established and operated by or on behalf of the Corporation are properly closed in accordance with applicable state and federal laws and regulations.

10.2 Adoption.

This Agreement shall not take effect with respect to the parties executing this Agreement unless the following occurs:

- (a) It has been approved by the legislative bodies of all Member Municipalities, authorizing each of their respective municipal officers to enter into this Agreement, and the majority of the municipal officers thereof have affixed their signatures below; and
- (b) It has been approved by the State or regional agency with constitutional or statutory powers of control over the services or facilities that are the subject of this Agreement; and
- (c) It has been filed with the Clerk of each of the Member Municipalities and with the Office of the Maine Secretary of State.

10.3 Amendment.

This Agreement may be amended by the parties in the same manner as that provided in Section 10.2 above, provided however, that additional parties may be admitted to this Agreement if 2/3 of the Board votes to admit such additional parties, and the legislative bodies of the additional parties accept, by appropriate legislative action, the terms and conditions placed upon such entry by the Board.

IN WITNESS WHEREOF, the duly authorized officers of the member municipalities hereof have caused this Interlocal Agreement to Establish a Solid Waste Management Facility, to be executed this 26th day of October, 1995.

By the Town of Brownville

James W. Foster
Signature

By the Town of Milo

Joe S. Jones
Signature

By Lake View Plantation

O. S. Accessor
Title

Charles A. Adams
Signature

David Bulger
Title

Richard W. Bell
Signature

By the County of Piscataquis

County Commissioner
Title

Elen G. DeWitt
Signature

County Commissioner
Title

Gordon M. Andrews
Signature

Title

County Commissioner
Title

Signature

M. Bartley
Signature

APPROVED:

Department of Environmental Protection

State Planning Office

Regional Planning Commission

