

**AGREEMENT FOR A JOINT SOLID WASTE  
DISPOSAL and/or TRANSFER FACILITY**

**FOR THE MUNICIPALITIES OF  
DEXTER, EXETER, RIPLEY, ST. ALBANS and CORINNA**

**INCLUDING ARTICLES OF INCORPORATION OF THE  
MID MAINE SOLID WASTE ASSOCIATION, INC.**

WHEREAS, Dexter, Exeter, Ripley, St. Albans and Corinna to this agreement have the duty to provide solid waste disposal facilities for domestic, industrial and farm solid wastes generated within their respective territories per Title 38, MRSA, Chapter 13, S 1305(1), et seq., as amended; and

WHEREAS, Dexter, Exeter, Ripley, St. Albans and Corinna to this agreement have determined that it will be a more efficient use to their powers and to their mutual advantage to enter into this agreement; and

WHEREAS, Dexter, Exeter, Ripley, St. Albans and Corinna are authorized to contract pursuant to the Maine Interlocal Co-operation Act, Title 30, MRSA, Chapter 203, S1951, et Seq., as amended; and

NOW THEREFORE, the municipalities of Dexter, Exeter, Ripley, St. Albans and Corinna, for, and in consideration of, the mutual promises and agreements hereinafter stated and the performance thereof do hereby promise and agree as follows:

**PART 1 PURPOSE:**

The purpose of this agreement is to provide for the disposal and/or transfer of solid waste generated within the territories of the parties.

**PART 2 DEFINITIONS:**

**2.1 Definitions as used in this Agreement:**

(a). "Regular User" shall mean any resident, including summer residents, of Dexter, Exeter, Ripley, St. Albans or Corinna, depositing solid wastes at the joint solid waste disposal facility.

(b). "Irregular User" shall mean any person not a resident, or solid waste from any person not a resident of Dexter, Exeter, Ripley, St. Albans or Corinna. "Irregular User" shall further be defined as persons or industries depositing junk cars, appliances, brush, inert fill, septic sludge or similar wastes or industrial wastes not defined as "solid wastes" hereinbelow.

(c). "Solid Wastes" means solid materials with insufficient liquid content to be free flowing, including without limitation, rubbish, garbage, scrap materials, junk, refuse, inert material, landscape refuse, and septic sludge or similar wastes.

(d). "Joint Solid Waste Disposal Facility" means any land area or structure, or combination of land area and structures used for gathering for transfer, storing, salvaging, processing, reducing, incinerating, or disposing of solid wastes.

(e). "Municipalities" shall include each of the duly incorporated towns of Dexter, Exeter, Ripley, St. Albans and Corinna by and through their legislative bodies and/or their respective town officers and officials who represent each such town as members of the Joint Board under Section 3.1 hereinbelow..

(f). "Additional Parties" shall mean all other duly incorporated towns and their respective town officers and officials not mentioned in Section 2.1 (e) hereinabove.

### PART 3 ADMINISTRATION

#### 3.1 Incorporation

The operation and management responsibilities of the FACILITY shall be delegated to a corporation to be formed under the provisions of Title 13, Chapter 81, of the Maine Revised Statutes.

Upon the effective date of this Agreement, or as soon thereafter as possible, incorporators consisting of a majority of the municipal officers of each participating municipality shall hold an organizational meeting, appoint directors and elect officers and perform all acts necessary to incorporation. The corporation shall be governed by this Agreement and may not adopt By-laws inconsistent with this Agreement.

### 3.2 Joint Board

The Directors of the corporation shall be designated the "Joint Board", and shall be appointed by the Municipal Officers. Each Town shall have two Directors, *at least one of whom shall be a Municipal Officer or Town Manager*. In all matters to be decided by the "joint Board" the Towns of Dexter and Corinna shall each be entitled to three (3) votes; the Towns of St. Albans, Ripley, and Exeter shall each be entitled to two votes (A single Director from any Town shall be permitted to cast all the votes allocated to the Town he/she represents.) In the event a tie vote results in any matter, the Directors shall submit the matter to informal arbitration.

Informal arbitration shall consist of the selection of one arbitrator by each of the voting blocs, (said bloc being that group which has voted identically on that matter in which there exists a tie vote) and the arbitrators selected by each bloc shall then collectively select a third arbitrator and they shall then jointly cast a tie breaking vote. The vote to be cast by the three arbitrators shall be determined by a majority of said arbitrators and need not be unanimous. Arbitrators shall not be required to be Directors or Alternate Directors appointed to the Joint Board.

### 3.3 Officers

(a) *Term: Officers shall serve for a term of one year.*

(b) *Qualifications: The Chairman, Vice-Chairman, and Treasurer shall be elected by the Joint Board and shall be chosen from within the Joint Board. The Secretary shall be anyone so designated by the Joint Board.*

(c) *Duties:*

(1) *Chairman: The Chairman shall be the Chief Executive Officer and shall call meetings of the Board, shall preside at these meetings, except as otherwise provided, shall carry out the resolutions of the Board, and shall perform such other duties as are customary to the office.*

(2) *Vice-Chairman: The Vice-Chairman shall preside at meetings and perform the duties and exercise the power of the Chairman in his or her absence, or at the request of the Chairman. The Vice-Chairman shall perform such other duties as may be assigned by the Chairman or the Board.*

*(3) Treasurer: The Treasurer shall review all cash disbursements and be authorized to sign checks in the absence of the Facility Manager. He/she shall be part of all "finance committee" and shall be able to disburse such funds that are necessary in an emergency. The Treasurer and the Chairman may be authorized to sign all financial documents on behalf of the Board.*

*(4) Secretary: Shall take, file, and distribute minutes of meetings and other duties as assigned.*

*(d) Removal: Officers may be removed by a majority of all voting members*

### 3.4 Meetings

(a) Joint Board meetings may be called by the Chairman or at least a minimum of three other Directors.

(b) A quorum for any meeting shall consist of at least a majority of the Joint Board.

(c) All members, including the Chairman, shall be voting members.

### 3.5 Powers.

The Joint Board shall have all the necessary and incidental powers granted to directors of non-capital stock corporations under Title 13, MRSA, Chapter 81, subject to such limitations as are required by law and this agreement. Provided, however, that the participating municipalities, acting jointly pursuant to this agreement, expressly reserve the right, power and authority to overrule or rescind acts and decisions of the Joint Board, or to remove said operation and management responsibilities from the corporation.

## PART 4 FINANCE

### 4.1 Apportionment

Cost of acquisitions, improvements, and operations, and items incidental thereto, shall be paid for by fees collected from irregular users, grants, donations and appropriations. Appropriations shall be allocated between municipalities in accordance with the following:

(a). Initial Period Appropriations. During the initial two fiscal years, total operating capital and other costs, to be raised by appropriations, will be apportioned between the municipalities on the following basis: one-half of each member town's assessment shall be based on the percentage of population of that Town to the entire population of the associated towns and one-half shall be based upon the percentage of estimated tonnage of that Town to the entire estimated tonnage of the associated towns. For the purposes of this Agreement, the following totals and percentages will be utilized during the initial fiscal years:

<u>Town</u>	<u>Population(%)</u>	<u>Estimated Tonnage (%)</u>
Dexter	4299(48%)	3633(60.6%)
Exeter	826(9%)	213.8(3.6%)
Ripley	439(5%)	129.5(2.2%)
St. Albans	1573(17%)	476.7(8.0%)
Corinna	1400(21%)	1527.5(25.6%)

(b) Subsequent Appropriations: Prior to the end of the second fiscal year, and at any time thereafter, this apportionment procedure may be reviewed and amended by the Joint Board to conform with future populations and/or actual solid waste generation and costs.

(c) The manner in which appropriations are financed shall be at the sole discretion of the municipalities.

*(d) As PERC distributes rebate funds to the Member Municipalities as part of their contract, each Town hereby agrees to return the PERC rebates to MMSWA within 45-days of their receipt from PERC. These rebates are to be included in the MMSWA annual budget as estimated revenues, to reduce the cost of solid waste disposal.*

#### 4.2 In-Kind Contributions

(a) Subject to prior approval by the Joint Board, credit shall be given to municipalities for in-kind contributions to the Corporation. Credit amounts shall be based on actual costs and shall be limited to administrative overhead, office space, telephone equipment and supplies, and to costs of acquisition of real property taken by eminent domain by a municipality for a facility site.

(b) The Corporation agrees to provide annually, in lieu of taxes, a payment to the Town of an amount equal to the annual real estate property tax revenue list as a result of the tax exempt status of the corporation; provided, however, that the real estate property tax revenue shall be deemed to include only that sum attributable to the assessed value of the land and not any improvements made thereto.

#### 4.3 Financial Procedures

(a) Budget. The Joint Board shall prepare a budget, establish irregular user fees, determine shares of costs, and transmit in writing the same to the parties on or prior to January 1 each year.

(b) Fiscal Year. The fiscal year shall be from January 1 to December 31. The parties shall make quarterly payments to the Corporation, with the first payment due on the first of each year, or the first day of that month in which the Corporation is established.

(c) 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 a basis of auditing standards and procedures prescribed by the State Auditor for municipalities.

### PART 5 PROPERTY:

#### 5.1 Title

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

(a) In the event a site for any facility is acquired through exercise of the power of eminent domain by any one of the municipalities, then the municipality so taking shall retain title to the property taken and shall lease the property to the Corporation. 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 shall first occur.

(b) The lessor municipality may elect to receive in-kind contribution and credit for the costs of the acquisition. If the lessor municipality does not so elect, the other municipalities shall pay amounts which in sum equal the costs of the taking less the lessor municipality's proportionate share, such

payments shared in accordance with the provisions of Section 4.1 hereinabove, or such other method as the municipalities shall agree to.

## 5.2 Improvements

The Corporation shall develop and construct all improvements, keep the same in good repair, and shall insure all properties acquired by or leased to it. The Corporation may, at its own discretion, lease portions of site to others not defined as "Municipalities" in Section 2.1(e) or as "additional parties in Section 2.1(f), both hereinabove.

## 5.3 Distribution of Assets

Assets of the Corporation remaining at the time of termination of this agreement shall be divided among the municipalities according to their proportionate payments or contributions to the Corporation during the full term of this agreement, subject to the following:

(a) Upon termination of this agreement, all property, real and personal, acquired by the Corporation shall be offered for sale to the municipalities at the market value of such property. Property not purchased by the member municipalities shall be sold at public auction and proceeds of the sale shall be according to the paragraph 5.2 hereinabove.

(b) Upon termination of any lease under Section 5.1 (a) hereinabove member municipalities shall retain a claim against the owner municipality for a share of the proceeds of any resale of such land, or, should owner municipality elect to retain the land for other public or non-public uses, it shall pay the other 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 Joint Board.

## PART 6 PERSONNEL

### 6.1 Employment Status

The Board may employ such persons as it deems necessary to accomplish the purposes of this agreement. Any such employees shall be the

employees of the Corporation and shall not be deemed to be employees or subject to procedures, supervision or rules of any of the municipalities. The Corporation shall be solely liable to any such employee for any liability for compensation or indemnity for injury or sickness arising out of or in the course of their employment.

Staff time may be contributed to the Corporation by the municipalities. Persons performing the 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 municipality.

## 6.2 Salaries and Benefits

The Board shall have the power to fix compensation and determine any benefits for its employees.

## 6.3 Rules

The Board shall establish rules and regulations to govern its employees in the performance of their duties, to include job descriptions and grievance procedures.

## 6.4 Hiring and Termination Procedures

(a) The Board shall cause advertisements to be placed in local and/or regional publications for a period not less than 15 days prior to application deadlines for any position created or opened. Applicants shall provide such references and other information as the Board may require. Applicants shall be considered without regard to race, color, creed, national origin, political affiliation, sex or age over 18. Applicants shall possess such qualifications as the Board shall establish.

(b) There shall be an initial probationary period of six months. During this period of employment, termination can be for any cause. After the six months probationary period, termination of employment shall be for good cause, and shall follow notice and opportunity for hearing.



PART 7 REMEDIES:

7.1 Breach

A party shall be deemed to be in breach of this agreement if it fails to appropriate or make timely payments of its share of costs, or if it fails to perform or comply with any of the terms, provisions, or conditions of this agreement. The Board shall give a municipality written notice of specific acts or omissions which constitute breach. The municipality so notified shall have thirty (30) days to conform. If the municipality fails to conform within the above mentioned time period, or if the party waives the time period, then the Board shall have the power to submit the question of breach to the arbitration procedure established in Section 7.2, hereinbelow.

7.2 Arbitration

In the event the Board or municipality under notice of breach elects to submit a question of breach to arbitration, the following provisions shall govern:

(a) The Board and the party under notice of breach shall each select a representative and the two persons so elected shall choose a third neutral person, and the three persons so selected shall constitute an arbitration board. If either party does not select its representative, or if the two representatives fail to agree upon, select and name a third neutral and available person within 10 days from the day the Board or municipality elects to submit a question of breach to arbitration, either party may request the American Arbitration Association to utilize its procedure for making such selection.

(b) The Arbitration Board's jurisdiction shall be limited to the interpretation or application of the terms of this Agreement and/or share of the costs, Section 6.1(a) hereinabove.

(c) As soon as possible after the selection of the neutral person, the three arbitrators and the American Arbitration Association if desired, shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, make inquiries and investigations, hold hearings, or take such other steps as they deem appropriate. Hearings shall be informal, and rules of evidence prevailing in judicial proceedings shall not be binding.

(d) The arbitration board shall by majority vote make written findings and shall render a written decision which, with the exception of fraud, shall

be binding upon the Corporation and the parties. In the event the arbitration board finds the breaching party to have made a withdrawal, the remedy shall be provided in Section 7.3, hereinbelow. This paragraph shall also apply to the American Arbitration Association if such association is used.

(e) The cost of arbitration proceedings, including the fees of the arbitrators, shall be shared equally by the Corporation and the party under notice of breach.

### 7.3 Withdrawal

Any party may withdraw from this agreement subject to the following:

(a) The withdrawing municipality shall give written notice of its intent to withdraw to the Corporation prior to July 1 of any year. The effective date of such withdrawal shall be June 30 of the following year. The municipality shall make any payments due during such period.

(b) In the event the municipality is deemed to have withdrawn by breach of payment of its share of cost of arbitration or fails to comply with Subsection 7.3(a) hereinabove, it shall pay to the Corporation an amount equal to its share of costs through December 31 of the following year.

(c) The withdrawing municipality shall pay to the Corporation the entire amount of its share of any outstanding debts of the Corporation and of any outstanding lease payments outside leasing or renting municipalities.

Any other contract for land to be used under this Agreement shall require the lessor to have obtained, and keep in full force and effect, all necessary licenses and permits and any other document forms applicable from federal, state, regional and local agencies regarding the operation of such a facility.

### 7.4 Indemnification in Case of Liability to Third Parties

The municipalities agree to indemnify each other for any liability which a party or parties may incur over and above any applicable insurance coverage as a result of suit or settlement against the Corporation arising out of activities performed by it for the benefit of its corporate scope and purposes. Any such indemnification shall be shared in accordance with the provisions of Section 4.1, hereinabove, or such other method as the municipalities shall agree unanimously to.

PART 8 SPECIAL OPERATING REQUIREMENTS

8.1 Law Enforcement

*Member municipalities recognize the fact that there may be situations arise which require support from appropriate law enforcement authorities. Although the facility abuts the Town of Dexter, it is physically located in the Town of Corinna. Because the Town of Corinna does not have a police force, and the time element involved for a response from county or state authorities may be prohibitive, the member communities hereby authorize the Dexter Police Department to have jurisdiction at the site along with county and state authorities.*

PART 9 ADOPTION, AMENDMENT

9.1 Duration

This agreement shall continue in force until either of the following occurs:

- (a) All parties withdraw or mutually agree to dissolve the Corporation.
- (b) For a term of forty (40) years from its effective date.

9.2 Adoption

This agreement shall not take effect with respect to municipalities signatory unless the following occurs:

- (a) There has been approval by legislative bodies of all parties hereto authorizing each of their respective municipal officers to enter into this agreement, and a majority of the municipal officers thereto have affixed their signature hereinbelow; and
- (b) It has been approved by the Attorney General and by the Department of Environmental Protection and the State Planning Office; and
- (c) It has been filed with the clerk of each of the municipalities and with the Secretary of State.

9.3 Amendment.

This agreement may be amended by the municipalities in the same manner as that provided in Section 8.2 hereinabove, provided however, that additional municipalities may be admitted to this agreement if three-fourths of

the Joint Board votes to admit such additional party, and the legislative body of the additional party accepts by appropriate action the terms and any amendment and any further terms and conditions placed upon such entry of the additional party by the Joint Board as specified in Section 8.2, hereinabove.