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LAMPREY REGIONAL COOPERATIVE  
AMENDMENT AND RESTATEMENT  
OF  
AUGUST 14, 1995



**AMENDMENT AND RESTATEMENT**  
**OF**  
**LAMPREY REGIONAL COOPERATIVE AGREEMENT**

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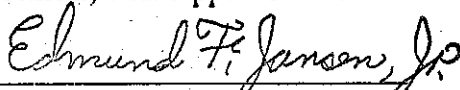




**AMENDMENT AND RESTATEMENT**  
**OF**  
**LAMPREY REGIONAL COOPERATIVE AGREEMENT**  
**(FORMERLY KNOWN AS THE LAMPREY REGIONAL SOLID WASTE**  
**COOPERATIVE)**

August 14, 1995

I, Edmund F. Jansen, Jr., the duly elected and acting Secretary of the Lamprey Regional Cooperative, formerly known as the Lamprey Regional Solid Waste Cooperative, on oath do hereby certify that this is a true and correct copy of the First Amendment and Restatement of the Lamprey Regional Cooperative Agreement, with Appendices A through I.

  
Edmund F. Jansen, Jr., Secretary

SUMMARY OF AMENDMENTS INCLUDED IN  
AMENDMENT AND RESTATEMENT  
OF  
LAMPREY REGIONAL COOPERATIVE AGREEMENT  
(FORMERLY KNOWN AS THE LAMPREY REGIONAL SOLID WASTE  
COOPERATIVE)

This document (this "Summary") summarizes amendments made to the Original Cooperative Agreement of the Lamprey Regional Solid Waste Cooperative (dated May 24, 1978) as incorporated into the proposed Amendment and Restatement of Lamprey Regional Cooperative (hereinafter referred to as "LRC") Agreement.

1. Amendment to Agreement to admit the City of Somersworth as a full member, which amendment is dated February 27, 1981.
2. Amendment authorizing borrowing money reference Energy Recovery Facility and Ash Disposal Facility, dated August 2, 1988.
3. Amendment authorizing extension of the termination date of the Original Cooperative Agreement to November 30, 1995, said Amendment dated January 1992.

DEPARTMENT OF JUSTICE  
STATE OF NEW HAMPSHIRE

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

JEFFREY R. HOWARD  
ATTORNEY GENERAL

~~GEORGE DANA BISBEE~~  
DEPUTY ATTORNEY GENERAL



October 23, 1995

James P. Shannon, Esquire  
P. O. Box 1925  
Rochester, New Hampshire 03866-1925

Re: Lamprey Regional Cooperative Amendment and Restatement

Dear Attorney Shannon:

As you know, RSA 53-A:3,V provides in part that "the attorney general shall approve any agreement submitted to him hereunder unless he shall find that it does not in substance meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement substantially fails to meet the requirements of law." By letter dated October 6, 1995, you informed me that the members of the Lamprey Regional Cooperative have voted to amend and restate their Cooperative Agreement. You enclosed a copy of the Amendment and Restatement of the Lamprey Regional Cooperative dated August 14, 1995, formally submitting it for the review of the Attorney General pursuant to RSA 53-A:3,V. I have reviewed the Amendment and Restatement and approve it under the terms set forth in RSA 53-A:3,V.<sup>1</sup>

If I may be of further assistance, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Steven M. Houran".

Steven M. Houran  
Associate Attorney General  
(603) 271-3679

SMH/sed

cc: Robert W. Varney, Commissioner, NHDES

<sup>1</sup> I note that, although there is authority granted the Cooperative at paragraph 1.4(o) to implement the responsibilities of the Members under RSA 149-M, there is no explicit reference, unless I missed it, to the solid waste district planning requirements set forth at RSA 149-M:18 et seq. I assume that these requirements will be addressed by the Cooperative in accordance with its RSA 149-M powers.



AMENDMENT AND RESTATEMENT  
OF  
LAMPREY REGIONAL COOPERATIVE AGREEMENT

THIS AMENDMENT AND RESTATEMENT (this "Amendment and Restatement"), made as of August 14, 1995, to that certain Lamprey Regional Solid Waste Cooperative (hereinafter referred to as "LRSWC") Agreement dated as of May 24, 1978 (the "Original Cooperative Agreement"), as amended to date, by and between the following New Hampshire Municipalities and State University:

Town of Barrington

Town of Durham

Town of Epping

Town of Greenland

Town of Lee

Town of Madbury

Town of Newfields

Town of Newington

Town of Newmarket

Town of Northwood

Town of Rollinsford

City of Somersworth

Town of Stratham

University of New Hampshire

(hereinafter, individually a "Member" and collectively the "Members").

### Recitals

Each of the Members has duly voted, pursuant to the provisions of New Hampshire Revised Statutes Annotated ("RSA") Chapter 53-A entitled "Agreements Between Government Units" (hereinafter referred to as the "Act"), to accept the provisions of the Act and to establish the LRC in accordance with the Original Cooperative Agreement. The proceedings taken by the Members to adopt the Original Cooperative Agreement have been legalized, ratified, and confirmed by Chapter 261, 1988 Session Laws (the "Special Legislation").

Pursuant to Article XIV of the Original Cooperative Agreement, the Joint Board of the Cooperative (the "Joint Board") has voted to approve this Amendment and Restatement. This Amendment and Restatement incorporates:

- (a) certain amendments to the Original Cooperative Agreement previously made by the Joint Board as of August 14, 1995;
- (b) certain amendments to the Original Cooperative Agreement made in order to implement the amendments made pursuant to Article XIV of the Original Cooperative Agreement as the result of the enactment of the Special Legislation and to eliminate and clarify certain provisions of the Original Cooperative Agreement which are inconsistent with said amendments made by the Special Legislation; and
- (c) certain amendments to the Original Cooperative Agreement to:
  - (1) remove certain provisions which are no longer applicable because of the successful formation of the Cooperative;
  - (2) rename and modify the appendices to the Original Cooperative Agreement (and the references thereto in the Original Cooperative Agreement) to take into account the facilities which the Cooperative is authorized to establish, the Members of the Cooperative, and their

agreement to participate in such facilities as of the effective date of this Amendment and Restatement; and

- (3) clarify the meaning and intent of certain of the provisions of the Original Cooperative Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and the amendments of the Original Cooperative Agreement referred to herein, the Original Cooperative Agreement is hereby amended and restated to read as set forth below:

#### PREAMBLE

This Agreement establishes a regional refuse disposal cooperative to be named the "Lamprey Regional Cooperative" (LRC) established as provided in RSA Chapter 53-A. Subject to such changes as may be made in accordance with this Agreement, the Cooperative will be authorized to provide the following Facilities:

Waste to Energy (WTE);

Ash Landfill;

Transfer Station;

Hauling Services; and

Other facilities as may be approved at a later date.

The provisions of this Agreement are designed to protect the interests of all Members, be they large or small, and to provide flexibility in developing solutions to joint solid waste problems by means of one, or any combination of two or more Facilities.

Terms used in this Agreement shall, unless otherwise defined in this Agreement, have the meanings given them in Article XVI of this Agreement.

AMENDMENT TO AGREEMENT FOR FORMATION OF  
LAMPREY REGIONAL COOPERATIVE

THIS AMENDMENT OF AGREEMENT is made as of the 14th day of August, 1995, by and among the municipalities executing this Amendment and Restatement (hereinafter, a municipality which is a party hereto is referred to as "Municipality" and all of the municipalities which are parties hereto are collectively referred to as the "Municipalities"). This Amendment and Restatement amends the Agreement for Formation of Lamprey Regional Solid Waste Cooperative (hereinafter "Agreement") as referred to below.

FACTUAL BACKGROUND

WHEREAS, the Municipalities are each members of the Lamprey Regional Solid Waste Cooperative, which was established on or about June 30, 1978 (the City of Somersworth joined the Cooperative on or about 2/27/81). This Cooperative was established under the provision of RSA 53-A, and is to expire by its own terms and by special legislation on November 30, 1995; and

WHEREAS, the Cooperative owns and operates an incinerator plant on the campus of the University of New Hampshire in Durham, New Hampshire. The heat generated from this incinerator is used to assist in heating University buildings pursuant to an agreement between the Cooperative and the University. Further, the Cooperative operates a facility for the disposal of ash generated by the incinerator at a landfill for the disposal of ash and wastewater treatment plant sludge located in the City of Somersworth pursuant to an agreement between the Cooperative and the City of Somersworth; and

WHEREAS, the agreement between the Cooperative and the University is due to expire on November 30, 1995. The agreement provides that upon expiration of the agreement, the incinerator operation must be terminated and the facility dismantled; and



WHEREAS, as a result of the operation of the Cooperative since 1978, and the involvement of the Municipalities therein, the Municipalities have certain financial responsibilities and other obligations remaining, as referred to in Sections 14.1 and 14.2 and Appendix A and B hereto, and will continue to have certain financial responsibilities and other obligations remaining thereafter as a result of the material deposited at the landfill in the City of Somersworth; and

WHEREAS, the Municipalities have determined that it is in their long term best interest to continue to provide for the disposal of solid waste generated within their respective territories, and thereby to promote the growth and prosperity of the Municipalities; and

WHEREAS, the Municipalities are committed to a comprehensive solid waste disposal program, recognizing the environmental and economic benefits of such a program; and

WHEREAS, toward this end, the Municipalities have studied the most feasible way to provide for such a program and have determined that a transfer facility owned and operated by the Cooperative would best serve the interests of the Municipalities; and

WHEREAS, the site for the transfer facility is in the process of being identified and selected; and

WHEREAS, the Municipalities have determined that their long range needs would best be served by a transfer facility designed to handle up to 31,000 tons or more of solid waste per year, depending upon the number of Municipalities contributing to the facility and the volume of their respective solid waste; and

WHEREAS, the Municipalities have also determined that, in order to make efficient use and to guarantee the financial success of the facility, it would be in their mutual interest to amend the existing Original Cooperative Agreement, as amended, as provided in Article XIV of the Original Cooperative Agreement; and

WHEREAS, the Municipalities intend to amend the Original Cooperative Agreement;

NOW THEREFORE, the Municipalities executing this Amendment and Restatement, for and in consideration of the mutual promises, representations, warranties, conditions, covenants, undertaking, and agreements set forth in this Amendment and Restatement, do hereby agree as follows:

## ARTICLE I

### ESTABLISHMENT; PURPOSE; POWERS AND DUTIES

#### 1.1 ESTABLISHMENT; EFFECTIVE DATE; DURATION.

The Cooperative shall be established as of the Effective Date. The Cooperative shall be governed by the provisions of this Agreement and the Act. The Cooperative shall continue in existence from and after the Effective Date unless and until dissolved as permitted by this Agreement.

#### 1.2 COMPOSITION.

The Cooperative shall be composed of and shall include all of the Members; provided, that the Cooperative shall not include any Municipality which withdraws from the Cooperative as provided in Section 9.2 of this Agreement.

#### 1.3 PURPOSE.

The Cooperative is established and shall exist for the purpose of providing regional solid waste disposal via one, or any combination of two or more, Facility(ies) for the Members. The Cooperative shall be entitled to establish and/or operate a

- Waste to Energy Facility (WTE)

- Ash Landfill Facility
- Regional Solid Waste Transfer Station
- Hauling Services

all as more particularly set forth in Article V of this Agreement, and any additional Facilities as may be permitted to be established by this Agreement or by law, such as a Recycling Facility, Household Hazardous Waste Transfer Facility and a Yard Waste Composting Facility.

#### 1.4 CORPORATE BODY; POWERS AND DUTIES.

The Cooperative is a body politic and corporate and a political subdivision and public instrumentality of the State of New Hampshire carrying out a public purpose and an essential governmental function of said State with such power and duties as now or hereafter authorized by the laws of said state, and with the powers and duties as now or hereafter set forth in this Agreement, to the extent the same are not incompatible with law. Without limiting the generality of the foregoing, the Cooperative shall have the following powers and duties:

- (a) To adopt a name and a corporate seal. The engraved or printed facsimile of the seal appearing on a bond or note of the Cooperative shall have the same legal effect as if it were impressed thereon.
- (b) To sue and be sued, but only to the same extent and upon the same conditions that a Municipality may be sued.
- (c) To purchase, take by eminent domain, lease or otherwise acquire land for the purposes of the Cooperative, and to plan, construct and equip one or more Facilities for the benefit of the Members, and to make any necessary contracts in relation thereto.
- (d) To incur debt, including debt for a term not exceeding twenty (20) years for the purposes of acquiring land and planning, constructing and equipping one

or more Facilities, and to make decisions respecting long term financing, upon the affirmative vote of two-thirds (2/3) or more of the Total Votes; and to provide in any contract or agreement under which it shall incur any indebtedness or long term obligation, to bind itself not to dissolve during the period such indebtedness or obligation remains valid and outstanding.

- (e) To issue bonds and notes in the name and upon the full faith and credit of the Cooperative. The bonds or notes shall be signed by the Chairman and the Treasurer of the Joint Board, except that the Chairman by a writing bearing his or her written signature and filed in the office of the Treasurer, which writing shall be open to public inspection, may authorize the Treasurer to cause to be engraved or printed on the bonds or notes a facsimile of the Chairman's signature, and such facsimile signature so engraved or printed shall have the same validity and effect as the Chairman's written signature. Each issue of bonds or notes shall be a separate loan.
- (f) To receive and disburse funds for any Cooperative purpose.
- (g) To incur temporary debt in anticipation of revenue to be received from Members.
- (h) To assess members for expenses of the Cooperative, per this Agreement.
- (i) To receive any grants or gifts for the purposes of the Cooperative.
- (j) To engage legal counsel, accountants, engineers, contractors, consultants and other advisors.
- (k) To submit an annual report to each of the Members, containing a detailed financial statement, and a statement showing the method by which the annual charges assessed against each Member were computed.
- (l) To employ an Administrator and such other employees as may be necessary or appropriate to operate the Cooperative.

- (m) To adopt an annual operating budget, not later than December thirty-first (31st) of the previous year.
- (n) To collect, process, transfer and broker of all forms of Solid Waste, as permitted by regulation, and to enter into contracts for the disposal of Solid Waste with any Person (including, but not limited to, Members, non-Members, other bodies politic, and the United States of America), and to contract with non-Members or any public or private entity for the disposal at a District Facility of Solid Waste generated inside and outside the boundaries of the Cooperative.
- (o) To exercise such powers as may be necessary and appropriate to allow the Members to utilize the Cooperative to implement their responsibilities under RSA Chapter 149-M.
- (p) To reimburse its officers for such officers' services to the Cooperative.
- (q) To utilize powers delegated to the Cooperative from Members to make bylaws.
- (r) To insure the Cooperative against liability and other risks, and otherwise to obtain all insurance deemed by the Joint Board to be necessary or appropriate to the Cooperative, its Facilities and their operation.
- (s) To guarantee obligations and, when in the best interests of and for the benefit for the District, to give indemnities to third parties.
- (t) To hold, deal with, mortgage, pledge, encumber, purchase, acquire, lease, sell, convey, and otherwise dispose of real and personal (both tangible and intangible) property of all kinds in furtherance of the purposes of the Cooperative (including, without limitation, granting a mortgage on or a security interest or other lien in any of the assets of the Cooperative, and, specifically, any amounts due and payable by Members to the Cooperative under the Cooperative Agreement and in any right, claim, or cause of action

the Cooperative may have against a Member under RSA Chapter 53-A or under the Cooperative Agreement).

- (u) To exercise all of the powers, privileges, and authorities which may be exercised or may be capable of being exercised by any Member, including the authority granted to towns and cities to make bylaws applicable and enforceable within its boundaries.
- (v) To claim exemption from taxation by the State of New Hampshire for all bonds and notes of the Cooperative and the interest thereon.
- (w) To engage in all lawful acts and activities incidental, conducive, necessary and desirable to the furtherance of the purpose of the Cooperative.
- (x) To make contracts, leases, and other agreements with any Member within which a Facility is (or is to be) located, which contracts, leases, or other agreements provide for benefits, privileges, payments, or other considerations for said host Member which, with respect to that Facility, are different from and not otherwise available to other Members with respect to such Facility.
- (y) To create an operative reserve fund from any surplus remaining on hand at the end of any fiscal year; provided that the amount so transferred to said operative reserve fund for any such fiscal year shall be determined by a two-thirds (2/3) vote of the Total Votes by the Joint Board (as said terms are hereinafter defined);
- (z) To create a capital reserve fund from any surplus remaining on hand at the end of the fiscal year; provided that the amount so transferred to said capital reserve fund for any such fiscal year shall be determined by a two-thirds (2/3) vote of the Total Votes by the Joint Board;

1.5 POWERS RELATING TO LONG TERM CONTRACTS.

Pursuant to RSA 53-A, the Cooperative shall have the power to contract with any Person who owns or operates any Facility for the provision of Refuse disposal services for the Cooperative. Such a contract may be for any term of years, not in excess of twenty (20), may provide for the delivery of guaranteed amounts of Refuse with payments based on such amounts whether or not actually delivered or processed, and may contain such other terms and conditions as the Cooperative, acting through the Joint Board, may determine to be in the Cooperative's best interest.

1.6 POWERS RELATING TO FACILITY FINANCING.

Pursuant to RSA 53-A, in addition to debt incurred and bonds and notes issued pursuant to the Act and this Agreement, the Cooperative shall have the power to finance any Facility by the incurrence of debt and the issuance of bonds or notes secured by any assets or revenues, or both, of the Cooperative or the Facility, and in connection therewith may mortgage a Facility and grant security interests in such other assets or rights to receive money as the Joint Board may determine. Any such bonds or notes issued pursuant to this section may, but need not be, issued upon the full faith and credit of the Cooperative, provided that bonds or notes which are not the full faith and credit obligation of the Cooperative shall so state in a conspicuous manner on their face. All debt and all bonds and notes, regardless of how secured, shall be authorized as is otherwise provided in the Act. The Cooperative may use the proceeds of bonds or notes for any lawful purpose, to include, but not limited to, acquire land, to plan, construct, and equip a Facility, and to create such reserve funds and to pay such costs of financing and capitalized interest as the Joint Board deems appropriate. The bonds and notes issued by the Cooperative to finance one or more Facilities may be in such form and of such a

type as is customary for a municipality in the State of New Hampshire to issue, including, but not limited to, bearer and book entry bonds and notes.

1.7 POWER TO ESTABLISH RESERVE FUNDS.

- (a) Pursuant to RSA 53-A, the Cooperative may establish a capital reserve fund for the orderly replacement of existing buildings and equipment. The Joint Board shall invest all monies in said fund in the same manner as capital reserve funds of towns are invested pursuant to the requirements of RSA 35:9. The members of the Joint Board shall serve as the trustees of the capital reserve fund. The trustees of the fund shall post bond in such amount and in such form as the commissioner of the Department of Revenue Administration shall prescribe.
- (b) The proposed annual contributions to the Capital Reserve Fund shall be set forth in the budget of the Cooperative, and the Treasurer shall annually, within three (3) months of the close of the Fiscal Year, file an account with the Governing Bodies of the Members, setting forth the amounts held by the Joint Board, the manner in which they are invested, and the purposes for which they are held. The Joint Board may, from time to time, vote to expend any funds held by them for the replacement of existing buildings and equipment required by the Cooperative without further vote of the Members.
- (c) Upon establishment of the Capital Reserve Fund, the Joint Board shall designate separate subfunds within the Capital Reserve Fund for each Facility and for the Cooperative as a whole. The Joint Board shall separately account for the amounts attributable to each subfund.
- (d) In addition to the capital reserve fund authorized pursuant to RSA 53-A, the Joint Board may, as permitted by law, establish additional reserve funds for



any contingencies (including, but not limited to, environmental liabilities or potential liabilities) for which the Joint Board deems a reserve fund to be necessary and advisable for the Cooperative.

1.8 POWERS RELATING TO SALES, LEASES AND LICENSES.

- (a) Pursuant to RSA 53-A, any Member may sell, lease, or license to the Cooperative any Facility and any land appurtenant thereto or used in connection therewith, or any other property useful for the purposes of the Cooperative. Any such Member may authorize such sale, lease, or license accordingly, but in no case shall any such sale, lease or licence be entered into be unduly favorable to any Member at the expense of the Cooperative. In case of a sale, the price and time or times of payment and the method by which the Members other than the selling Member shall be assessed for such payment shall be in accordance with the provisions of Article VII hereof; but in no case shall payments be made which shall extend over a period in excess of twenty (20) years. In the case of a lease or license, the rental or license fees and terms of payment and assessment shall be in accordance with the provisions of Article VII hereof. The lease or license may be for a term not in excess of twenty (20) years, shall include provisions detailing the termination of said lease or contract in the event of the dissolution of the Cooperative, and may contain provisions, at the option of the Joint Board, for the extension of the lease or license for an additional term not in excess of twenty (20) years, or the life of the Cooperative, whichever is less.

1.9 OBLIGATIONS OF MEMBERS.

Unless otherwise agreed by a Member, the liabilities, obligations, and indebtedness, whether contractual, environmental (to the extent of New Hampshire state or municipal liabilities, obligations, and indebtedness), or otherwise, allocable to, incurred in the operation of, or otherwise attributable to a particular Facility, shall be the liabilities, indebtedness and obligations only of the Members participating in such Facility. Those Members participating in such facility shall indemnify and otherwise hold harmless from any such liabilities, obligations or indebtedness those Members who are not participants in such Facility.

ARTICLE II  
JOINT BOARD

2.1 AUTHORITY; COMPOSITION.

The powers, duties and liabilities of the Cooperative shall be vested in and exercised by the Joint Board. The Joint Board shall be composed of all of the Directors appointed by the Active Members pursuant to Section 2.3 of this Agreement.

2.2 NUMBER OF DIRECTORS; ALTERNATE DIRECTORS.

Each Active Member shall appoint one Director to the Joint Board. Each Active Member shall also appoint two Alternate Directors. In the event that the Director of the Active Member is unavailable for any reason, the Alternate Directors of such Active Member (in the order designated by the Active Member) shall exercise the powers of such unavailable Director.

2.3 APPOINTMENT OF DIRECTORS.

All Directors and Alternate Directors shall be appointed by the Governing Bodies of the Active Members. All appointments (including the designation of the order in which the Alternate Directors are to serve) shall be certified in writing by the clerk of each Active Member, and such certificates shall be delivered to the Secretary of the Joint Board promptly following the appointments.

2.4 TERMS OF OFFICE OF DIRECTORS.

- (a) Each Director shall be appointed for a term of three (3) years, so that;
- (1) Approximately one-third (1/3) of the Directors shall be appointed for a term ending on March 31, 1996;
  - (2) Approximately one-third (1/3) of the Directors shall be appointed for a term ending on March 31, 1997; and
  - (3) Approximately one-third (1/3) of the Directors shall be appointed for a term ending on March 31, 1998.
- (b) The assignment of the terms of office for each of the Directors shall be as follows:

<u>MEMBER</u>	<u>TERM EXPIRES</u>
Town of Barrington	1996
Town of Durham	1997
Town of Epping	1998
Town of Greenland	1996
Town of Lee	1997
Town of Madbury	1998
Town of Newfields	1996
Town of Newington	1997
Town of Newmarket	1998

Town of Northwood	1996
Town of Rollinsford	1997
City of Somersworth	1998
Town of Stratham	1996
University of New Hampshire	1997

- (c) A Director may serve any number of terms, including one or more terms in succession.
- (d) Each Director and Alternate Director of a Member shall, except as otherwise set forth in Section 2.5 of this Agreement, hold office until his or her successor is duly appointed.

## 2.5 REMOVAL OF DIRECTORS; VACANCIES.

Any Director or Alternate Director may be removed from office by the Governing Body for any reason that would justify the removal of a public official under the laws of the State of New Hampshire, but only after a public hearing by the Governing Body. In the event of the removal of a Director or Alternate Director as provided above, or in the event of the resignation, incapacity, or death of a Director or Alternate Director as provided above, the vacancy so created shall be filled by appointment by the Governing Body as soon as convenient after the vacancy occurs; provided, that, until such a vacancy with respect to a Member's Director is so filled, the Alternate Directors of such Member (in the order designated by the Member) shall represent the Municipality. The newly appointed Director or Alternate Director shall have all of the powers and responsibilities, excepting Joint Board appointments and such offices and committees, of his or her predecessor and shall service until the expiration of the term of such predecessor. If, during the term of a Member's Director such Member is not represented by its Director or an Alternate Director at four (4) or

more meetings (annual, regular or special) of the Joint Board, which absences are not excused by the Joint Board, the Joint Board shall notify the Governing Body of the Member.

## 2.6 ANNUAL MEETINGS.

The Joint Board shall hold an annual meeting on the first Tuesday during the month of December each year, at such time and place as the Joint Board shall determine. At each annual meeting, the Joint Board shall:

- (a) Receive reports from the officers and from all committees and subcommittees;
- (b) Choose its Chairman by ballot and appoint its other officers;
- (c) Appoint members to the Operating Committee pursuant to Section 3.1 of this Agreement;
- (d) Establish such other committees or subcommittees and appoint the members thereof as the Joint Board shall deem necessary or advisable pursuant to Section 3.3 of this Agreement; and
- (e) Transact such other business as may properly come before the meeting.

## 2.7 REGULAR MEETINGS.

The Joint Board shall hold regular meetings on such dates and at such times and places as the Joint Board shall determine.

## 2.8 SPECIAL MEETINGS.

Special meetings of the Joint Board may be called at any time by the Chairman and shall be called by the Secretary upon the written request of at least thirty percent (30%) of the Total Votes. Notices of special meetings shall, except in the event of an Emergency, either be:

- (a) Personally delivered to each Director at least twenty-four (24) hours prior to the meeting; or
- (b) Mailed (to the Director's address maintained in the records of the Joint Board) by first class mail to each Director at least three (3) days prior to the meeting.

In the event of an Emergency, notice of the meeting shall be attempted to be given to the Directors by whatever means is deemed best under the circumstances. Notice of a meeting need not be given to any Director who attends the meeting without protesting any lack of notice or who signs a waiver of notice.

## 2.9 NOTICES.

Regular meetings of the Joint Board (including the annual meeting) may be held on such notice, on such dates and at such times and places as shall from time to time be determined by the Joint Board pursuant to law, subject to the provisions of Section 2.6 above regarding the holding of the annual meeting. Notice of the date, time and place of special meetings shall be given to each Joint Board Director and Governing Body, delivered in person or by mailing by first class mail, postage prepaid, to the addressed maintained for such Board Member in the records of the Cooperative, not less than five (5) days or more than fifty (50) days prior to the date of the meeting. Notice of a meeting need not be given to any Board Member who attends the meeting without protesting any lack of notice or who signs a waiver of notice.

## 2.10 VOTING.

If a quorum is present at a properly called meeting of the Joint Board, then all actions of the Joint Board, except as otherwise provided in this Agreement, shall be taken by a majority vote of the Meeting Votes. All votes of the Joint Board are

binding on the Members. On each matter voted upon by the Board, each Active Member (Municipality), through its appointed Joint Board Director, shall be entitled to cast one (1) vote.

An inactive Member, through its appointed Joint Board Director, if any, shall be entitled to cast one (1) vote on certain matters as provided in Section 5.4.

#### 2.11 QUORUM.

At all meetings of the Joint Board, the presence of two-thirds (2/3) or more of the Directors of the Municipalities appointed to the Joint Board shall constitute a quorum.

#### 2.12 APPROVALS.

When a quorum is present at any meeting of the Joint Board, a majority vote shall decide any question brought before such meeting, unless the question is one upon which, by express provision of this Agreement or by law, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Approvals requiring 2/3 votes in the affirmative include, but are not necessarily limited to, the following:

- Adoption of annual operation budget for a facility;

- Addition of a new facility or service;

- Termination of a facility or service;

- Commitment to long term indebtedness;

- Accepting new members;

- Establishment of terms and conditions for withdrawal of members.

2.13 RULES OF PROCEDURE.

Except as otherwise provided in this Agreement, the latest edition of Robert's Rules of Order may be a guide to govern at all meetings of the Joint Board and committees and subcommittees thereof. Conflicts shall be decided by the Chairperson.

ARTICLE III

OPERATING COMMITTEE, OTHER COMMITTEES AND SUBCOMMITTEES

3.1 ESTABLISHMENT OF OPERATING COMMITTEE.

An Operating Committee of the Joint Board is hereby established, consisting of three (3) members, including the Chairman, the Vice Chairman, and one (1) other Director to be appointed by the Joint Board in the manner set forth in subsection (b) below. The Chairman and Vice Chairman shall be the Chairman and Vice Chairman, respectively, of the Operating Committee.

3.2 POWERS AND DUTIES OF OPERATING COMMITTEE.

The Operating Committee shall assist the Joint Board in carrying out its responsibilities under this Agreement and under the Act. The Operating Committee shall be responsible for making recommendations to the Joint Board on policy matters. Subject to the limitations of the annual budget adopted by the Joint Board and the ultimate control and determination by the Joint Board, the Operating Committee shall have the following powers and duties and such other powers and duties as may lawfully be delegated to it from time to time by the Joint Board:

- (a) To oversee and supervise the daily operation of the Cooperative;



- (b) The investigation and recommendation of projects to be undertaken by the Cooperative, including the types of Facilities with which the Cooperative should become involved;
- (c) The negotiation of contracts for the design, construction, operation, repair and maintenance of Facilities of the type authorized by the Joint Board, subject to ratification and approval by the Joint Board;
- (d) Representing the Joint Board in administering and performing the District's duties and obligations under any Facility Agreement, assuring that the Members comply with the terms of any Facility Agreement and the Cooperative's duties and obligations thereunder, and assuring that the other party or parties to any Facility Agreement comply with the obligations imposed upon it or them thereunder;
- (e) Preparing a proposed annual budget for the Cooperative and a proposed apportionment of the amounts set forth in the proposed annual budget among the Members, pursuant to Articles VII and VIII of this Agreement, for submission to and approval by the Joint Board;
- (f) Recommending to the Joint Board the hiring and dismissing of such employees and agents as deemed necessary and desirable by the Operating Committee for the carrying out of the Cooperative's powers and responsibilities, the budgeted costs thereof to be approved by the Joint Board; and
- (g) Recommending to the Joint Board all such other acts as may be necessary or desirable for the efficient operation of the Cooperative and compliance with all of the Cooperative's obligations.
- (h) Keep minutes of meetings and actions taken and provide to Joint Board.
- (i) To authorize, to the extent provided by law, the Treasurer to borrow money from time to time to meet the needs of the Cooperative, subject to

ratification by the Joint Board, and also subject to the limitations of the annual budget.

- (j) To take all such other authorized acts and perform all such tasks as are necessary or desirable to assure the proper operation of the Cooperative and compliance with all of the Cooperative's obligations.

On each matter voted upon by the Operating Committee, each voting member of the Operating Committee shall be entitled to cast one (1) vote. At all meetings of the Operating Committee, the presence of a majority of the voting members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of all of the voting members (regardless of the number of voting members attending the meeting) shall decide any question brought before the meeting.

The Operating Committee shall hold regular and special meetings on such notice, on such dates and at such times and places as shall be determined by the Operating Committee pursuant to law. Emergency meetings of the Operating Committee may be called by the Chairman at any time upon not less than twenty-four (24) hours prior written or telephonic notice. Notice of a meeting need not be given to any member of the Operating Committee who attends the meeting without protesting any lack of notice or who signs a waiver of notice.

### 3.3 OTHER COMMITTEES AND SUBCOMMITTEES.

The Joint Board shall have the authority to establish such other committees and subcommittees, and to appoint such Directors thereto as the Joint Board deems necessary or advisable.

3.4 COMMITTEE AND SUBCOMMITTEE MEETINGS AND NOTICES.

Committees and subcommittees may hold regular meetings at such times and places as they shall determine. Special meetings thereof shall be called by the chairman thereof or by the Chairman upon the same notice and times as required for special meetings of the Joint Board pursuant to Section 2.8 hereof. In the event of an Emergency, notice of the meeting shall be attempted to be given to the members by whatever means is deemed best under the circumstances.

3.5 COMMITTEE AND SUBCOMMITTEE VOTING.

On each matter voted upon by the Operating Committee or by any other committee or subcommittee, each member of such committee or subcommittee shall be entitled to cast one (1) vote. At all meetings of any such committee or subcommittee, the presence of a majority of the members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of all of the members of such committee or subcommittee (regardless of the number of members attending the meeting) shall decide any question brought before the meeting. All votes of committees and subcommittees shall be advisory only and shall not be binding on the Joint Board.

3.6 TERM; REMOVAL OF DIRECTORS; VACANCIES.

Each Director on the Operating Committee, or any other committee or subcommittee, shall, except as otherwise set forth in this Section, hold office until his or her successor is duly appointed and shall have qualified. Any Director on the Operating Committee, or any other committee or subcommittee, appointed by the Joint Board may be removed at any time, with cause, by two-thirds (2/3) vote of the Joint Board; provided, that the Chairman and Vice Chairman shall not be removed as Directors on the Operating Committee unless they are simultaneously

removed as officers pursuant to Section 4.3 of this Agreement. In the event of the removal of a Director on the Operating Committee, or any other committee or subcommittee, as provided above, or in the event of the resignation, incapacity, or death of a Director, the vacancy so created shall be filled by the Joint Board in the same manner as the office was originally filled as soon as convenient after the vacancy occurs. The new Director shall have all the powers and responsibilities of such Director's predecessor and shall serve until the expiration of the term of said predecessor.

## ARTICLE IV

### OFFICERS

#### 4.1 REQUIRED OFFICERS; CHOOSING AND APPOINTMENT.

The officers of the Cooperative shall consist of a Chairman, a Vice Chairman, a Treasurer and a Secretary. At its organizational meeting, and at each annual meeting thereafter, the Joint Board shall:

- (a) Choose a Chairman by ballot from the Directors;
- (b) Appoint a Vice Chairman from the Directors; and
- (c) Appoint a Treasurer and a Secretary, which Treasurer and Secretary need not be Directors or Alternate Directors.

Each such office shall be held by a different individual, except that the Treasurer and the Secretary may be the same individual.

#### 4.2 ADDITIONAL OFFICERS; APPOINTMENT.

As it shall deem necessary or advisable, the Joint Board may appoint one or more Assistant Treasurers or Assistant Secretaries, and other officers, who shall hold their offices for such terms and shall exercise such powers and perform such

duties as shall be determined from time to time by the Joint Board. Two or more such additional offices established pursuant to this Section may be held by the same individual. Assistant Treasurers, Assistant Secretaries, and any other officers so appointed by the Joint Board may, but need not be, Directors or Alternate Directors.

#### 4.3 TERM, REMOVAL OF OFFICERS; VACANCIES.

Each officer of the Cooperative shall, except as otherwise set forth in this Section, hold office until his or her successor is duly chosen or appointed and shall have qualified. Any officer so chosen or appointed by the Joint Board may be removed, with Cause, upon an affirmative vote of two-thirds (2/3) of the Total Votes.

In no event shall an officer vote on the question of that officer's removal; in any such vote on the issue of an officer's removal, an Alternate Director of such Member shall have the full power to vote on the question pursuant to Section 2.2.

In the event of the removal of an officer as provided above, or in the event of the resignation, incapacity, or death of an officer, the vacancy so created shall be filled by the Joint Board in the same manner as the office was originally filled as soon as convenient after the vacancy occurs. The newly appointed officer shall have all of the powers and responsibilities of such officer's predecessor and shall serve until the expiration of the term of such predecessor.

#### 4.4 DUTIES AND POWERS OF OFFICERS.

The duties and powers of the officers of the Cooperative shall be those listed below and those expressly conferred upon the officers of the Joint Board:

- (a) Chairman. The Chairman shall preside at all meetings of the Joint Board and Operations Committee. The Chairman shall (unless, by a specific vote,

another officers is so authorized) execute and deliver all contracts, leases, deeds, mortgages and other instruments on behalf of the Cooperative which the Joint Board has authorized to be executed. The Chairman shall also have and perform such other duties as from time to time may be assigned to him or her by the Joint Board. The Chairman shall be entitled to vote on any matter requiring a vote of the Joint Board.

(b) Vice Chairman. The Vice Chairman shall, in the event of the absence, disability, or unavailability of the Chairman, perform the duties and exercise the powers of the Chairman, and when so acting such Vice Chairman shall have all the duties and powers of the Chairman. The Vice Chairman shall also perform such other duties and have such powers as the Joint Board may from time to time prescribe.

(c) Treasurer. The Treasurer shall have the custody of the Cooperative's funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Cooperative, and shall deposit all monies and other valuable effects in the name of and to the credit of the Cooperative in such depositories as may be designated by the Joint Board. The Treasurer shall disburse the funds of the Cooperative, taking proper vouchers for such disbursements, and shall render to the Joint Board at its regular meetings, or when the Joint Board so requires, an account of all of his or her transactions as Treasurer, and of the financial condition of the Cooperative. The Treasurer shall be bonded in such sum and with such surety or sureties as shall be satisfactory to the Joint Board, for the faithful performance of the duties of his or her office, and for the restoration to the Cooperative, in case of the Treasurer's death, resignation, retirement, or removal from office, of all books, papers, vouchers, money and other property of whatever kind in the Treasurer's possession or under the

Treasurer's control and belonging to the Cooperative. The Cooperative shall pay the cost of the bond.

- (d) Secretary. The Secretary shall attend all meetings of the Joint Board and shall record all the proceedings of said meetings in a book to be kept for that purpose, and the Secretary shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all special meetings of the Joint Board, be custodian of the Cooperative's records, keep the register of the names and addresses of the Joint Board members, and perform such other duties as may be prescribed by the Joint Board or as may be required by law.
- (e) Assistant Treasurer. The Assistant Treasurer (or, if there may be more than one, the Assistant Treasurers in the order determined by the Joint Board) shall, in the event of the absence, disability, or unavailability of the Treasurer, perform the duties and exercise the powers of the Treasurer, and when so acting an Assistant Treasurer shall have all the duties and powers of the Treasurer. Each Assistant Treasurer shall have all the duties and powers of the Treasurer. Each Assistant Treasurer shall also perform such other duties and have such other powers as the Joint Board may from time to time prescribe.
- (f) Assistant Secretary. The Assistant Secretary (or, if there may be more than one, the Assistant Secretaries in the order determined by the Joint Board) shall, in the event of the absence, disability, or unavailability of the Secretary, perform the duties and exercise the powers of the Secretary, and when so acting an Assistant Secretary shall have all the duties and powers of the Secretary. Each Assistant Secretary shall have all the duties and powers of the Secretary. Each Assistant Secretary shall also perform such

other duties and have such other powers as the Joint Board may from time to time prescribe.

## ARTICLE V

### PROVISIONS REGARDING SOLID WASTE

#### 5.1 FACILITIES AND/OR SERVICES

The Joint Board shall be entitled to plan, construct and equip, and enter into necessary contracts (including, but not limited to, contracts with Members or third parties to provide the Cooperative with one or more Facilities or Solid Waste disposal services) for the following:

- (a) Operation of the existing Waste-to-Energy (WTE) incinerator;  
Decommissioning and long term monitoring (if any) of WTE incinerator;  
Operation of ash landfill;  
Closure and long term monitoring of ash landfill;  
Construction and operation of MSW transfer station;  
Hauling services.
- (b) The Cooperative need not provide any one or more of the Facilities referred to in subsection (a) above if, subsequent to the Effective Date, in the judgment of the Joint Board, providing the same would not be in the best interests of, or advisable for, the Cooperative.
- (c) Additional Facilities may be constructed, operated, or contracted for as permitted by law and as otherwise set forth below. Without limiting the generality of the foregoing, the Cooperative may add one or more Facilities in addition to those established pursuant to subsection (a) above upon a two-thirds (2/3) majority of the Total Votes of Joint Board to add such one or



more additional Facilities, whereupon the Joint Board shall refer the matter to the Legislative Bodies of the Members which shall vote on the following questions: "Shall the Municipality participate in [one or more additional] Cooperative Facilities approved by the Joint Board?" Upon an affirmative vote by the Legislative Body to so participate, the Member's representative to the Joint Board shall vote accordingly on a vote by the Joint Board to determine the membership of such one or more additional Facilities.

Members voting in the affirmative shall be participants in such one or more additional Cooperative Facilities.

## 5.2 FACILITY MEMBERSHIP

In the event that the Cooperative agrees to establish an additional facility or

facilities pursuant to 5.1, only those Members voting in the affirmative shall be deemed to be participants in such facility(ies). The Joint Board shall:

- (a) Enter into appropriate Facility Agreements with those Members participating in such facility(ies) upon such terms and conditions as the Joint Board in its sole discretion deems advisable.
- (b) Allow votes on matters concerning an existing or proposed Facility to be cast only by representatives of Members participating or proposing such Facility;
- (c) Limit the apportionment of liabilities (whether contractual, environmental or which arise at law, allocable to, incurred in the operation of, or attributable to a particular Facility, to be assessed only to Members participating in such Facility; and
- (d) Enter into contracts, leases or other agreements with respect to a particular Facility, which contracts, leases, or other agreements give

rise to liabilities and other obligations which are the liabilities and obligations only of the Members participating in that Facility.

Members participating in such Facility(ies) shall execute, as part of the Facility Agreement establishing such Facility(ies), appropriate documents to indemnify and hold harmless from and against any and all claims, liabilities, losses, damages, costs and expenses, including, but not limited to, legal fees, arising out of or related to the operation of such Facility(ies) and incurred by any or all of those Members of the Cooperative which are not participants in such Facility(ies).

### 5.3 FACILITY AGREEMENTS; RULES AND REGULATIONS.

- (a) The Joint Board will enter into such Facility Agreements and upon such terms and conditions as it deems necessary and advisable. Each Member agrees fully to perform its obligations under the terms and conditions of any such Facility Agreement and to comply with the Cooperative's obligations.
- (b) The Joint Board will adopt such rules and regulations for the operation and control of each Facility as it deems necessary and advisable. Members, their agents and employees, shall comply with and abide by the provisions of such rules and regulations.

### 5.4 CLASSIFICATION OF MEMBERSHIP

Members executing this Agreement may assume active or inactive status as provided herein.

An Active Member:

Shall participate in one or more operating facilities. For the purpose of this section, long term monitoring is not considered operating;

May vote on all matters before the Board, except no member shall

vote on any matters relating solely to a facility in which such a member is not a participant as provided in Section 5.2.

An Inactive Member:

May, but need not, appoint a Director;

Does not participate in an operating facility;

May attend all Joint Board meetings, but shall vote on those matters relating solely to the following:

- a. Those long term commitments and liabilities of the Cooperative existing as of the effective date of this agreement;
- b. Those matters relating to any proposals for a new facility as provided in Section 5.1.

Has executed an Agreement with the LRC to govern management of those long term commitments existing as of the effective date of this Agreement, such as, but not limited to, monitoring of the Ash Landfill as required by New Hampshire Department of Environmental Services (NHDES);

May resume Active status by requesting to participate in one or more existing or new facilities or services. Will be required to meet terms and conditions, including fair and equitable "buy in" costs as determined by the Joint Board.

5.5 WITHDRAWAL FROM FACILITY.

- (a) A Member may withdraw from participating in a Facility upon the following terms and conditions:
  - (1) Submission by its Governing Body of a written request to withdraw to the Joint Board; and

- (2) Approval of the request to withdraw by the Joint Board by a vote of two-thirds (2/3) or more of the Total Votes, excluding therefrom the vote of the withdrawing Member, whose representative shall not vote, upon such terms and conditions as the Joint Board deems appropriate, to include, but not limited to, terms and conditions relating to monetary obligations, fulfillment of financial obligations of such facility, or payment of other fees; and
- (3) Ratification of the withdrawal by a vote of the Legislative Body of the withdrawing Member, which vote shall expressly approve of the terms, obligations, and conditions of the withdrawal as required by the Joint Board.

(b) A Member having participated or participating in the Ash Landfill Facility may withdraw and become an Inactive Member, as defined by Section 5.4, upon execution of an agreement providing for its continuing satisfaction of closure/monitoring/liability obligations resulting from its previous participation.

#### 5.6 ADMISSION TO FACILITY.

- (a) At any time from and after the Effective Date, a Member may elect to participate in one or more additional Facilities that such Member does not then participate upon the following conditions:
  - (1) Submission of a written request for admission to such additional Facility(ies) by the Governing Body of such Member to the Joint Board;
  - (2) Approval of the request by the Joint Board by a vote of two-thirds (2/3) of more of the Total Votes (excluding therefrom the number of votes of the requesting Member whose Director shall not vote) upon such terms and conditions as the Joint Board deems necessary and

advisable (including, but not limited to, those monetary obligations set forth in paragraph (b) below); and

(3) Ratification of the admission to the Facility(ies) by a vote of the Legislative Body by Warrant Article of the requesting Member, which vote shall expressly approve the terms, obligations, and conditions of the admission imposed by the Joint Board.

(b) As a condition to any such admission to a Facility, a Member shall pay a portion of the costs and expenses of the Facility incurred by the Cooperative prior to admission. Such costs and expenses and the applicable portion thereof shall be of a type and in an amount determined by the Joint Board, in the exercise of its sole discretion, to be fair and equitable and appropriate under the circumstances, and may include an assessment for risks assumed by the Members committed to participate in the Facility as of the Effective Date. The Joint Board may impose such other monetary obligations and fees (including the payment of interest at the Interest Rate) as it deems to be necessary and advisable. The Joint board in its sole discretion may determine the amounts assessed to newly admitted Members, which amount or amounts may vary and specifically need not be based on the same criteria. All amounts paid by newly admitted Members shall be applied to the payment of the Facility Expenses for that Facility pursuant to Section 5.7 below.

## 5.7 CONTRACTS.

The Cooperative may contract with a non-Member or any other Person for the disposal of Refuse at a Facility. In the event that such a contract would not promote the solid waste policy of the Cooperative or would increase the cost of

Refuse Disposal to Members, then such contract must be approved by a two-thirds (2/3) vote of those Members participating in that Facility.

5.8 DISPOSAL FEES.

The Joint Board shall establish a disposal fee schedule for Solid Waste disposed at each Facility for non-Members and other Persons. The disposal fee schedule may, but need not, distinguish between Solid Waste generated by commercial and industrial activities.

The disposal fee schedule for each Facility shall be based on such of the following criteria as the Joint Board deems necessary and appropriate:

- (a) The actual and/or estimated Quantity of all Waste delivered or to be delivered to such Facility;
- (b) The actual and/or estimated Quantity of Waste delivered or to be delivered by such non-Member or other Person to such Facility;
- (c) Facility expenses for such Facility;
- (d) Facility costs for such Facility; and
- (e) Such other considerations as the Joint Board deems necessary and advisable.

5.9 DELIVERY OF SOLID WASTE.

- (a) Each Member committed to participate or participating in a Facility agrees to deliver all of its Acceptable Waste to such Facility from and after the Facility Commencement Date.
- (b) Each Member agrees to be responsible for providing, or causing to be provided, at its own costs, for the delivery and proper transportation of all Solid Waste delivered by such Member under this Agreement; provided that the Cooperative shall be responsible for the delivery of Residue from the

existing Waste-to-Energy Facility to the Ash Landfill Facility, and the cost of such Residue delivery shall be a Facility Expense of the Waste-to-Energy Facility.

Each Member hereby agrees, for its own benefit (accruing from reciprocal indemnities) and for the benefit of the Cooperative, to indemnify and hold harmless the Cooperative and the other Municipalities from all of such Members said delivery and transportation costs, or any liabilities incurred therein, except as otherwise specifically set forth below.

- (c) The Cooperative shall be responsible for the acceptance of all of such Acceptable Waste from such Member from and after the Facility Commencement Date, but not prior thereto unless mutually agreed by the Joint Board and such Member.
- (d) Notwithstanding the provisions of paragraphs (a), (b) and (c) above, if such Member is notified by the Joint Board or its authorized representative that circumstances, as determined by the Joint Board in its sole discretion, such as, but not limited to, maintenance, usage requirements, or other exceptional circumstances, warrant that a Member's Solid Waste must be delivered, such Member hereby agrees to comply with such instruction. Any necessary and reasonable transportation costs incurred by such Member in so diverting its Solid Waste shall be the responsibility of such Member, but the Joint Board, in its sole discretion, may reimburse such Member for any exceptional or unduly burdensome costs incurred thereby.
- (e) Each Member agrees that, if it delivers or causes to be delivered to such Facility any Solid Waste that is not Acceptable Waste, such Member:
  - (1) Shall be responsible on demand by the Joint Board for removing all such Solid Waste from such Facility and properly disposing of such Solid Waste at such Members own cost and expense; and

- (2) For its own benefit (accruing from reciprocal indemnities) and for the benefit of the Cooperative, shall indemnify and hold harmless the Cooperative and other Members from and against any and all obligations incurred by it or any of them as the result thereof.

## ARTICLE VI

### OBLIGATIONS OF MUNICIPALITIES

#### 6.1 MEMBER GUARANTIES OF SOLID WASTE.

The Members agree that the success of the Cooperative and Facility(ies) depends upon the processing of certain minimum quantities of solid waste. If such minimum quantities are not processed by the Facility(ies), then the Cooperative will receive less revenue from its operations, and the Municipalities will experience much higher costs. Accordingly, each Active Member agrees, and does hereby guarantee to deliver annually to the respective Cooperative facility, the quantity of acceptable solid waste as committed each December as part of the operating budget. This quantity will be termed "minimum guaranteed quantity."

For purposes of this Agreement, the term "Total Guaranteed Minimum Quantity" shall mean the sum total of the Guaranteed Minimum Quantities for all Members.

#### 6.2 MEMBERS FAILURE TO MEET GUARANTEED MINIMUM QUANTITY.

If any Member fails as required to deliver its Guaranteed Minimum Quantity in any calendar year, such Member shall pay to the Cooperative, when and on such terms and conditions as may be determined by the Joint Board, such Member's share of any shortfall in revenue which the Cooperative incurs for the calendar year. For this purpose, such Member's share of any such shortfall in revenue shall



be equal to the ratio which the shortfall in its Guaranteed Minimum Quantity bears to the total of all other Members' shortfalls for the year in question.

6.3 TIPPING FEE; PRO RATA SHARES.

- (a) The Joint Board will establish a tipping fee in the annual operating budget. Such tipping fee will be determined by the total of facility operating and capital costs divided by the total guaranteed minimum quantity.
- (b) Outside solid waste may be accepted as long as it is in the best interests of the Cooperative and approved by the Joint Board. For purposes of this Agreement, every reasonable attempt will be made to ensure the tipping fee charged for all "outside" solid waste accepted will be not less than that charged its members.

6.4 BINDING NATURE OF THE AGREEMENT ON THE MEMBERS.

Each Member agrees that it will:

- (a) Be bound by the terms and conditions of this Agreement, the rules and regulations established thereunder, and the Member's share of the costs and fees incurred by the Cooperative pursuant thereto; and
- (b) Promptly take all necessary actions to insure that the employees, agents, contractors, and others acting for or with such Member also comply therewith.

6.5 ACCEPTABLE AND UNACCEPTABLE WASTE.

- (a) Each Member agrees to and shall comply with all federal, state and local laws, rules, regulations and orders governing the generation, storage, handling, transportation, treatment and disposal of all solid waste.

- (b) Each Member agrees to control the flow of waste generated to guarantee and ensure that unacceptable waste, shall not be delivered to the facility unless arrangements have been made to provide for the disposal of such waste at the facility.
- (c) Any Member causing to be delivered unacceptable waste (including but not limited to hazardous material) shall:
  - (1) Be responsible for removing all such waste from the facility and properly disposing of such waste at the Member's own cost and expense; and
  - (2) Indemnify the Cooperative and the other Members from and against any and all obligations incurred by the Cooperative or any other Member as a result of the delivery of such unacceptable waste.

6.6 INDEMNITY.

Each Member hereby agrees to indemnify and hold harmless the Cooperative, and its Members, from and against any and all claims, liabilities, losses, damages, costs or expenses, including, but not limited to, legal fees, incurred by the Cooperative or any other Member as a result of:

- (a) Any failure by such Member to comply with the terms and conditions imposed on the Cooperative under this Agreement; and
- (b) Any personal injury, including, but not limited to, bodily injury or death, or property damage suffered as a result of any act or omission of such Member or any of such Member's employees, agents or contractors.

ARTICLE VII  
ANNUAL BUDGET; ADMINISTRATION COSTS;  
APPROPRIATIONS, FISCAL YEAR

7.1 PREPARATION OF ANNUAL BUDGET.

Annually, the Operating Committee shall prepare a budget, for submission to the Joint Board for its approval, detailing all anticipated costs and expenses of the Cooperative for the coming year. The budget shall be submitted to the Joint Board sufficiently in advance to permit the Joint Board to hold the public hearing required by Section 7.2 below and adopt the budget prior to the end of the fiscal year.

7.2 PUBLIC HEARING ON BUDGET.

Upon receipt of the budget, the Joint Board shall hold a public hearing on the budget at a place and time to be determined by the Joint Board, which public hearing shall be held at least 25 days prior to the annual or special meeting at which adoption of the budget shall be voted upon. The Joint Board shall give at least ten (10) days notice thereof in a newspaper or newspapers of general circulation in the territories covered by Members.

7.3 ADOPTION OF BUDGET.

After the public hearing, and in any event no later than the end of the fiscal year, the Joint Board shall adopt the budget, approve the Tipping and Other Fees under this Agreement for the coming year, and make a final estimate of the Administration Costs and Ash Disposal Costs for the coming year. The Treasurer shall then certify to the Members the amount of the Tipping and Other Fees.

7.4 APPROPRIATIONS.

Each Member, pursuant to the authority set forth in RSA 53-A:6, hereby pledges its full faith and credit to carry out its obligations under this Agreement and agrees to appropriate annually the funds necessary to carry out its said obligations.

7.5 FISCAL YEAR.

The fiscal year of the Cooperative shall be the calendar year, unless otherwise determined by the Joint Board.

ARTICLE VIII

AUDIT

8.1 AUDIT.

The Joint Board shall hire a certified public accountant to conduct an audit of the financial records of the Cooperative for each fiscal year during the term of this Agreement. A copy of the audited financial statement (including the balance sheet, statement of income and expense, supporting schedules and notes) shall be distributed to each Member no later than sixty (60) days following the end of each fiscal year, unless a different date is approved by the Joint Board.

8.2 ANNUAL REPORT.

Pursuant to RSA 53-A, the Joint Board shall adopt and submit to each of the Members an annual report containing a detailed financial statement and a statement showing the method by which the annual charges assessed against each Member were computed. The Joint Board may delegate to the Operating Committee the preparation of a draft of the annual report for review by the Joint Board. The annual report adopted by the Joint Board shall be certified by the Treasurer of the Cooperative. The annual report shall be delivered to its Members

no later than thirty-one (31) days following completion of fiscal year (January 31st).

## ARTICLE IX

### ADMISSION AND WITHDRAWAL OF MUNICIPALITIES

#### 9.1 ADMISSION OF NEW MEMBER MUNICIPALITIES.

(a) From and after August 14, 1995, the Joint Board may authorize the admission of non-Members to the Cooperative upon:

- (1) Submission of a written request for admission by the Governing Body of the requesting non-Member to the Joint Board;
- (2) Approval of the petition for admission by the Joint Board by a vote of two-thirds (2/3) or more of the Total Votes and upon such terms and conditions as the Joint Board, in its sole discretion, shall deem to be necessary and advisable; and
- (3) Approval of the Agreement and of the terms and conditions for admission by a vote of the Legislative Body of the requesting non-Member, which vote shall be certified by the clerk of such Municipality to the Joint Board. Such certification shall be in such form and with such other certificates, legal opinions and other showings as the Joint Board may deem necessary or advisable. Thereafter, upon satisfactory performance of the terms and conditions for approval, the non-Member shall become and thereafter be a Member.

9.2 WITHDRAWAL OF MEMBER MUNICIPALITY FROM COOPERATIVE.

Except as otherwise specifically set forth in this Agreement, no Member shall be entitled to withdraw from the Cooperative unless:

- (a) The Governing Board of the withdrawing Member submits in writing to the Joint Board a request to withdraw;
- (b) The Joint Board, by the affirmative vote of two-thirds (2/3) or more of the Total Votes, excluding therefrom the vote of the withdrawing Member whose Director shall not vote, approves of the request to withdraw upon such terms and conditions, including, without limitation, the payment of such costs and expenses as may be incurred by the Cooperative or its Members as the result of the withdrawal, as the Joint Board, in its sole discretion, may deem necessary and advisable;
- (c) As a condition to the withdrawal, the withdrawing Member shall enter into a written agreement with the Cooperative whereby the withdrawing Member shall be obligated to continue to pay its fair and equitable share (as determined by the Joint Board) of all appropriate expenses, indebtedness, obligations, bonds and notes of the Cooperative for which it was liable under the Cooperative Agreement while a Member and which it would have been obligated to pay if it had remained a Member; and
- (d) The Municipality's Legislative Body of the withdrawing Member votes to withdraw from the Cooperative at a duly called and held meeting, which vote shall expressly approve of the terms and conditions of withdrawal imposed by the Joint Board.
- (e) Once a Member withdraws from the Cooperative as per (a) thru (d) above, that Municipality is termed non-Member and could gain readmission only thru Section 9.1.

9.3 CERTIFICATE OF MEMBERS.

The Secretary shall maintain a current and complete list of the Members. In the event of the admission of a Municipality to or the withdrawal of a Member from the Cooperative, the Secretary shall update the list of the Cooperative's Members. Upon the request of a Member for a list of the current Members of the Cooperative, the Secretary shall prepare and forward a certificate thereof to the clerk of the requesting Member.

ARTICLE X  
AMENDMENT

10.1 AMENDMENT.

An amendment to this Agreement may be initiated only by the Joint Board. Before adopting any such amendment, the Joint Board shall hold at least one (1) public hearing on the proposed amendment. Such public hearing(s) shall be held on such date(s) and at such time(s) and place(s) within one or more of the Members as the Joint Board may determine. Public Notice of the public hearing shall be given at least ten (10) days before the public hearing. The Public Notice shall include the exact wording of the amendment and a brief statement of the purpose and effect of the amendment. The Secretary shall send public notice, including exact wording of proposed amendment to municipal clerk of each Member. The Joint Board shall take action on the proposed amendment within thirty (30) days after the public hearing(s). Any such amendment shall become effective upon approval by the affirmative vote of two-thirds (2/3) or more of the Total Votes. The Secretary shall prepare and forward a certified copy of the amendment to the clerk of each Member.

Any amendment to this agreement shall not impair the following:

- a. The rights of the holders of any bonds, notes or other evidences of indebtedness or affect any obligations under long term contracts of the Cooperative then outstanding or in effect;
- b. The rights of the Cooperative to procure the means for payment, continuation or termination thereof; or
- c. The rights and responsibilities of Active Members, Inactive Members or former members of the Cooperative, except to the extent that such amendment or amendments mutually affect and/or impair the rights and responsibilities of Members or former Members of the LRSWC or the LRC.

#### 10.2 STATUTORY POWERS.

In the event the Legislature, by amendment to the Act, by special legislation, or otherwise, clarifies or adds to the powers available to the Cooperative or otherwise changes the Act, the Joint Board, upon the affirmative vote of two-thirds (2/3) or more of the Total Votes, may amend this Agreement to incorporate such clarified or added powers or changes.

### ARTICLE XI

#### DISSOLUTION OF COOPERATIVE

##### 11.1 DISSOLUTION.

- (a) The Cooperative may be dissolved pursuant to subsection (b) below and any other procedure allowed by law. In the event of the dissolution of the Cooperative, unless otherwise provided by law, the Joint Board shall prepare a plan of dissolution which shall provide for the following:
  - (1) A description and valuation of all of the assets of the Cooperative;



- (2) A schedule of creditors, together with the amount owed each creditor (including, as part of such schedule, any obligations under existing long term contracts);
  - (3) Provisions for the immediate payment of all indebtedness, obligations, bonds, and notes of the Cooperative outstanding at the time of dissolution or for the same to become similar joint and several obligations of the Members who were liable therefor under this Cooperative Agreement;
  - (4) A schedule of necessary payments to be made by each Member to pay and discharge all debts, obligations, or liabilities to be assumed and paid by Members;
  - (5) A description of any of the Cooperative's debts, obligations, or liabilities to be assumed and paid by Members;
  - (6) The disposition among the members of all assets remaining after the satisfaction of or provision for all debts, obligations, and liabilities of the Cooperative in accordance with said plan; and
  - (7) All indebtedness, obligations, bonds and notes of the Cooperative outstanding at the time of its dissolution shall become similar joint and several obligations of the Members who are liable therefore under the Cooperative Agreement.
- (b) The Cooperative may be dissolved and this Cooperative Agreement may be terminated in accordance with the plan therefor prepared pursuant to subsection (a) above adopted by the Joint Board upon the affirmative vote of two-thirds (2/3) or more of the Legislative Bodies of the Members which also hold two-thirds (2/3) of more of the Total Votes.

11.2 CONTINUANCE AFTER DISSOLUTION.

Unless otherwise provided by law, upon dissolution of the Cooperative, it shall nevertheless continue as a body politic and corporate for the purpose of and for so long as may be necessary for prosecuting, defending and settling suits by and against it and of generally closing and settling its concerns, paying its debts and distributing its assets and for no other purpose.

ARTICLE XII

BREACH AND DEFAULT OF AGREEMENT

12.1 BREACH.

A Member shall be in breach of this Agreement if it fails to pay any amounts apportioned to it under this Agreement or fails to perform any of its other duties or obligations under this Agreement.

12.2 NOTICE OF BREACH.

The Joint Board shall determine whether a breach has occurred and, if it so determines, it shall give written notice of the breach to the Mayor or Board of Selectpersons of the offending Municipality via certified mail, return receipt requested.

12.3 CURE OF BREACH; DEFAULT.

The breaching Member shall have forty-five (45) days after receipt of any such notice of breach to cure the breach. Upon the failure to cure the breach within said forty-five (45) day period, the Member shall be in default under this Agreement.

#### 12.4 REMEDIES FOR DEFAULT.

If a Member shall be in default under this Agreement (as provided in Section 12.3 of this Agreement), then the Cooperative shall have, in addition to any other rights or remedies provided in this Agreement or by law or in equity:

- (a) The right to sue such defaulting Member for specific performance of its obligations under this Agreement or for damages; and
- (b) The right:
  - (1) to expel such defaulting Member from the Cooperative; or
  - (2) to exclude such defaulting Member from use of a Cooperative Facility upon the affirmative vote of two-thirds (2/3) of more of the Total Votes (excluding the votes entitled to be cast by such defaulting Member).

#### 12.5 COSTS.

Each Member agrees that, if it defaults under this Agreement, it will, in addition to its other obligations hereunder, pay:

- (a) The reasonable attorneys' fees, court costs and other expenses incurred by the Cooperative in enforcing this Agreement; and
- (b) Interest on any overdue amounts owed by it to the Cooperative from the date the same were due, as well as on any amounts expended by the Cooperative in curing a default, at the Interest Rate until such amounts are paid in full by such defaulting Member.

#### 12.6 WAIVER OF SOVEREIGN IMMUNITY.

Each Member hereby waives, to the extent allowed by law, as against the Cooperative and the other Members, any sovereign or governmental immunity

which it might have with respect to its obligations under this Agreement and the enforcement thereof.

## ARTICLE XIII

### INCORPORATION; TAX EXEMPTION

#### 13.1 ARTICLES OF AGREEMENT.

Pursuant to the provisions of RSA Chapter 292 entitled "Voluntary Corporations and Associations", the Municipalities hereby associate together to form the Cooperative as a voluntary non-profit corporation, and each Municipality shall be a member thereof. This Agreement shall serve as the articles of agreement for the Cooperative and, pursuant to RSA 292:2, the Municipalities hereby agree that:

- (a) The name of the Cooperative is set forth in Section 1.4;
- (b) The object for which the Cooperative is established is set forth in Section 1.3 (referring to the Factual Background to this Agreement);
- (c) Provisions for establishing membership and participation in the Cooperative are set forth in Section 9.1
- (d) The provisions for disposition of the Cooperative's assets in the event of the dissolution of the Cooperative are set forth in Section 11.1;
- (e) The address at which the business of the Cooperative is to be carried on is set forth in Section 1.4;
- (f) The Cooperative shall have no capital stock or shares; and
- (g) The personal liability of directors and officers is hereby eliminated to the extent provided by law.

13.2 RECORDING.

Pursuant to RSA 292:4, this Agreement shall be recorded in the office of the city or town clerk of each Member hereto, and in the office of the Secretary of State. The recording fees established by RSA 292:5 shall be paid by the Cooperative.

13.3 WAIVER OF BENEFIT.

To the extent the Municipalities may lawfully do so:

- (a) Each Municipality hereby waives the benefit of RSA 292:7, to the extent that said statute authorizes amendments of this Agreement by lesser vote than set forth in Article X; and
- (b) Each Municipality hereby waives the benefit of RSA 292:9 and agrees not to apply by petition for dissolution of the Cooperative.

13.4 TAX EXEMPTION.

It is intended by the Municipalities that the Cooperative shall be entitled to exemption from federal income tax under applicable provision of the Internal Revenue Code of 1954, as amended. In furtherance of this purpose, the Joint Board is authorized and empowered, at any time during the term of this Agreement, to apply to the Internal Revenue Service for a ruling or other recognition of exemption from federal income tax for the Cooperative.

ARTICLE XIV  
EXISTING OBLIGATIONS

14.1 BACKGROUND.

As a result of participation in the Lamprey Regional Solid Waste Cooperative (under a prior existing agreement as referred to in the Factual Background contained in Section I), each Municipality has incurred certain financial obligations.

14.2 OBLIGATIONS.

The existing and future obligations of each Municipality resulting from its membership participation in Lamprey Regional Solid Waste Cooperative and/or the Lamprey Regional Cooperative shall in no event be terminated, eliminated or otherwise cease or be adjusted as a result of ratification of this Agreement, nor shall any such obligations be terminated, eliminated or otherwise cease or be adjusted as a result of withdrawal, pursuant to Section 9.2, of any Member from this Agreement.

ARTICLE XV  
MISCELLANEOUS

15.1 HEADINGS.

The article and section headings and subheadings used throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of any of the terms, conditions or provisions of this Agreement.

15.2 SEVERABILITY.

If any term, condition, or provision of this Agreement, or the application thereof to any entity or individual or circumstance, shall, to any extent, be held invalid or unenforceable, then the remaining terms, conditions and such provisions of this Agreement, or the application of such invalid or unenforceable term, condition, or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, condition and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

15.3 NOTICES.

Except as otherwise specifically set forth in this Agreement, any notice of other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed delivered if mailed by first class mail, postage prepaid if delivered to private courier or express company or if hand-delivered, in each case, addressed or delivered:

- (a) If to a Member, at the address of the clerk for such Member;
- (b) If to the Cooperative, at its principal place of business; or
- (c) If to a Director or Alternate Director, at the address thereof maintained in the records of the Cooperative;

or to such other address or addresses as shall by like notice be given.

15.4 BINDING EFFECT.

This Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective legal representatives, successors and assigns; provided, that no party hereto shall be entitled to assign or delegate any of its rights or obligations under this Agreement.

15.5 GENDER.

All words denoting gender herein shall be deemed to include the masculine, feminine, neuter, singular and plural as the context and the facts require.

15.6 ENTIRE AGREEMENT.

This Agreement supersedes any previous agreements among any of the parties hereto, whether express or implied, oral or written, with respect to the subject matter hereof. The parties hereto represent that, with respect to the subject matter hereof, (a) there are no oral agreements, representations or understanding among them, and (b) this Restatement and Amendment (including Appendix A - H attached hereto) constitutes the entire agreement among the parties hereto.

15.7 GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire. The parties hereto expressly agree that the exclusive venue for any action or proceeding between or among any of the parties hereto with respect to the subject matter of this Agreement shall be Strafford County Superior Court located in Dover, New Hampshire.

15.8 FURTHER ASSURANCES.

Each Member:

- (a) Shall, at the request of the Joint Board, execute and deliver all such further consents, approvals, certificates, legal opinions and other documents and perform all such other acts and things as the Joint Board may reasonably request in order to confirm the Member's proper adoption, execution and performance of this Agreement;



- (b) Agrees to exercise its best efforts to support any legislation deemed necessary by the Joint Board to confirm this Agreement and the rights and obligations of the Members and the Cooperative hereunder or to provide for additional powers or changed powers for the Cooperative; and
- (c) Agrees to take or cause to be taken any lawful action requested by the Joint Board to be taken by all of the Members in furtherance of any lawful activity of the Cooperative; provided, that if such lawful action is related to a particular Facility, such Member shall be a participant in the Facility and such requested action shall have been approved by an affirmative vote of two-thirds (2/3) or more of the Total Votes of the Members participating in the Facility.

15.9 RIGHT TO KNOW LAW COMPLIANCE.

Notwithstanding anything to the contrary set forth in this Agreement, all proceedings of the Cooperative (including proceedings of the Joint Board, the Operating Committee and any of its committees or subcommittees) shall be subject to the provisions of the so-called Right to Know Law (RSA Chapter 91-A, entitled "Access to Public Records") to the extent said provisions are now or may hereafter be applicable to said proceedings.

15.10 NO THIRD PARTY BENEFICIARY.

This Agreement is not intended to and shall not benefit any Person that is not a part to this Agreement.

15.11 MEMBER MUNICIPALITY ACTIONS AND NOTICES.

Except as otherwise specifically (a) required by law, or (b) set forth in this Agreement or in any vote of the Joint Board, any action or notice required or

permitted to be taken or given by a Member pursuant to this Agreement shall mean an action or notice so taken or given by the Governing Body of such Member.

15.12 BANKRUPTCY, ETC.

To the extent permitted by law, each Member hereby agrees that it will not, without the prior consent of the Joint Board, take any action to seek to obtain for the Cooperative, as a debtor, the benefit of any federal or New Hampshire moratorium, bankruptcy, insolvency or reorganization proceedings.

15.13 COUNTERPARTS.

This Agreement may be executed in one or more counterpart copies, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

15.14 CONSTRUCTION.

In the construction of this Agreement, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of this Agreement or repugnant to the context of this Agreement or any statute or law regulating this Agreement or the Cooperative:

- (a) Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed and understood according to such peculiar and appropriate meaning.
- (b) Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include

the singular; and words importing the masculine gender may extend and be applied to females.

(c) Words such as "herein", "hereof", and "this Agreement" and words of similar import, shall refer to this Agreement as a whole and not to any specific part of it.

15.15 WAIVER.

In the event any provision contained in this Agreement should be breached by any Member and thereafter waived by the Cooperative, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

15.16 APPENDICES.

Each appendix attached to this Agreement shall be incorporated into and be a part of this Agreement.

## ARTICLE XVI

### DEFINITIONS

The following terms shall have the following meanings for purposes of this Agreement:

16.1 ACCEPTABLE WASTE.

Shall mean and refer to all Solid Waste which is acceptable for delivery to a particular Facility as may be determined by the Joint Board, or its duly authorized representative, or as may be specifically provided for in a Facility Agreement. By this definition, all other waste shall be considered unacceptable. See Facility Appendices for respective specifics.

16.2 ACT.

Shall mean and refer to RSA Chapter 53-A entitled "Agreements Between Governmental Units."

16.3 AGREEMENT.

Shall mean and refer to this Lamprey Regional Cooperative Agreement, as it may be amended from time to time.

16.4 ALTERNATE DIRECTOR.

Shall mean and refer to an alternate representative of a Member to this Joint Board, appointed pursuant to Section 2.3 of this Agreement.

16.5 ANNUAL RECONCILIATION.

Shall mean and refer to the reconciliation described in Section 8.1 hereof.

16.6 ASSISTANT SECRETARY.

Shall mean and refer to the Assistant Secretary of the Cooperative, whose duties and powers are set forth in Section 4.4(f) hereof.

16.7 ASSISTANT TREASURER.

Shall mean and refer to the Assistant Treasurer of the Cooperative, whose duties and powers are set forth in Section 4.4(e) hereof.

16.8 AUDIT EXPENSES.

Shall mean and refer to amounts expended by the Cooperative in the preparation of the annual audit of Cooperative accounts pursuant to Section 8.1 hereof.

16.9 BYPASS WASTE.

Shall mean and refer to Acceptable Waste delivered to the Landfill Facility by Members due to the inability (temporary, permanent, or otherwise) of the Waste-to-Energy Facility, the Septage Facility, or any other Facility, to accept the same.

16.10 CAPITAL RESERVE FUND.

Shall mean and refer to the capital reserve fund established pursuant to Section 1.7 hereof.

16.11 CAUSE.

Shall mean and refer to, with respect to the removal of an officer pursuant to Section 4.3 hereof, malfeasance, misfeasance, inefficiency in office, incapacity, or unfitness to perform his or her duties, or for the good of the Cooperative.

16.12 CHAIRMAN.

Shall mean and refer to the Chairman of the Cooperative, whose duties and powers are set forth in Section 4.4(a) hereof.

16.13 COOPERATIVE.

Shall mean and refer to the Lamprey Regional Cooperative established in accordance with the terms of this Agreement.

16.14 COOPERATIVE CAPITAL COSTS.

Shall mean and refer to amounts expended by the Cooperative which are not allocable to a particular Facility and are expenditures deemed capital costs according to generally accepted accounting principles, consistently applied.

16.15 COOPERATIVE CAPITAL RESERVE FUND COSTS.

Shall mean and refer to amounts allocated to the Cooperative pursuant to Section 1.7 hereof.

16.16 COOPERATIVE CAPITAL RESERVE FUND EXPENDITURES.

Shall mean and refer to amounts expended by the Cooperative to be applied to the payment of Cooperative Capital Costs as permitted under Section 1.7 hereof.

16.17 COOPERATIVE COST.

Shall mean and refer to the sum of Cooperative Expenses, Cooperative Capital Costs, Cooperative Capital Reserve Fund Costs and Audit Expenses.

16.18 COOPERATIVE EXPENSES.

Shall mean and refer to all expenses of the Cooperative not allocable to a particular Facility, except for Cooperative Capital Costs, Cooperative Capital Reserve Fund Costs and Audit Expenses.

16.19 COOPERATIVE JOINT BOARD.

Shall mean and refer to the Cooperative Joint Board of the Cooperative established by Article II of this Agreement.

16.20 COOPERATIVE REVENUE.

Shall mean and refer to Cooperative Surplus, Cooperative Capital Reserve Fund Expenditures, and all other revenue of the Cooperative which is not Facility Revenue.

16.21 COOPERATIVE SURPLUS.

Shall mean and refer to the excess of Cooperative Revenue over Cooperative Cost.

16.22 EFFECTIVE DATE.

Shall mean and refer to August 14, 1995.

16.23 EMERGENCY.

Shall mean and refer to a situation where immediate undelayed action is deemed to be imperative, and the minutes of any special meeting shall clearly spell out the need for the emergency meeting.

16.24 FACILITY.

Shall mean and refer to a refuse disposal facility as defined in RSA 53-B:2, to include any related service such as marketing, hauling, collection of MSW and/or recyclables.

16.25 FACILITY AGREEMENT.

Shall mean and refer to any agreement entered into by the Cooperative entered into by the Cooperative for the planning, financing, design, construction, testing, operation, maintenance, leasing or repair of a Facility.

16.26 FACILITY CAPITAL COSTS.

Shall mean and refer to amounts expended by the Cooperative which are allocable to a particular Facility and/or expenditures deemed capital costs according to generally accepted accounting principles, consistently applied.

16.27 FACILITY CAPITAL RESERVE FUND COSTS.

Shall mean and refer to amounts allocated to a Facility pursuant to Section 1.7 hereof.

16.28 FACILITY CAPITAL RESERVE FUND EXPENDITURES.

Shall mean and refer to amounts expended by the Cooperative to be applied to the payment of Facility Capital Costs as permitted under Section 1.7 hereof.

16.29 FACILITY COMMENCEMENT DATE.

Shall mean and refer to, with respect to a particular Facility, that date on which the Facility is accepted by the Cooperative as being operational in accordance with the Facility Agreement for the construction, acquisition or operation of that Facility.

16.30 FACILITY COST.

Shall mean and refer to the sum of the Facility Expenses, Facility Capital Costs, Facility Environmental Expenses, and Facility Capital Reserve Fund Costs.

16.31 FACILITY EXPENSES.

Shall mean and refer to all expenses allocable to, incurred in the operation of, or attributable to a Facility except for Facility Environmental Expenses, Facility Capital Costs, and Facility Capital Reserve Fund Costs.

16.32 FACILITY REVENUE.

Shall mean and refer to the sum of the amounts received by the Cooperative from:

- (a) Disposal fees from Members, non-Members and other Persons for the disposal of Refuse at a Facility in accordance with the schedules established therefor in Section 5.7 of this Agreement;
- (b) The sale of energy, reusable waste, or other output or materials from a Facility;
- (c) Amounts in the nature of income on account of a Facility for any reason (including, without limitation, interest on construction and project funds for a Facility);
- (d) Amounts received under Section 5.5 admissions;
- (e) Facility surplus; and
- (f) Facility Capital Reserve Fund Expenditures.

16.33 FACILITY SURPLUS.

Shall mean and refer to the excess of Facility Revenue over Facility Cost.

16.34 FISCAL YEAR.

Shall mean and refer to the fiscal year of the Cooperative, as set forth in Section 7.5 this Agreement.

16.35 GOVERNING OR LEGISLATIVE BODY OF A MEMBER MUNICIPALITY.

Shall mean and refer to the elected Board of Selectpersons or Council.

16.36 HAZARDOUS WASTE.

Shall have the meaning given thereto in RSA 147-A:2, VII.



16.37 INTEREST RATE.

Shall mean and refer to a fixed rate of interest which equals four (4) percentage points greater than the "Prime Rate" as published in the Wall Street Journal on the date in question; or, if such "Prime Rate" is no longer published, such other comparable rate as may be determined by the Joint Board.

16.38 LEGISLATURE.

Shall mean and refer to the general court of the State of New Hampshire duly convened and acting in any regular or special session.

16.39 MEMBER OR MEMBER MUNICIPALITY.

Shall mean active and participating and refer to:

- (a) The City of Somersworth and Towns of Barrington, Durham, Epping, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, Stratham who have adopted this Restatement and Amendment on August 14, 1995;
- (b) The University of New Hampshire having signed this Agreement; and
- (c) Such municipalities as may be subsequently admitted to the Cooperative as provided in Section 9.1 of this Agreement.
- (d) Members as described above who elect to not participate in any active ongoing facilities will be considered inactive members as provided for in Section 5.3 of this Agreement. For the purposes of this definition, participation in long term monitoring of the ash landfill and the like, shall not be considered participation in an active ongoing facility.

16.40 MUNICIPALITY.

Shall mean and refer to a town or a city of the State of New Hampshire.

16.41 NET DISTRICT COST.

Shall mean and refer to the excess of District Cost over District Revenue.

16.42 NET FACILITY COST.

Shall mean and refer to the excess of Facility Cost over Facility Revenue.

16.43 OPERATING COMMITTEE.

Shall mean and refer to that committee of the Joint Board established pursuant to Section 3.1 hereof.

16.44 PERSON.

Shall mean and refer to an individual, corporation, partnership, joint venture, trust, or unincorporated organization, or a government or body corporate and politic or any agency or political subdivision thereof.

16.45 POPULATION.

Shall mean and refer to, with respect to a Municipality, the most recent estimate of population for such Municipality, as published by the State of New Hampshire Office of State Planning pursuant to RSA 78-A:25 (or, in the event of its repeal, any similar statute hereinafter enacted providing for estimates of population for Municipalities), as adjusted each year at the Joint Board's annual meeting (for use thereat and thereafter until adjusted at the next following annual meeting).

16.46 PUBLIC NOTICE.

Whenever required by this Agreement, shall mean and refer to a notice signed by the Secretary of the Cooperative, which notice shall be either:

- (a) Posted in at least two (2) public places in each of the Members; or
- (b) Posted in at least one (1) public place in the Municipality in which the Cooperative then has its principal place of business and published in one or more newspapers of general circulation in the Members (such that, for each Member, the notice is published in at least one newspaper of general circulation within such Municipality).

16.47 QUANTITY

Shall mean and refer to volume or weight, or a combination thereof.

16.48 REFUSE.

Shall mean and refer to Solid Waste, as defined in Section 16.54 hereof.

16.49 REPRESENTATIVE/DIRECTOR.

Shall mean and refer to an appointed representative of a Member to the Joint Board, appointed pursuant to Section 2.3 hereof.

16.50 RESIDUE.

Shall mean and refer to the by-product (including, but not limited to, fly ash) of a waste-to-energy place, equipment, or plant.

16.51 RSA.

Or any particular section or chapter thereof referred to herein, shall mean and refer to the relevant New Hampshire Revised Statutes Annotated, as now or hereafter amended.

16.52 SECRETARY.

Shall mean and refer to the Secretary of the Cooperative, whose duties and powers are set forth in Section 4.4(d) hereof.

16.53 SECRETARY OF STATE.

Shall mean and refer to the Office of the Secretary of State of the State of New Hampshire, or its successor under New Hampshire law.

16.54 SOLID WASTE.

Shall mean and refer collectively to "Solid Waste" as defined in RSA 149-M:1, XIX and as said statutory definitions may hereafter be amended or replaced.

16.55 TOTAL VOTES.

Shall mean and refer to the total number of votes cast by all of the Active Members as determined pursuant to Section 2.10.

16.56 TREASURER.

Shall mean and refer to the Treasurer of the Cooperative, whose duties and powers are set forth in Section 4.4(c) hereof.

16.57 VICE CHAIRMAN.

Shall mean and refer to the Vice Chairman of the Cooperative, whose duties and powers are set forth in Section 4.4(b) hereof.

16.58 WASTE-TO-ENERGY FACILITY.

Shall mean and refer to that Facility provided for in Section 5.1(a) and Appendix A of this Agreement.

APPENDIX A  
TO  
AMENDMENT AND RESTATEMENT  
OF  
LAMPREY REGIONAL COOPERATIVE AGREEMENT  
AS ADOPTED  
AUGUST 14, 1995  
WASTE TO ENERGY FACILITY

MUNICIPALITIES

INITIAL GUARANTEED  
MINIMUM ANNUAL QUANTITY

Town of Barrington	1,770
Town of Durham	2,540
Town of Epping	2,440
Town of Greenland	880
Town of Lee	1,378
Town of Madbury	420
Town of Newfields	405
Town of Newington	1,450
Town of Newmarket	3,411
Town of Northwood	1,344
Town of Rollinsford	713
Town of Stratham	3,705
Town of Somersworth	4,290
UNH	1,746

**NAME OF FACILITY:** Waste to Energy Facility

**PURPOSE OF FACILITY:** To provide for the incineration of acceptable municipal solid waste and production of energy in the form of steam to be sold to the University of New Hampshire, thereby providing participating communities a safe, responsible and economical method of disposing of their MSW. The participating communities are all of the members of the Lamprey Regional Solid Waste Cooperative as of March 31, 1995. To the extent capacity exists at any time, the facility may accept MSW from their sources.

**DESCRIPTION OF FACILITY:** This facility consists of the building and equipment owned by the Cooperative and located at 1 Lamprey Way on land owned by the University of New Hampshire in Durham, NH. This facility was constructed and continued to be operated under provisions of the 1978 Agreement which formed the Cooperative plus recorded decisions of the Cooperative's Board of Directors from 1978 to April 1, 1995.

**ACCEPTABLE WASTE:** Accepted solid waste shall be that waste as determined by the Joint board or its duly authorized representative and permitted by State and Federal regulation. All other waste will be considered unacceptable.

**COMMITMENT DATE:** March 1978.

**INITIAL OPERATIONAL DATE:** November 15, 1980

**EXPECTED YEARS OF OPERATION:** Fifteen (15)

**CAPITAL INVESTMENT:** \$2,420,000.00

**ANNUAL OPERATING COSTS:** \$1,592,188.00

**METHOD OF FINANCING:** Bonded indebtedness plus prepayment of tipping fees by some member communities.

**METHOD OF BILLING FOR SERVICES:** As developed over the years of operation, the billings currently are in the form of tipping fees determined in total to equal the annual debt service/retirement and operating costs less other income as reflected in an annual budget adopted by the Board of Directors. The budget includes the costs of debt and operation associated with the Cooperative's Ash Landfill facility in Somersworth, NH until closure of the waste to energy facility. Special assessments are voted to cover cost of facility closure, future planning and revenue shortfall. Such special assessments are based upon share of annual tonnage for future planning and revenue shortfalls while share of total tonnage to date is the basis for closure assessments.

**OBLIGATIONS OF MEMBER COMMUNITIES:** This Annex and the basic Agreement of which it is a part are not intended to change or eliminate obligations previously taken by the Cooperative's members with respect to construction, operation and closure of the waste to energy facility. The original Agreement forming the Cooperative and recorded decisions of the Board of Directors are included herein by reference. The basic principles applied are that annual debt service/retirement and operating costs are obligations incurred based upon usage of the facility in the particular year while closure costs are obligations based upon usage (total tonnage delivered) or the facility over its full operational lifetime. Any net assets upon closure will be distributed to member communities based upon usage (total tonnage delivered) over the facility lifetime.

APPENDIX B  
TO  
AMENDMENT AND RESTATEMENT  
OF  
LAMPREY REGIONAL COOPERATIVE AGREEMENT  
AS ADOPTED  
AUGUST 14, 1995  
ASH LANDFILL FACILITY AT SOMERSWORTH

MUNICIPALITIES

Town of Barrington  
Town of Durham  
Town of Epping  
Town of Greenland  
Town of Lee  
Town of Madbury  
Town of Newfields  
Town of Newington  
Town of Newmarket  
Town of Northwood  
Town of Rollinsford  
Town of Stratham  
City of Somersworth

**NAME OF FACILITY:** Ash Landfill at Somersworth

**PURPOSE OF FACILITY:** To provide for disposal of incinerator ash generated by the Cooperative's waste to energy facility or from other acceptable sources as approved by the Joint Board and in a manner which complies with Federal and State laws, rules and regulations. If technology, economics and regulatory factors permit, this facility will provide for recovery of recyclable material from the ash.

**DESCRIPTION OF FACILITY:** A double lined containment with leachate collection system piped to the Somersworth Wastewater Treatment Facility. This containment is located on land owned by the City of Somersworth and is approved for disposal of incinerator ash when mixed with sludge from City of Somersworth's Wastewater Treatment Plant. Management is by Cooperative staff.

The Ash Landfill facility at Somersworth was constructed pursuant to a certain Agreement between the Lamprey Regional Solid Waste Cooperative and the City of Somersworth for the construction and operation of an Ash and Sludge Disposal Facility, which Agreement is dated the 22nd day of May 1987, and which Agreement sets forth the terms whereby the Cooperative and City of Somersworth built and agreed to operate the Ash Landfill facility, to include setting forth the rights and responsibilities of the parties to said Agreement.

**ACCEPTABLE WASTE:** Accepted solid waste shall be that waste as determined by the Joint Board or its duly authorized representative and permitted by State and Federal regulation. All other waste will be considered unacceptable.

**COMMITMENT DATE:** August 14, 1995

**INITIAL OPERATIONAL DATE:** July 1989

**EXPECTED YEARS OF OPERATION:** 20.

**CAPITAL INVESTMENT:** \$3,000,000.00

**ANNUAL OPERATING COSTS AFTER CLOSURE:** \$23,000.00

**METHOD OF FINANCING:** Short term loan and bonded indebtedness owned by the Cooperative as a whole with debt service/retirement and operating costs until November 15, 1995 included in the determination of tipping fees to be charges for disposal at the waste to energy facility (Appendix A). Operation after November 15, 1995 to service other sources of ash and recover recyclable materials will be conducted only to the extent revenue will exceed costs with net excess revenues returned to the member communities in proportion to their share of the total tonnage processed through the waste to energy facility or is determined by the Members to be in its best interests. Upon closure, annual assessments will be charged against the member communities to fund the closure costs to include monitoring and laboratory tests as required by Federal and State laws, rules and regulations.

**METHOD OF BILLING FOR SERVICES:** Until November 15, 1995 there will be no separate billings for service of the facility. After November 15, 1995 assessments will be levied against the member communities that participated in use of the waste to energy facility to cover costs of closure and monitoring.



### **OBLIGATION OF MEMBER COMMUNITIES:**

- \* Participation in the operation of the landfill until its closure.
- \* Participation in closure.
- \* Participation in long-term monitoring.

This Annex and the basic Agreement of which it is a part are not intended to change or eliminate obligations previously taken by the Cooperative's members with respect to construction, operation and closure of the waste to energy facility. The original agreement forming the cooperative and recorded decisions of the Board of Directors are included herein by reference. The basis principles applied are that annual debt service/retirement and operating costs are obligations incurred based upon usage of the facility in the particular year while closure costs are obligations based upon usage (total tonnage delivered) of the facility over its full operational lifetime. Any net assets upon closure will be distributed to member communities based upon usage (total tonnage delivered) over the facility lifetime.



APPENDIX C  
TO  
AMENDMENT AND RESTATEMENT  
OF  
LAMPREY REGIONAL COOPERATIVE AGREEMENT  
AS ADOPTED  
AUGUST 14, 1995

LAMPREY REGIONAL TRANSFER FACILITY

<u>MUNICIPALITIES</u>	<u>INITIAL GUARANTEED MINIMUM ANNUAL QUANTITY</u>
Epping	2,762
Madbury	432
Newington	1,328
Northwood	1,482
Rollinsford	762

**NAME OF FACILITY:** Lamprey Cooperative Transfer Facility

**PURPOSE OF FACILITY:** To achieve for the participating communities certain economics of scale made possible by combining municipal solid waste (MSW) in large loads for delivery to disposal facilities where commitments of large quantities may provide additional savings via advantageous rates for disposal.

**DESCRIPTION OF FACILITY:** This facility will consist of building(s) and equipment located upon or operated from land owned by the Lamprey Regional Solid Waste Cooperative. The building(s) and the equipment will provide for the management and operation of the functions of receiving, compacting, loading, and transporting to a final disposal site the acceptable MSW from participating communities and approved non-member sources. Management shall include the requisite contracting for services at the final disposal site which shall not be owned by the cooperative or considered a part of this facility.

**ACCEPTABLE WASTE:** Accepted solid waste shall be that waste as determined by the Joint Board or its duly authorized representative and permitted by State and Federal regulation. All other waste will be considered unacceptable.

**COMMITMENT DATE:** August 14, 1995

**INITIAL OPERATION DATE:** When construction completed

**EXPECTED YEARS OF OPERATION:** 15 years commencing upon completion of construction

**EXPECTED INVESTMENT:** \$1.4 million

**ANNUAL OPERATING COSTS:** \$1,400,485.00

**METHOD OF FINANCING:** Engineering services to be paid for via a pro-rata assessment upon the participating communities with the sum of such assessments subsequently included within the total amount for acquisition/construction; which total amount will be obtained via bonded indebtedness. The initial assessment amounts will then be considered a prepayment of tipping fees and constitute the initial operating funds required until regular tipping fees are billed and paid by the participating communities.

**METHOD OF BILLING FOR SERVICES:** A budget will be developed annually to establish a tipping fee per ton of MSW which will produce expected annual income equal to the total of annual debt/service/retirement, operating costs and share of land and management costs. Any shortfall due to unforeseen circumstances not reflected in the budget calculations shall be assessed at the end of the year against each of the participating communities on a pro-rata basis determined by the communities' share of the total MSW tonnage processed by the facility during the year.

**OBLIGATIONS OF MEMBER COMMUNITIES:** In addition to the basic obligations of membership in the Lamprey Regional Solid Waste Cooperative as enumerated in the basis agreement, the communities participating in this facility will be further obligated as follows:

- 1) To deliver MSW in an amount equal to or exceeding that agreed in the annual budget adoption or pay the total amount of tipping fees corresponding to that agreed amount of MSW.
- 2) To pay assessments which may be voted to cover shortfalls as described earlier.
- 3) To be liable for its pro-rata share of the facility indebtedness in accordance with its share of the initial subscribed capacity of the facility unless all or a portion of its share is assumed by others through increased usage of the facility or additional communities joining use of the facility.

**APPENDIX D**  
**TO**  
**AMENDMENT AND RESTATEMENT**  
**OF**  
**LAMPREY REGIONAL COOPERATIVE AGREEMENT**  
**AS ADOPTED**  
**AUGUST 14, 1995**

**LAMPREY MSW HAULING**

**MUNICIPALITIES**

Barrington (terminates on November 20, 1995)  
Epping (commencing December 1, 1995)  
Lee (terminating on November 20, 1995)  
Northwood  
Rollinsford

**NAME OF FACILITY:** Lamprey MSW Hauling

**PURPOSE OF FACILITY:** To provide hauling services for municipal solid waste collected at participating communities local transfer stations. This hauling to be of compactor containers from the local transfer station to the central Lamprey Cooperative Transfer Facility described in Appendix C.

**DESCRIPTION OF FACILITY:** This facility will consist of management and equipment operated from land owned by the Lamprey Regional Solid Waste Cooperative. The equipment shall be owned, leased or hired via contract with operators. Management shall be provided by the staff of the Lamprey Cooperative Transfer Facility with prorata charges of salary and expenses to this Lamprey MSW Hauling Facility.

**ACCEPTABLE WASTE:** Accepted solid waste shall be that waste as determined by the Joint Board or its duly authorized representative and permitted by the State and Federal regulation. All other waste will be considered unacceptable.

**COMMITMENT DATE:** August 14, 1995

**INITIAL OPERATING DATE:** August 14, 1995

**EXPECTED YEARS OF OPERATION:** Fifteen (15)

**CAPITAL INVESTMENT:** \$75,000.00

**ANNUAL OPERATING COSTS:** \$62,000.00

**METHOD OF FINANCING:** With all equipment to be via leasing or contract, the leasing, contract, operation and management costs will be recovered via a price-per-mile charge billed to the participating communities.

**METHOD OF BILLING FOR SERVICES:** A budget will be developed annually to establish a price-per-mile to be charged which will produce annual income equal to the total amount of annual operating costs and share of land and management costs. Any shortfall due to unforeseen circumstances not reflected in the budget calculations shall be assessed at the end of the year against each of the participating communities on a pro-rata basis determined by the communities' shares of the total miles of hauling services provided during the year.

**OBLIGATIONS OF PARTICIPATING COMMUNITIES:** The communities shall be obligated to use the budgeted number of miles of hauling service in any given year or pay an amount equal to the price-per-mile charges for that budgeted number of miles unless other communities use added miles of service to reach the total budgeted for that year.

AGREEMENT FOR INFORMATION OF LAMPREY REGIONAL  
SOLID WASTE COOPERATIVE

APPENDIX E.

WHEREAS, the municipalities to this Agreement have the duty to provide for the disposal of solid waste generated within their respective territories; and

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

WHEREAS, the municipalities to this Agreement are authorized to enter into said Agreement pursuant to the New Hampshire Intergovernmental Agreements Act, RSA 53-A;

NOW, THEREFORE, the municipalities of Barrington, Durham, Epping, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, Strafford and Stratham for and in consideration of the mutual promises and agreements herein-after stated and the performance therefor, do hereby promise and agree as follows:

ARTICLE I

PURPOSES

The purposes of this Agreement are to provide for the efficient and economic disposal of solid waste generated within the territories of the municipalities joining in this Agreement, to provide for the recovery and sale of energy, and to provide for the recovery and sale of by-products from the disposal of solid waste.

## ARTICLE II

### ORGANIZATION

The municipalities joining in this Agreement do hereby associate together for the purpose of forming the Lamprey Regional Solid Waste Cooperative to administer and operate a solid waste disposal and energy recovery facility.

## ARTICLE III

### ADOPTION OF AGREEMENT

This Agreement shall not take effect with respect to the municipalities signing this Agreement unless all of the following occur:

A. The terms of this Agreement conform to the specific requests of the Attorney General, provided that the failure of the Attorney General to approve of this Agreement within thirty days of its submission for review shall constitute approval thereof as provided in RSA 53-A:3

B. This Agreement has been filed with the Clerk of each municipality voting to approve it and with the Office of the Secretary of State.

C. The combined capital authorization of the municipalities voting to adopt this Agreement at the 1978 annual meeting amounts to \$2,420,000; provided that the vote of each municipality to adopt this Agreement and appropriate a pro-rata share of the initial capital investment shall be deemed to continue until July 1, 1978.

D. In the event the combined capital authorization of the municipalities voting to approve of this Agreement at the 1978



ADOPTION OF AGREEMENT continued

annual meeting does not amount to \$2,420,000 this Agreement shall be adopted as follows:

1. The Boards of Selectmen of the municipalities voting to adopt this Agreement and voting to appropriate a pro-rata share of the capital cost of the facility, shall each appoint a director to serve on a provisional board which shall exist until no later than July 1, 1978.

The provisional board shall have the limited authority to

(a) solicit the membership of additional municipalities to the Cooperative;

(b) to determine the pro-rata capital contribution and net operating contribution of new members; and

(c) to assess municipalities a pro-rata share of the legal, administrative, and consulting costs associated with the formation of the Cooperative even though the solid waste disposal and energy recovery facility is not constructed.

2. A municipality or municipalities shall be invited to join the Cooperative subject to such terms and conditions as decided by a majority of the provisional board.

3. If this Agreement is approved by a majority vote of the legislative body of the municipality seeking admission to the Cooperative, said municipality shall become a member of the Cooperative subject to all the provisions of this Agreement, any amendments thereto and such further conditions as imposed by the provisional board.

ADOPTION OF AGREEMENT. continued

4. As soon as the combined capital authorization of the municipalities approving this Agreement no later than July 1, 1978 amounts to \$2,420,000, then an organizational meeting of the directors of the respective municipalities shall be convened and the process of financing the cost of construction and the cost of operation of the solid waste disposal and energy recovery facility shall be implemented as provided in Articles VI and VII hereof.

ARTICLE IV

ADMINISTRATION

The powers, duties and responsibilities of the Cooperative shall be vested in and exercised by a joint board. Each municipality joining in this Agreement shall be represented by one director who, in the first instance, shall be appointed by the Board of Selectmen of the respective municipality. Each director shall have one vote.

The terms of office of the directors representing the respective municipalities approving this Agreement shall be fixed as follows:

Phase I. The directors for the towns of Barrington, Durham, Epping, Greenland and Lee shall have an initial term of one year. Subsequent directors representing said municipalities shall be appointed by the Boards of Selectmen and shall serve for terms of three years.

Phase II. The directors for the towns of Madbury, Newfields, Newington and Newmarket shall serve an initial term of two years. Subsequent directors representing said municipalities shall be

ADMINISTRATION continued

appointed by the Boards of Selectmen and shall serve for terms of three years.

Phase III. The directors for the towns of Northwood, Rollinsford, Strafford and Stratham shall serve an initial term of three years. Subsequent directors representing said municipalities shall be appointed by the Boards of Selectmen and shall serve for terms of three years.

In the event of resignation, incapacity or death of a director, the Board of Selectmen of the municipality so affected shall appoint an interim director to fill the unexpired portion of the vacant office.

Any director may be removed from office by the municipality which he represents for any reason which would justify the removal of a public official under the law of New Hampshire.

Upon the effective date of this Agreement, or as soon thereafter as possible, the directors shall hold an organizational meeting to elect officers, to appoint an operational committee and to appoint such other committees as the joint board shall deem necessary. The joint board shall at its annual meeting, elect officers to serve for a term of one year. The terms of committee members shall be for such periods as fixed by the joint board.

The joint board shall choose a chairman by ballot from its membership. It shall appoint a secretary and treasurer who may be the same person, but who need not be members of the joint

ADMINISTRATION continued

board, The treasurer shall receive and take charge of all money belonging to the Cooperative and shall pay any bill of the Cooperative which has been approved by the joint board.

In the event the Treasurer is not a member of the joint board he shall serve at the pleasure of the board, otherwise he shall serve for a term of one year. The treasurer may by vote of the joint board be compensated for his services.

The directors shall appoint from their membership an operational committee consisting of three members. This committee shall have the responsibility of making recommendations to the joint board with regard to the ordinary operation and maintenance of the solid waste disposal and energy recovery facility.

The joint board shall meet at least bi-monthly. A special meeting of the joint board may be called by the chairman or by any three directors. Unless otherwise provided by this Agreement, all questions decided by the joint board shall be approved by a majority vote of the directors representing all of the municipalities belonging to the Cooperative. A quorum for any meeting of the joint board shall consist of one more than one-half of the directors representing all of the municipalities belonging to the Cooperative.

The joint board may adopt by-laws for the conduct of business as long as said by-laws do not conflict with the terms of this Agreement or the provisions of RSA 53-A.

ARTICLE V

POWERS

The Cooperative shall have the following powers and duties:

POWERS continued

I. To sue and be sued, but only to the extent and upon the same conditions that a city or town may be sued.

II. To hold, purchase, convey or lease real or personal property for the lawful purposes of the Cooperative and to plan, construct, equip and operate a solid waste disposal and energy recovery facility and an ash disposal facility, and any other facilities that may be required in order to accomplish the purpose of the Cooperative, and to make any necessary contracts in relation thereto.

III. To receive and disburse funds for any lawful purpose for which the Cooperative was formed.

IV. To assess member municipalities for any expenses incurred for the purposes for which the Cooperative was formed.

V. To create a reserve fund for operation from any surplus remaining on hand at the end of any fiscal year, provided that the amount transferred to said fund shall not in any one year exceed five percent (5%) of the operating budget of the Cooperative for the prior year.

VI. To create a capital reserve fund from any surplus remaining at the end of any fiscal year provided that the amount transferred to said fund shall not exceed one percent (1%) of the last year assessed valuation of the municipalities belonging to the Cooperative.

VII. To engage legal counsel.

VIII. To submit an annual report to each of the member municipalities containing a detailed financial statement and a statement showing a method by which the annual charges assessed against each municipality were computed.

IX. To engage employees and consultants to operate the Cooperative

X. To enter into contracts for solid waste disposal with persons, corporations, non-member municipalities and any other lawful political entities.

XI. To engage in any lawful act or activity for which a "legal or administrative entity" as defined by RSA 53-A:3(II) (b) may be organized and to do any and all of the acts herein set forth or implied and such other acts as are incidental or conducive to the attainment of the objects and purposes of the Cooperative.

XII. To borrow funds, but in no event shall the total indebtedness, for whatever purpose, exceed \$5,000,000.00 at any one time.

XIII. To borrow moneys for capital and operating expenditures relating to the purposes of the Cooperative from any source, to repay the principal thereof and interest thereon, and to execute promissory notes in evidence thereof. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board.

XIV. To borrow moneys for capital expenditures relating to the purposes of the Cooperative from any source in anticipation of the issuance of bonds on behalf of the Cooperative or by the Cooperative itself. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board.

XV. To borrow moneys for capital expenditures through the issuance of bonds by the Cooperative. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board.

#### ARTICLE VI

##### CAPITAL COST

A. The capital cost for the solid waste disposal and energy recovery facility, including equipment, construction, engineering and startup expense, has been estimated at \$2,420,000.00 which includes a ten percent(10%) overrun allowance.

B. The solid waste generated by the municipalities listed in this paragraph for the year 1977 has been estimated by the consulting firm of Camp, Dresser and McKee, Inc. and set out on page 9 of a certain Final Report entitled "Feasibility Study of Regional Solid Waste Incineration Plant for Durham, New Hampshire (Lamprey River) Region, dated December 27, 1977. Said estimates are hereby ratified and affirmed by the municipalities executing this Agreement. Based upon said

CAPITAL COST continued

estimates the capital cost of the solid waste disposal and energy recovery facility, including a ten percent (10%)

rrun allowance shall be apportioned as follows:

Municipality	Pro-Rata Share	Capital Cost Including 10% Allowance for Overrun
Barrington	14.54%	\$ 351,868
Durham	22.33%	540,386
Greenland	7.28%	176,176
Lee	6.75%	163,350
Madbury	2.86%	69,212
Newfields	3.12%	75,504
Newington	12.98%	314,116
Newmarket	14.03%	339,526
Northwood	8.57%	207,394
Rollinsford *	5.97%	144,474
Strafford *	3.12%	75,504
Stratham	7.54%	182,468
Epping *	10.04%	251,680

\*The pro-rata capital contributions of the municipalities of Strafford, Epping, and Rollinsford have been determined as follows:

The solid waste generated by Strafford, Epping, and Rollinsford in the year 1977 has been estimated by employing the same method used by Camp, Dresser and McKee, Inc. to estimate the solid waste generated by the municipalities listed on page 9 of said Final Report. The resulting estimates were divided by the total estimate for the municipalities listed on page 9 of said Final Report (385 tons per week). These percentages were multiplied by the figure of \$2,420,000 to

CAPITAL COST continued

arrive at the respective pro-rata capital contribution of Strafford and Rollinsford.

C. In the event the Cooperative is established by the process contained in Article III, Paragraph D, the capital cost for the solid waste disposal and energy recovery facility, including equipment, construction, engineering and startup expense, plus ten percent (10%) allowance for overrun shall be apportioned as follows:

For those municipalities approving this Agreement at the 1978 annual meeting, the joint board shall determine the solid waste generated by said municipalities in 1977 by using the Camp, Dresser and McKee, Inc. figures set out on page 9 of said Final Report. For those municipalities adopting this Agreement between the 1978 annual meeting and July 1, 1978, the joint board shall determine the solid waste generated by said municipalities for the year 1977 by employing the same method of estimation used by Camp, Dresser and McKee, Inc. in said Final Report.

The resulting figures shall be divided by the total figure for all the municipalities approving this Agreement. The estimated percent of solid waste generated by each municipality shall be multiplied by the figure of \$2,420,000. The resulting figures shall be the capital contribution of each municipality for the initial year.



CAPITAL COST continued

In the event the solid waste generated by any municipality in the first full year exceeds or is less than the amount estimated by either Camp, Dresser and McKee, Inc. or the joint board for the year 1977, there shall be no reapportionment of the capital contribution of any municipality made during the first year of operation of the facility.

ARTICLE VII

COST OF OPERATION

A. The term "net cost of operation" or "net operating cost" shall mean all costs and expenses of the Cooperative relating to the operation and maintenance of the solid waste disposal and energy recovery facility, including without limitation, all costs of accepting, processing, storing and disposing of waste, labor, utilities and all costs associated with spare parts, equipment, insurance, maintenance of equipment and facilities, cleaning services, general outside accounting service, consulting services and legal services, and all costs and expenses relating to the payment of any bond or indebtedness, including principal, interest and bonding charges, whether incurred by the Cooperative or by one municipality or two or more municipalities for the benefit of the Cooperative, minus any revenues received by the Cooperative in exchange for the sale of energy or from the sale of by-products recovered from the processing of said waste.

Provided, further, that the costs incurred by the individual

COST OF OPERATION continued

municipalities for transporting solid waste to the solid waste disposal and energy recovery facility shall not be considered in determining the net operating cost.

B. The net cost of operating said facility for the first year shall be apportioned as follows:

<u>Municipality</u>	<u>Pro-Rata Share</u>
Barrington	14.54%
Durham	22.33%
Greenland	7.28%
Lee	6.75%
Madbury	2.86%
Newfields	3.12%
Newington	12.98%
Newmarket	14.03%
Northwood	8.57%
Rollinsford	5.97% *
Strafford	3.12% *
Stratham	7.54%
Epping	10.04% *

\*The pro-rata contribution of the municipalities of Strafford, Rollinsford, and Epping to the "net cost of operation" of the Cooperative for the first year has been determined as follows:

The solid waste generated by Strafford, Rollinsford, and Epping (Art. VI-C) in the year 1977 has been estimated by employing the same method used by Camp, Dresser and McKee, Inc. to estimate the solid waste generated by the municipalities listed on page 9 of said Final Report. The resulting estimates were divided by the

COST OF OPERATION continued

total estimate for the municipalities listed on page 9 of said Final Report (385 tons per week). These percentages shall be the pro-rata contributions of the municipalities of Strafford and Rollinsford toward the net operating cost of the facility for the first year of operation.

C. The net cost of operating the solid waste disposal and energy recovery facility during the following years shall be computed as follows:

The joint board shall determine the solid waste actually processed for each municipality in the preceding year from records maintained at the facility. The resulting figures shall be divided by the whole figure of solid waste generated by all the municipalities. This percent of solid waste generated by each municipality shall be multiplied by an estimate of the net cost of operation for the next year as determined by the joint board.

The resulting figures shall be the mandatory annual operational fee for each municipality.

D. The success of the Cooperative is premised upon the assumption that each municipality shall process a minimum percentage of the total solid waste processed at the facility each year. The failure of the Cooperative to receive a guaranteed percentage from each municipality during the term of this contract will result in a loss of revenue from the sale of energy and by-products and will produce a corresponding increase in the cost of operating the facility. Accordingly, after the second full year of membership in the Cooperative,

COST OF OPERATION continued

each municipality approving this Agreement guarantees to process annually a minimum percentage of the entire solid waste processed at the facility which percentage shall equal the average of the percentages processed by it during the first and second years of membership.

In the event a municipality fails to process its guaranteed percentage of the total amount of solid waste processed at the facility, the joint board shall, nevertheless, assess said municipality its mandatory pro-rata operational fee based upon said guaranteed percentage.

Furthermore, the joint board shall be permitted to assign that portion of the guaranteed percentage which any municipality fails to meet, to a member of the Cooperative or to a non-member municipality upon such terms and conditions as the joint board deems advisable. Any solid waste collected and processed pursuant to such an assignment shall not be credited to the municipality which fails to meet its guaranteed percentage.

E. Each member of the Cooperative shall be guaranteed that during the term of this Agreement it shall be permitted to process a certain percentage of the total solid waste processed at the facility in any one year, which percentage shall at least be equal to the average of the percentage processed by it during the first and second years of membership in the Cooperative.

F. Notwithstanding any provisions in this Agreement, the Cooperative may, by a two-thirds majority vote of the joint board, decide to adjust the relative pro-rata shares of the members in regard to initial capitalization, net operating fees

COST OF OPERATION continued

and guaranteed percentages.

ARTICLE VIII

OPERATING AGREEMENT

It is anticipated that the Cooperative may enter into an operating agreement with the University of New Hampshire for the operation and maintenance of the solid waste disposal and energy recovery facility. Each municipality joining the Cooperative agrees that it will be bound by the terms and provisions of the operating agreement relating to, but not necessarily limited to, such subjects as vehicular regulations, liability for processing of hazardous waste, hours of operation and health and safety regulations.

ARTICLE IX

PREPARATION OF ANNUAL BUDGET

Each year the joint board shall determine the amounts necessary to be raised to maintain and operate the Cooperative during the next calendar year and the amounts required for payment of debt and interest incurred by the Cooperative that will be due in the next calendar year. The joint board shall prepare a budget and make a preliminary apportionment of the amount so determined among the member municipalities in accordance with the terms of this Agreement. Prior to December 31st the joint board shall hold at least one public hearing at some convenient place in the Cooperative on the amounts required in the budget and the preliminary apportionment of the amounts listed in the budget. At least seven days notice of the meeting shall be given by publication of the budget and

PREPARATION OF ANNUAL BUDGET continued

apportionment in a newspaper or newspapers of general circulation within the Cooperative and by posting a copy of the budget and apportionment in a public place in each municipality in the Cooperative.

After the hearing the joint board shall adopt a budget and make a final determination of the apportionment among the member municipalities. After the joint board has adopted the budget and determined the apportionment of the expenses, the Cooperative treasurer shall certify to the Boards of Selectmen of the member municipalities in the Cooperative the amount of money assessed each municipality. The selectmen of each municipality shall seasonably assess the taxes to be raised to pay the apportionments. The municipality treasurer shall pay to the Cooperative the amount so apportioned in quarterly installments each year.

The joint board shall cause a certified public accountant licensed to practice in either the State of New Hampshire or the Commonwealth of Massachusetts to conduct an annual audit of the accounts and records of the Cooperative.

ARTICLE X.

ADMISSION OF NEW MEMBERS

After initial adoption of this Agreement, municipalities may be admitted to the Cooperative by a majority vote of the legislative body of the municipality seeking admission and upon

ADMISSION OF NEW MEMBERS continued

such terms and conditions as established by a majority vote of the joint board of the Cooperative. New members shall agree to all of the provisions of the Agreement and any amendments thereto, and any other conditions of admittance imposed by the joint board.

ARTICLE XI

DURATION OF AGREEMENT

This Agreement shall continue in force for a term of fifteen years. No municipality approving this Agreement may withdraw from the Cooperative for any reason during the term of this Agreement.

Each municipality approving this Agreement hereby agrees to pay its full pro-rata share of net operating costs of the city as defined by Article VII hereof.

ARTICLE XII

BREACH OF AGREEMENT

A municipality shall be deemed to be in breach of this Agreement if it fails to appropriate or make timely payment of its share of capital cost and mandatory operating costs or if it fails to perform or comply with any of the terms, provisions, or conditions of this Agreement. The joint board shall give a municipality written notice of specific acts or omissions which constitute breach. The municipality so notified shall have seven days to conform. If the municipality fails to conform within the above mentioned time period, then the joint board shall have the power to exclude the solid waste generated

BREACH OF AGREEMENT continued

by said municipality from processing at the solid waste disposal facility. No such exclusion shall render the Cooperative liable for damages or relieve the municipality deemed to be in breach from performance of its obligations hereunder and the Cooperative reserves the right to insist upon specific performance by the municipality deemed to be in breach of its obligations under this Agreement or to claim money damages.

Any municipality found to be in breach of this Agreement by a court of law shall be responsible to the Cooperative for its reasonable attorney's fees and expenses incurred in respect to said breach.

ARTICLE XIII

DISTRIBUTION OF ASSETS

Assets of the Cooperative remaining at the time of termination of this Agreement shall be divided among the municipalities according to their proportionate payments or contributions to the capital construction and improvement of the Cooperative during the full term of this Agreement.

ARTICLE XIV

AMENDMENT

This Agreement may be amended only in the following manner:

The director representing any member municipality on the joint board may propose amendments. Any amendment must be the subject of at least one public hearing called in a convenient place within the Cooperative. At least seven days notice of the time, place and subject of the hearing shall be published in a



AMENDMENT continued

paper or papers of general circulation within the Cooperative and posted in a public place in each member municipality. After the hearing, the joint board may adopt the amendment and certify it to the Board of Selectmen of each municipality. The adoption of any amendment shall require approval by at least two-thirds of the Boards of Selectmen of the member municipalities.

ARTICLE XI

SEPARABILITY

In case any one or more of the provisions contained in this Agreement be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the municipalities of Barrington, Durham, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, Strafford and Stratham have caused this Agreement to be signed by a majority of their Boards of Selectmen as of the dates hereinafter written.

WITNESS:

THE TOWN OF BARRINGTON

Sally J. Thorne  
Sally J. Thorne

Edward W. Colby  
Edward W. Colby

on this 11th day of May 1978

THE TOWN OF DURHAM

\_\_\_\_\_  
\_\_\_\_\_

on this

day of

1978

IN WITNESS WHEREOF, the municipalities of Barrington, Durham, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, Strafford and Stratham have caused this Agreement to be signed by a majority of their Boards of Selectmen as of the dates hereinafter written.

WITNESS:

Sally J. Thorne  
Sally J. Thorne

THE TOWN OF BARRINGTON

Edward J. Thorne  
Earl W. Colby

on this 31<sup>st</sup> day of May 1978

THE TOWN OF DURHAM

Orla Higgins  
Margaret Fitch

Lawrence W. Connelley  
Theodore J. Finnegan  
James O. Chandler

on this 3<sup>rd</sup> day of April 1978

THE TOWN OF EPPING

Bethune L. MacCott  
for all

Mary A. Fittman, Ch.  
William H. Anderson  
Agapit H. Jean Jr.

on this 21<sup>st</sup> day of June 1978

WITNESS:

Richard H. Thorne  
Edna B. Clarke

THE TOWN OF GREENLAND

David L. Burkhardt  
James C. Allen

on this 20<sup>th</sup> day of June 1978

~~alice Mac Kinnon~~

~~alice Mac Kinnon~~

~~alice Mac Kinnon~~

~~Wallace E. Dennis~~

~~Wallace E. Dennis~~

~~Joseph P. Ford~~

on this 19<sup>th</sup> day of June 1978

THE TOWN OF MADBURY

Joseph B. Marriot

Sylvia H. Limes

on this 22 day of June 1978

THE TOWN OF NEWFIELDS

Norman S. Rollins

To all three

Alfred L. Conner

Walter B. Hallman

Pat E. Nixon

on this 29<sup>th</sup> day of May 1978.

THE TOWN OF NORTHWOOD

Frank W. Lane

Edna H. Camm

James L. Camm

Charles D. Johnson

Ruth M. DeBack

Clara Dyer

on this 8 day of May 1978

THE TOWN OF NEWINGTON

Fredrick H. Smith

Paul H. Sherman

Frederic O. Philbrick

on this 12<sup>th</sup> day of April 1978

THE TOWN OF NEWMARKET

Ronald C. Bird  
Frank P. Simpson  
Richard F. Brancato

Selections (Chairman)  
William F. ...  
Schuman

on this 26 day of April 1978

THE TOWN OF ROLLINSFORD

Grace L. Jones  
Edmund F. Jansen Jr  
John P. Dinnelle

on this 29 day of May 1978

THE TOWN OF STRATHAM

James Sammons  
Robert P. Kuttan Jr  
Matthew Wood

on this 20 day of March 1978

City of Somersworth RECEIVED

MAR 4 1981

Municipal Building



New Hampshire 03878

Finance Department 692-5434

- Building Inspector 692-2378

- Public Works Department 692-3

March 3, 1981

Mr. Malcolm Chase, P.E.  
Chairman  
Lamprey Regional Solid Waste Cooperative  
c/o Town Offices  
13-15 Newmarket Road  
Durham, N.H. 03824

Dear Mr. Chase:

I am returning herewith a copy of the signed Agreement between the City of Somersworth and the Lamprey Regional Solid Waste Cooperative, whereby the City of Somersworth is joining the Cooperative as a full member.

Thank you for your assistance in this matter.

Very truly yours,

Norman G. Leclerc  
City Engineer

NGL/nal

Enclosure

# AGREEMENT

WHEREAS, the municipalities of Barrington, Durham, Epping, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, and Stratham have formed the Lamprey Regional Solid Waste Cooperative (hereinafter referred to as "the Cooperative") for the disposal of solid waste and the recovery and sale of energy; and

WHEREAS, the Joint Board of the Cooperative has, by majority vote, invited the City of Somersworth to become a full member of the Cooperative upon certain terms and conditions; and

WHEREAS, the Council of the City of Somersworth has voted to join the Cooperative upon said terms and conditions;

NOW, THEREFORE, the Cooperative and the City of Somersworth, for and in consideration of the mutual promises and agreements hereinafter stated and the performance thereof, do hereby promise and agree as follows:

1. Upon the execution of this agreement, the City of Somersworth shall become a full member of the Cooperative, subject to the terms and conditions hereinafter provided.

2. The pro rata capital contribution of the City of Somersworth shall be Seventy-Four Thousand Four Hundred Seventy Dollars (\$74,470.00), which sum shall be paid to the Cooperative on or before April 15, 1981. Time is of the essence with respect to the performance of this obligation.

In the event the solid waste generated by the City of Somersworth prior to June 30, 1981, exceeds or is less than any amount estimated by either party prior to the execution of this agreement, there shall be no reapportionment of the capital contribution of the City of Somersworth, notwithstanding

any deviation from said estimates.

3. It is estimated that the tipping fees to be incurred by the City of Somersworth for the year ending December 31, 1981, shall amount to Fifty-Six Thousand Eight Hundred Forty-Five Dollars and Forty Cents (\$56,845.40). However, the actual contribution of the City of Somersworth toward the net cost of operating the Cooperative shall be controlled by Article VII of the agreement for formation of Lamprey Regional Solid Waste Cooperative executed on or about June 30, 1978, by the original twelve member towns.

4. Upon the execution of this agreement, the City of Somersworth shall appoint a director to serve on the Joint Board until the next annual meeting of the Cooperative. Thereafter, the director representing the City of Somersworth on the Joint Board shall serve for individual terms of three years.

5. In executing this agreement, the City of Somersworth agrees to observe and be bound by all of the terms and conditions of the agreement for formation of Lamprey Regional Solid Waste Cooperative which was executed by the original twelve member towns on or about June 30, 1978, which agreement is incorporated by reference and made a part hereof as if specifically set forth herein. Furthermore, the City of Somersworth agrees to observe and be bound by all rules and regulations adopted by the Cooperative from the effective date of its formation until the date of the execution of this agreement.

It is specifically understood by the City of Somersworth that upon the execution of this agreement it may not withdraw from the Cooperative for any reason for a term of fifteen (15) years from the effective date of the

agreement for formation of Lamprey Regional Solid Waste Cooperative which was executed by the original twelve member towns on or about June 30, 1978.

Dated at Durham, New Hampshire, this 27<sup>th</sup> day of February, 1981.

WITNESS:

John H. Dewey

LAMPREY REGIONAL SOLID WASTE COOPERATIVE

Walter Chase, Chairman

Norman Gleason

CITY OF SOMERSWORTH

George W. Field



Appendix "G"

( January 29, 1992, A warrant article was sent to all Cooperative towns for submission to their Councils or Town meetings, relevant to extending their Cooperative agreement until June 30, 1996.

All communities responded with certified copies of their respective minutes and all communities approved the extension except Barrington, whom tabled the article for 1993 town meeting. But was never acted on to the knowledge of the Cooperative Board of Directors.

53-A:4 Filing of Agreement. Prior to its entry into force, an agreement made pursuant to this chapter shall be filed with the clerk of each municipality and with the secretary of state. An action shall be maintainable against any public agency whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the other public agencies jointly.

HISTORY

Source. 1903, 276:14. 1977, 228:1, eff. Amendments—1977. Amended section Aug. 19, 1977. generally.

53-A:5 Approval by State Officers. In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorney general pursuant to RSA 53-A:3, V. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorney general.

HISTORY

Source. 1977, 228:1, eff. Aug. 19, 1977.

53-A:6 Funds. The respective counties, towns, cities and other governmental units involved in any agreements as set forth in this chapter are hereby authorized to appropriate the funds necessary to carry out their contractual obligations thus incurred. In cases involving the expenditure of capital funds they are authorized to borrow such funds under the terms of the municipal finance act, RSA 33, as amended, and to issue bonds in accordance with the provisions of such act or to set up a capital reserve fund for such purposes under the provisions of RSA chapters 34 or 35.

HISTORY

Source. 1977, 228:1, eff. Aug. 19, 1977.

53-A:7 Former Districts Unaffected. In municipalities which acted under the prior law, the agreement formed remains effective so far as it conforms with the chapter and may be continued accordingly without requiring review or approval by the attorney general.

HISTORY

Source. 1977, 228:1, eff. Aug. 19, 1977.

53-A:8 Severability. If any portion of this chapter shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

HISTORY

Source. 1977, 238:1, eff. Aug. 19, 1977.

## CHAPTER 53-B

### REGIONAL REFUSE DISPOSAL DISTRICTS

- 53-B:1 Refuse Disposal Planning Committee. Corporate Body; Powers and Duties.  
 53-B:2 Definitions.  
 53-B:3 Refuse Disposal Planning Board.  
 53-B:4 Refuse Disposal District Agreements.  
 53-B:5 Findings and Recommendations.  
 53-B:6 Vote on Establishing District.

#### CROSS REFERENCES

New Hampshire-Vermont Interstate solid waste compact, see RSA 53-D.  
 Solid waste management, see RSA 149-M.

#### LIBRARY REFERENCES

West Key Number  
 Municipal Corporations 277.  
 Municipal Corporations 1069.

53-B:1 Refuse Disposal Planning Committee. Two or more cities or towns, by vote of the council in a city and by vote of a town meeting in a town, may create a special unpaid committee to be known as a regional refuse disposal planning committee, consisting of 3 persons appointed by the moderator in a town and by the mayor in a city.

#### HISTORY

Source. 1967, 331:1, eff. July 1, 1967.

53-B:2 Definitions. The term "refuse disposal facility" as used in this chapter means an incinerator, sanitary landfill, transfer station, composting plant, other sanitary means of refuse disposal approved by the division of public health services, or any combination of 2 or more such facilities.

#### HISTORY

Source. 1967, 331:1, eff. July 1, 1967.

53-B:3 Refuse Disposal Planning Board. Regional refuse disposal planning committees from 2 or more cities or towns may join to form a regional refuse disposal planning board. The board shall study the advisability of establishing a regional refuse disposal district; ways of organizing, operating, and controlling such a district; and the methods of selecting, constructing, maintaining, and operating a refuse disposal facility to serve the district. It shall also estimate construction and operating costs and study methods of financing. Each city or town represented on the board may appropriate funds for the expenses of the board. The board may accept funds

### REFUSE DISPOSAL DISTRICTS

53-B:6

#### HISTORY

Source. 1967, 331:1, 1981, 379:1, eff. Aug. 22, 1981.

Amendments—1981. Deleted "together" and "such a district" following "study" in the first sentence, substituted "of organizing, operating, and controlling" for "for the organization, operation, and control of" following "ways" and deleted "the

53-B:4 Refuse Disposal District Agreements. The regional refuse disposal planning board shall draw up a proposed agreement, including the following:

- I. Provisions for the sharing of construction costs;
- II. The number, method of selection, and terms of office of the members of the regional refuse disposal district committee;
- III. The general area in which the refuse disposal facility shall be constructed;
- IV. The terms by which another city or town may be admitted to the district or may withdraw before debt has been incurred under RSA 53-B:7, IV;
- V. The method by which the agreement may be amended; and
- VI. The procedure for the preparation and adoption of the annual budget.

#### HISTORY

Source. 1967, 331:1, 1981, 379:2, eff. Aug. 22, 1981. Amendments—1981. Amended section generally.

53-B:5 Findings and Recommendations. The regional refuse disposal planning board shall report its findings and recommendations to the board of selectmen and the mayor, as the case may be, of each city or town comprising the board. If the board recommends that a regional refuse disposal district be established, a copy of the proposed agreement shall accompany the report to each such city or town.

#### HISTORY

Source. 1967, 331:1, eff. July 1, 1967.

53-B:6 Vote on Establishing District.

- I. The selectmen of each of the several towns, upon receipt of a recommendation that a regional refuse disposal district be established, shall cause the question of accepting such plan to be presented for determination by vote with printed ballots at the next annual town meeting or at a special town meeting called for that purpose. The mayors of the several cities, upon the receipt of a recommendation that a regional refuse disposal district be established, shall submit the question of accepting such a plan to the city council within 60 days after receiving the recommendation.

liament of a regional refuse disposal district, together with the towns of and the cities of \_\_\_\_\_, and the construction, maintenance, and operation of a regional refuse disposal facility by said district in accordance with the provisions of a proposed agreement filed with the selectmen or the mayor? If a majority of the members of each city council voting on the question and a majority of the voters in each town voting on the question shall vote in the affirmative, the proposed regional refuse disposal district shall be established forthwith in accordance with the terms of the proposed agreement.

II. If some but not all of the towns and cities voting on the question in paragraph I vote in the affirmative, the district shall not be established unless the regional refuse disposal district committee, as proposed by those towns and cities voting in the affirmative, votes to establish the district with those towns and cities that have voted in the affirmative.

#### HISTORY

Source, 1967, 33:1. 1982, 22:1, eff. Amendments—1982. Designated the existing provisions of the section as par. I and added par. II.

53-B:7 Corporate Body; Powers and Duties. A regional refuse disposal district, established under RSA 53-B:6, shall be a body politic and corporate with the following powers and duties:

I. To adopt a name and a corporate seal. The engraved or printed facsimile of the seal appearing on a bond or note of the district shall have the same legal effect as if it were impressed thereon.

II. To sue and be sued, but only to the same extent and upon the same conditions that a city or town may be sued.

III. To purchase, or take by eminent domain land within the cities and towns which have accepted the provisions of RSA 53-B:1-10 inclusive, for the purpose of the district, and to plan, construct, and equip a refuse disposal facility for the benefit of those cities and towns, and to make any necessary contracts in relation thereto.

IV. To incur debt for a term not exceeding 30 years for the purposes of acquiring land and planning, constructing, and equipping a refuse disposal facility.

(a) No debt may be incurred until 30 days after it was authorized by the district committee.

(b) The governing body of each member town and city shall be given written notice of the amount of the debt and the general purposes for which it was authorized within 7 days after the authorization.

(c) If before the 30 day period has passed, any member town, at a town meeting called for the purpose, or the city council of any member city votes

#### REFUSE DISPOSAL DISTRICTS

53-B:7

(d) In any district which includes 3 or more towns and is a party to a cooperative agreement under the New Hampshire-Vermont interstate solid waste compact, the following alternative procedure shall apply if it is contained in the agreement. The district committee shall determine the amount and purpose of the debt. The committee shall hold public hearings in at least 2 towns or cities in the district. At least 14 days' notice of the hearings shall be published in one or more newspapers circulating in the district and posted in at least one public place in each town or city. Within 30 days after the last hearing, the committee shall set a date for a referendum on the debt. Each town or city shall have at least one polling place. The procedures for the referendum shall be the same as those for a vote by official ballot at town meeting. The debt shall be authorized if 75 of those voting on the question vote yes. Expenses of the referendum shall be charged to the district.

(e) If the proposal is disapproved, the regional refuse disposal planning committee shall prepare another proposal, which may be the same as any prior proposal, and an authorization to incur debt for it.

V. To issue bonds and notes in the name and upon the full faith and credit of the district. The bonds or notes shall be signed by the chairman and the treasurer of the district committee, except that the chairman by a writing bearing his written signature and filed in the office of the treasurer, which cause to be engraved or printed on the bonds or notes a facsimile of the chairman's signature, and such facsimile signature so engraved or printed shall have the same validity and effect as the chairman's written signature. Each issue of bonds or notes shall be a separate loan.

VI. To receive and disburse funds for any district purpose.

VII. To incur temporary debt in anticipation of revenue to be received from member cities and towns.

VIII. To assess member cities and towns for any expenses of the district.

IX. To receive any grants or gifts for the purposes of the regional district.

X. To engage legal counsel.

XI. To submit an annual report to each of the member cities and towns, containing a detailed financial statement, and a statement showing the method by which the annual charges assessed against each city and town were computed.

XII. To employ an executive director and such other employees necessary to operate the district.

XIII. To adopt an annual operating budget, not later than December 31 of the previous year.

XIV. To enter into contracts for refuse disposal with persons, nonmember cities and towns as well as other bodies politic, and the United States

**HISTORY**  
Source. 1967, §31:1, 1969, §7:2, eff. July clause and "RSA 53-B:1-10 inclusive" for "sections 1 to 10 inclusive of this chapter" Aug. 22, 1981.  
Amendments—1981. Paragraph IV, in par. III to conform reference to style employed in New Hampshire Revised Statutes Annotated generally.  
Revision note. Substituted "RSA 53-B:6" for "section 6 of this chapter" in the introduction.

**53-B:7-a Additional Powers.** In addition to the powers set forth elsewhere in this chapter and in any district agreement, every regional refuse disposal district shall have the power to contract with any person who owns or operates any refuse disposal facility for the provision of refuse disposal services for such district. Such a contract may be for any term of years, not in excess of 30, may provide for the delivery of guaranteed amounts of refuse with payments based on such amounts whether or not actually delivered or processed, and may contain such other terms and conditions as the district, acting through its regional district committee, may determine to be in its best interest.

**HISTORY**

Source. 1962, §2:2, eff. March 17, 1962.

**53-B:7-b Project Financing.** In addition to debt incurred and bonds and notes issued pursuant to this chapter and any district agreement, every regional refuse disposal district shall have the power to finance refuse disposal facilities by the incurrence of debt and issuance of bonds or notes secured by any assets or revenues, or both, of the district or the facility and in connection therewith may mortgage a facility and grant security interest in such other assets or rights to receive money as the regional district committee may determine. Notwithstanding other provisions of this chapter to the contrary, such bonds or notes may, but need not be, the full faith and credit obligation of the district, provided that bonds or notes which are not the full faith and credit obligation of the district shall so state in a conspicuous manner on their face. All debt and all bonds and notes, regardless of how secured, shall be authorized as is otherwise provided in this chapter. A district may use the proceeds of bonds or notes to acquire land and to plan, construct and equip a refuse disposal facility and to create such reserve funds and to pay such costs of financing and capitalized interest as the regional district committee deems appropriate, or it may loan such proceeds to any person for such purposes in connection with a facility which by contract it has the right to use or which by contract will provide disposal services to the district for a period at least equal to the period of the bonds.

**HISTORY**

Source. 1962, §2:2, eff. March 17, 1962.

**53-B:8 Regional District Committee.** The powers, duties, and liabilities of the regional district committee shall be determined by and governed by

by a regional refuse disposal district committee organized in accordance with the agreement. The committee shall choose a chairman by ballot from its membership. It shall appoint a secretary and a treasurer, who may be the same person, but who need not be members of the committee. The treasurer shall receive and take charge of all money belonging to the district and shall pay any bill of the district which has been approved by the committee. The treasurer may, by vote of the committee, be compensated for his services.

**HISTORY**

Source. 1967, §31:1, eff. July 1, 1967.

**53-B:8-a Capital Reserve Fund.**

1. A regional refuse disposal district may establish a capital reserve fund for the orderly replacement of existing buildings and equipment which have been approved under RSA 53-B:7, IV. The district committee shall invest all monies in said fund in the same manner as capital reserve funds of towns are invested pursuant to the requirements of RSA 35:9. The members of said committee shall serve as the trustees of the capital reserve fund. The trustees of the fund shall post bond in such amount and in such form as the New Hampshire commissioner of revenue administration shall prescribe.

11. The proposed annual contributions to the capital reserve fund shall be set forth in the budget of the district, and the trustees shall annually within 8 months of the close of the fiscal year of the district file an account with the selectmen of the towns and the city council of the cities comprising the district setting forth the amounts held by the trustees, the manner in which they are invested, and the purposes for which they are held. The trustees may, from time to time, vote to expend any funds held by them for the replacement of existing buildings and equipment required by the district without further vote of the towns comprising the district.

**HISTORY**

Source. 1977, §2:2, eff. June 27, 1977.

**53-B:9 Apportionment of Expenses.** Annually, the regional refuse disposal district committee shall determine the amounts necessary to be raised to maintain and operate the district during the next calendar year, and the amounts required for payment of debt and interest incurred by the district that will be due in the next year. The committee shall prepare a budget and make a preliminary apportionment of the amount so determined among the several member cities and towns in accordance with the terms of the agreement. Prior to December 31 of each year the district committee shall hold at least one public hearing at some convenient place in the district on the amounts required in the budget and the preliminary apportionment of the amounts listed in the budget. At least 7 days notice of the meeting shall be given by publication of the budget and apportionment in a newspaper of

general circulation within the district, and by posting a copy of the budget and apportionment in a public place in each city and town in the district. After the hearing the committee shall adopt a budget and make a final determination of the apportionment among the member cities and towns. After the committee has adopted the budget and determined the apportionment of the expenses, the regional refuse disposal district treasurer shall certify to the selectmen of the towns and the councils of the cities in the district the amount of money assessed each member town and city. The selectmen of each member town and the council of each member city shall seasonably assess the taxes to be raised to pay the apportionments. The city or town treasurer shall pay to the district the amount so apportioned at the times specified in the agreement.

## HISTORY

Source. 1967, 331:1, eff. July 1, 1967.

## 53-B:10 Audit of Accounts.

1. Each year the director of the municipal services division of the department of revenue administration shall cause an audit to be made of the accounts of the regional refuse disposal district committee, and for this purpose he, and his authorized agents, shall have access to all necessary papers, books, and records. Upon the completion of each audit, a report thereon shall be made to the chairman of the district committee, and a copy thereof shall be sent to the mayor and to the chairman of the board of selectmen, respectively, of each city and town which is a member of the district. The director of the municipal services division shall apportion the cost of the audit among the several cities and towns which are members of the district, and in proportion to each's contribution to the cost of the district, the committee shall reimburse the municipal services division for the total cost of the audit. The money so paid shall be credited to the appropriation of the division, and the committee shall charge each town and city its share of the costs.

II. If, in any case, the commissioner of the department of revenue administration cannot guarantee that such an audit will be completed within one year after the end of the fiscal year in which it was requested, he shall so advise the refuse disposal district committee. The committee may hire a certified public accountant or a public accountant licensed by the state under RSA 809-A:8 to conduct such an audit, in accordance with generally accepted audit standards and applicable state statutes, within one year after the close of the district's fiscal year. The refuse disposal district committee shall apportion the cost of the audit among the several cities and towns which are members of the district in proportion to the contribution of each city and town to the cost of the district, and shall charge each town and city its share

## HISTORY

Source. 1967, 331:1, 1973, 644:10, 1975, —1975. Substituted "municipal services division" for "municipal accounting division" in 439:22, 1989, 60:3, eff. June 18, 1989.

Amendments—1989. Designated the existing provisions of the section as par. 1 and

added par. II. —1973. Substituted "department of revenue administration" for "state tax commission" in the first sentence.

53-B:11 Sales, Leases, Licenses. The agreement made under RSA 53-B:4 or any amendment to such an agreement, may contain provisions authorizing any member city or town to sell, lease, or license to the regional refuse disposal district any refuse disposal facility and any land appurtenant thereto or used in connection therewith or any other property useful for the purposes of the district. Any such city or town may authorize such sale, lease, or license accordingly. In case of a sale, the price and time or times of payment and the method by which the cities and towns other than the selling city or town shall be assessed for such payment shall be set forth in the agreement or amendment; but in no case shall payments be made which shall extend over a period in excess of 30 years. In the case of a lease or license, the rental or license fee and terms of payment and assessment shall be set forth in the agreement or amendment. The lease or license may be for a term not in excess of 30 years, and may contain provisions for the extension of the lease or license for an additional term not in excess of 30 years at the option of the regional refuse disposal district committee.

## HISTORY

Source. 1967, 331:1, eff. July 1, 1967.

Revision note. Added the section catchline. Substituted "RSA 53-B:4" for "section 3 of this chapter" to correct an error in the reference and to conform to style employed in New Hampshire Revised Statutes Annotated.

## 52:11

### TOWNS, ETC.

#### 52:11 Fire Department Engineers.

##### CROSS REFERENCES

Organisation, powers and duties of firewards and fire departments generally, see RSA 164.

#### 52:14-a Financial Reports.

[Repealed, 1993, 176:18, eff. Aug. 8, 1993.]

Former RSA 52:14-a, which was derived from 1963, 120:4 and 1973, 644:8, related to village district financial reports.

#### 52:16 Taxation, Procedure.

I. Whenever the district votes to raise money by taxation or otherwise for any of its purposes, the clerk shall, within 10 days thereafter, deliver a certified copy of such vote to the selectmen of each town which contains any part of the district and to the commissioner of revenue administration. Whether or not the district is situated wholly within one town, the selectmen of each town shall assess the tax on that part of the district lying within their own town and commit it to the collector of taxes from their own town. The collectors shall then collect the tax as required by law. The selectmen may make such assessments in the manner provided under RSA 76:4.

II. In the case of districts with annual budgets of less than \$200,000, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I to the district treasurer no later than December 31 of each calendar year unless otherwise agreed to in writing by the town and district treasurers. In the case of districts with annual budgets of \$200,000 or more, the town treasurer shall distribute the amount of taxes collected and held in trust by the town under paragraph I by distributing to the district treasurer all taxes collected in any given calendar month by the end of the next following month, unless otherwise agreed to in writing by the town and district treasurers. The town treasurer, furthermore, shall turn over to the district treasurer all interest earned on district tax revenues held in trust by the town and all interest collected by the town on the account of any delinquent district taxpayers' district taxes in the same manner as the tax revenues are distributed.

##### HISTORY

Source. 1949, 852:7, CS 116:7, GS 97:4, 1874, 11:1, GL 107:4, PS 63:11, PL 57:16, RL 70:16, RSA 52:16, 1976, 138:1, 1977, 11:1, 1991, 90:1, 1992, 274:1, eff. May 18, 1992.

Amendments—1991. Designated the existing provisions of the section as par. I and added par. II.

—1992. Added "unless otherwise agreed to in writing by the town and district treasurers" following "year" in the first sentence and following "following month" in the second sentence.

#### 52:23 Public Water.

##### CROSS REFERENCES

Add to municipalities for water pollution control, see RSA 486.

## REGIONAL REFUSE DISPOSAL DISTRICTS 53-B:

### CHAPTER 53-A

#### AGREEMENTS BETWEEN GOVERNMENT UNITS

##### CROSS REFERENCES

Inapplicability of provisions prohibiting disposal of yard waste at solid waste facilities within municipalities organized under this chapter, see RSA 149-M:22.

53-A:3 Joint Exercise of Powers. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised jointly with any other public agency of this state. Such authority shall include, but not be limited to, the power to enter into agreements to share tax revenues resulting from local economic development efforts.

[No changes in paragraphs I-V.]

##### HISTORY

Source. 1983, 275:14, 1989, 126:1, 1971, 474:2, 1974, 16:2, 1977, 82:1, 1993, 525:5, eff. Aug. 23, 1992.

Amendments—1993. Added the second sentence of the introductory paragraph.

### CHAPTER 53-B

#### REGIONAL REFUSE DISPOSAL DISTRICTS

##### LIBRARY REFERENCES

New Hampshire Code of Administrative Rules

Rules of the Department of Environmental Services—Division of Waste Management, Env-Wm 1900, 2100 et seq., New Hampshire Code of Administrative Rules Annotated.

## APPENDIX H

### CHAPTER 53-A

#### AGREEMENTS BETWEEN GOVERNMENT UNITS

- 53-A:1 Purpose. 53-A:5 Approval by State Officers.  
 53-A:2 Public Agency Defined. 53-A:6 Funds.  
 53-A:3 Joint Exercise of Powers. 53-A:7 Former Districts Unaffected.  
 53-A:4 Filing of Agreement. 53-A:8 Severability.

#### HISTORY

Revision note. Added the chapter heading.

#### LIBRARY REFERENCES

West Key Number CJS  
 Municipal Corporations 277. Municipal Corporations § 1069.

53-A:1 Purpose. It is the purpose of this chapter to permit municipalities and counties to make the most efficient use of their powers by enabling them to cooperate with other municipalities and counties on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

#### HISTORY

Source. 1963, 276:14, 1974, 16:1, 1977, 238:1, eff. Aug. 19, 1977. --1974. Inserted "or such governmental unit or units of any adjoining state" preceding "for the performance".  
 Amendments--1977. Amended section 1977. Amended section generally.

53-A:2 Public Agency Defined. For the purposes of this chapter, the term "public agency" shall mean any political subdivision of this state or of any adjoining state and any quasi-municipal corporation, including but not limited to school districts, village districts and special districts.

#### HISTORY

Source. 1963, 276:14, 1977, 238:1, eff. Aug. 19, 1977. Amendments--1977. Amended section generally.

53-A:3 Joint Exercise of Powers. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised jointly with any other public agency of this state.

1. Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to this chapter. Appropriate action by ordinance, resolution or other action pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

II. Any such agreement shall specify the following:

(a) Its duration;

## AGREEMENTS; GOVERNMENT UNITS

53-A:3

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created;

(c) Its purpose;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such termination;

(f) Any other necessary and proper matters.

III. In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items enumerated in paragraph II, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board all public agencies party to the agreement shall be represented.

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

IV. No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder. Said performance may be offered in satisfaction of the obligation or responsibility.

V. Every agreement made hereunder shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted to him hereunder unless he shall find that it does not in substance meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 30 days of its submission shall constitute approval thereof.

#### HISTORY

Source. 1963, 276:14, 1969, 126:1, 1971, 474:2, 1974, 15:2, 1977, 82:1, eff. July 1, 1977; 238:1, eff. Aug. 19, 1977. --1969. Paragraphs XII, XIII: Added.  
 Former RSA 53-A:3, 1977, 374:2, eff. Aug. 30, 1977, added paragraph "VIII-a. The appointing and compensating of municipal prosecutors" to former RSA 53-A:3 without reference to 1977, 238, eff. Aug. 19, 1977, which enacted new provisions for RSA 53-A.  
 Chapter 238 amended section generally: --1971. Paragraph XV: Added.  
 --1971. Paragraph XIV: Added.



## PUBLIC NOTICE

## LAMPREY REGIONAL SOLID WASTE COOPERATIVE

A meeting of the Lamprey Regional Solid Waste Cooperative will be held on Monday, August 15, 1988 at 3:00 p.m. at the Madbury Town Hall, Town Hall Road, Madbury, New Hampshire for the purposes of discussing the following six (6) amendments to the Agreement forming the Lamprey Regional Solid Waste Cooperative:

1. Amend Article V, Section II, by inserting after the words "energy recovery facility" the words "and an ash disposal facility, and any other facilities that may be required in order to accomplish the purposes of the Cooperative."

2. Amend Article V with the addition of XII, as follows:

"To borrow funds, but in no event shall the total indebtedness, for whatever purpose, exceed \$5,000,000.00 at any one time."

3. Amend Article V with the addition of XIII, as follows:

"To borrow moneys for capital and operating expenditures relating to the purposes of the Cooperative from any source, to repay the principal thereof and interest thereon, and to execute promissory notes in evidence thereof. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board."

4. Amend Article V with the addition of XIV, as follows:

"To borrow moneys for capital expenditures relating to the purposes of the Cooperative from any source in anticipation of the issuance of bonds on behalf of the Cooperative or by the Cooperative itself. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board."

5. Amend Article V with the addition of XV, as follows:

"To borrow moneys for capital expenditures through the issuance of bonds by the Cooperative. Any such borrowings shall require the affirmative vote of two-thirds of the directors of the joint board."

6. Add to Article VII, Paragraph A, after the words "whether incurred" in the tenth line, the words "by the Cooperative or..."

Following the Public Hearing the Joint Board of the Cooperative will meet to consider what action to take on the proposed amendments.

LAMPREY REGIONAL SOLID  
WASTE COOPERATIVE

Dated: August 2, 1988

By /s/ Joseph B. Moriarty  
Its Chairman

APPENDIX "I"

LRSWC Board of Directors adopted Amendment on August 15, 1988.

All member communities ratified amendment by signed certified responses during August 1988.