

AGREEMENT FOR HOST-TOWN BENEFITS

1. Parties:

This agreement shall constitute a contract by and between the Town of Auburn, New Hampshire, and Waste Management of New Hampshire, Inc. (Waste Management), for valid mutual consideration, the receipt of which is hereby acknowledged.

2. Date of Performance:

Unless otherwise specific herein, the terms of this contract shall become operational and effective on the first day of the month following the date of the issuance to Waste Management, of the certificate of completion/occupancy of a transfer station as proposed in its site plan application to Auburn's Planning Board and all other approvals required from any state agency. In addition, the performance of this Agreement shall be contingent on any and all necessary votes by the legislative body or any relevant board or agency of the Town of Auburn.

3. Transition in Services:

On the first day of the month following Waste Management's completion of the transfer station in Auburn, Waste Management shall commence operation of a Citizen Drop-Off Facility for the use and benefit of the citizens of the Town of Auburn. Auburn's incineration facility shall cease operation thirty days after the commencement of operation of the Citizen Drop-Off Facility. Auburn residents shall be directed to deliver household trash to Waste Management's Citizen Drop-Off Facility described below. Waste Management agrees to store trash, recyclables and other solid waste to the extent necessary to allow Waste Management to receive and process Auburn's waste appropriately. It shall be the responsibility of Waste Management to facilitate this transition in cooperation with the Solid Waste Commission, and to make all provisions necessary to accept all non-hazardous Auburn household

waste within thirty days prior to Auburn's cessation of operations at the incineration facility. Waste Management shall also make provisions for the collection and disposal of oil and batteries from Town residents. General oversight of this Agreement shall be conducted by the Solid Waste Commission.

The two full time employees at Auburn's incinerator will be afforded the good faith opportunity to be interviewed and evaluated by Waste Management of New Hampshire for employment.

4. Citizen Drop-Off Facility:

Waste Management will provide the Town of Auburn with an Auburn Citizen Drop-Off Facility (the "Facility") at no charge to the citizens or the Town of Auburn, which will allow Auburn residents to dispose of non-hazardous solid waste and refuse including recyclable materials, light residential demolition and construction debris, leaves, brush, yard waste, appliances and tires. The terms solid waste and refuse shall be defined to include the materials defined in NH RSA 149-M:1(XVII-a) and (XIX) as well as the above mentioned items. Waste Management shall limit the use of the Facility to Auburn residents, and will work in conjunction with the Town Selectmen's Office and the Solid Waste Commission, to implement a program for the annual issuance of stickers, disposal stickers, passes, or labels identifying citizens' vehicles as being permitted for use of the Auburn Citizens' Drop-Off Facility. The issuance of the permits will be administered by the appropriate Town office.

5. Design of Citizens' Drop-Off Facility and Area:

The design of the Citizens' Drop-Off Facility and Area shall be solely the responsibility of Waste Management. The design and construction shall also be subject to the

approval of the Planning Board and Building Inspector. This portion shall be open for citizens 7:00 a.m. to 4:00 p.m. six (6) days per week.

Waste Management will provide all necessary personnel, equipment, containers and facilities necessary to operate the Citizens' Drop-Off Facility at no expense to the Town or its citizens.

6. Recycling:

The Town of Auburn shall continue its present recycling program which is overseen by the Solid Waste Commission, except that Auburn residents shall use the Citizens' Drop-Off Facility and Area to collect recyclables, including yard waste, instead of the incineration facility currently on Chester Turnpike. The creation of appropriate receptacles, labeling, and the exact manner of collecting recyclables will be the responsibility of Waste Management in cooperation with the Solid Waste Commission of Auburn. Appropriate receptacles shall also be provided for the collection of yard waste. The determination of what materials are recycled from the Town of Auburn shall be the responsibility of the Solid Waste Commission, subject to Board of Selectmen and Waste Management approval. The recyclables collected at the drop off area, and any revenues generated therefrom, shall become the sole property of Waste Management, and are hereby acknowledged to be adequate consideration for this agreement.

7. Hazardous Waste:

Waste Management will provide the Town of Auburn with Financial Reimbursement of the Town's existing Household Hazardous Waste Day (HHWD) collection program. Waste Management will pay in full all invoices received by the Town of Auburn relating to the HHWD program, not to exceed \$1,000 per year, adjusted annually by the increase in the Consumer

Price Index (US Average - All Urban Consumers). Waste Management shall arrange for the collection of oil grade #2 and batteries and sale of these items off site from their facility.

8. Commercial Haulers:

Waste Management will also allow commercial haulers carrying the solid waste of Auburn residents only, to utilize the transfer facility at no charge. For the purposes of this agreement, the definition of "commercial hauler" is that definition contained within the Town ordinance. All tipping fees charged by Waste Management to commercial haulers for non-Auburn household waste shall belong to Waste Management. (In the Town of Auburn, there are two haulers that charge a fee to take household solid waste to the current Auburn facility. This household waste, although not delivered by individuals, is not a chargeable commercial endeavor as defined by Town Ordinance.) Commercial haulers shall be allowed to utilize the facility at no charge so long as they haul Auburn residential waste only. Waste Management reserves the right to revoke the rights of any commercial hauler in the event Waste Management discovers that the commercial hauler is attempting or has attempted to mix waste from other communities with Auburn waste and declare it solely as Auburn waste.

9. Closure of Auburn Incinerator and Landfill:

Waste Management hereby agrees to provide financial assistance to the Town for closure and reclamation of the Town's existing landfill on Chester Turnpike. The intent is that the incinerator and the landfill sites be returned to their former state of environmentally pristine natural land. All costs, expenses, fees, surcharges, materials, costs, labor costs,

and other expenditures relating or pertaining to the reclamation and closure of the landfill and incinerator shall be paid by the Town of Auburn with funds provided by Waste Management. Waste Management will make said funds available to the Town within five (5) days of receipt of invoices provided by contractors to the Town for work performed at the landfill site. In no event will Waste Management's obligation hereunder exceed the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), not including peer review services.

Waste Management shall also provide peer review services for the closure and reclamation process at no cost to Auburn to facilitate closure and reclamation at the least possible cost to Auburn. In no event shall the provision of said peer review services obligate or cause Waste Management to accept any legal responsibility or liability to any party with respect to the closure of said Town facility.

Waste Management shall furnish a letter of credit, performance bond, or other appropriate security in the amount of Fifty Thousand Dollars (\$50,000.00) to secure its performance of the terms outlined in this section.

10. Term of the Agreement:

This agreement shall be in effect for the duration of Waste Management's occupancy and operation of a transfer station within the Town of Auburn, New Hampshire, and shall have a term equal to the period of time during which Waste Management or its transferees, successors or assigns operate a transfer facility in the Town of Auburn, said term not to exceed forty (40) years. In the event Waste Management ceases to operate the Transfer Station or transfer it to another owner than such transferee or new operator shall be bound by the terms of this agreement and Waste Management shall have no further liability pursuant to this agreement. ←

Waste Management transferees, successors and assigns agree that a transfer station for the citizens of Auburn shall remain open for a period of not less than five years.

Waste Management, its transferees, successors and assigns, hereby covenant not to construct an incinerator or landfill on the real property on which the transfer station is sited.

Waste Management agrees that the terms of this agreement may be incorporated in the conditions of approval issued by the Planning Board of the Town of Auburn.

11. Amendment:

This contract may be amended by the mutual consent of the Board of Selectmen and the management of Waste Management at any time, or if the parties mutually agree to amend the terms of this agreement when Waste Management applies for permit modification.

12. Reporting:

On a quarterly basis, Waste Management will provide the Town of Auburn statistical data on monthly volumes accepted into the facility and copies of all reports filed with the State of New Hampshire or the federal government with regard to the types of solid waste, volumes, and disposition of the materials processed through the transfer station.

13. General Terms:

Waste Management guarantees and covenants that incineration, landfill or handling of hazardous waste at the site of the transfer station will never occur. Should such activity be discovered by the Solid Waste Commission of Auburn or Zoning Officer, immediate cease and desist orders will be issued and the Town will be entitled to immediate injunctive relief, up to and including an order that the facility be closed. During such period as Waste Management is

in non-compliance with the Towns cease and desist order or any court injunction. Waste Management will pay all attorneys' fees and costs, including expert witness fees incurred by the Town in securing such injunctive relief if the Town successfully obtains said relief.

Notwithstanding anything herein to the contrary, Waste Management reserves the right to handle any hazardous waste inadvertently delivered to or received at the transfer station in any manner required by state, local, or federal authorities with jurisdiction over such matters.

14. Access to the Transfer Station:

Waste Management agrees that its trucks, other than those providing a service to the Town of Auburn, shall not use local Auburn roads. Waste Management shall place a provision in its contracts with third parties who will be tipping at the transfer station, requiring the third parties to access the transfer facility only via Route 28 By-Pass and Route 101. Waste Management shall use its best efforts to notify all users of the facility with which it does not have a contract, including its own vehicles, that access to the facility shall be via Route 101 and 28 By-Pass.

15. Surety Bond:

Waste Management and its successors and assigns shall carry a surety bond, insurance policy, or issue a letter of credit to the Town of Auburn in the amount of Two Hundred Thousand Dollars (\$200,000.00) at all times during the term of this contract to ensure that it performs its ongoing obligations with regard to the operation of the Auburn Citizens' Drop-Off Facility and Area.

16. Attorneys Fees and Costs:

Waste Management agrees to pay any and all reasonable attorneys' fees, costs and expert

witness fees incurred by the Town of Auburn should legal action be required to enforce any of the provisions of this contract to the extent any such legal action on the part of the Town is successful.

17. Incinerator Equipment:

At the option of Waste Management, Waste Management shall purchase the Town of Auburn's equipment currently used at the incineration facility at its fair market value.

18. Indemnification:

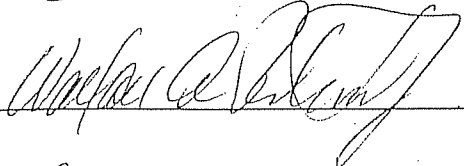
Waste Management hereby agrees to indemnify, defend, and hold harmless the Town of Auburn for any and all property damage, personal injury, spills, clean-up costs, civil fines, surcharges, attorneys' fees, expert witness and engineering fees associated with Waste Management's operation of its Transfer Facility and the Auburn Citizens' Drop-Off Facility. In addition, Waste Management shall provide to the Town of Auburn on an annual basis, proof of casualty and liability insurance including the Town of Auburn as an additional insured in the minimum amount of \$2,000,000.00 per occurrence.

THE TOWN OF AUBURN

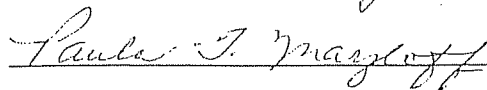
By its Selectmen,

  
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February  
January 5, 1996

  
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February  
January 5, 1996

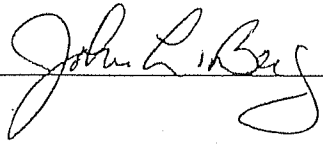
  
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February  
January 5, 1996



WASTE MANAGEMENT OF NEW HAMPSHIRE, INC.

By its duly authorized representative,

  
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January 31<sup>st</sup>, 1996