

**A M E N D E D\***  
**Agenda**  
**Bar Harbor Town Council**  
**February 16, 2016**

- I. **CALL TO ORDER** – 7:00 p.m. – Town Council Chambers
  - A. **Excused Absence(s)**
- II. **PUBLIC COMMENT PERIOD** – The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.
- III. **APPROVAL OF MINUTES** – **\*February 2, 2016 Regular Meeting**
- IV. **FINANCIAL STATEMENTS** – Review and possible adoption of a motion to accept the financial statements as presented.
- V. **ADOPTION OF AGENDA**
- VI. **CONSENT AGENDA** – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:
  - A. **Certification of Property Owners and Abutters Mailing Lists** – Possible passage of a motion to sign the two certification of the mailing lists used for the notice of the Council’s March 1, 2016 public hearings on the Land Use Ordinance Amendments for June 14, 2016.
  - B. **Memorial Day Ceremony** – Possible motion to approve the Chamber of Commerce request for use of the town pier on May 30 to hold a Memorial Day ceremony.
  - C. **\*Grant: 2016 Speed Enforcement** – Possible motion to approve the Police Chief to apply for and participate in the 2016 Speed Enforcement Program grant to cover overtime expenses for speed enforcement.
- VII. **PUBLIC HEARINGS:**
  - A. **Special Amusement Permit Renewals :**
    - 1. **The Harborside Hotel & Marina**, 55 West Street, for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Golden Anchor, LC, Patrick Walsh.
    - 2. **The Bar Harbor Regency Hotel, Inc.**, 123 Eden Street, request for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Patrick Walsh.

3. **Bluenose Inn**, 90 Eden Street, request for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Lafayette Bluenose, LLC.

B. **FY17 Budget:** Public hearing on and possible adoption of the fiscal year 2017 budget, for the period July 1, 2016 to June 30, 2017.

1. Public comment on the proposed budget.
2. Possible approval of a motion to adopt the proposed budget, (with or) without change and recommend it to the Warrant Committee.

VIII. **REGULAR BUSINESS:**

A. **Municipal Review Committee** – Possible motion to approve the Resolution that the Town continue as a member of MRC, authorizes the Joinder Agreement, and deliver waste to Fiberight, LLC in Hampden.

B. **Treasurer’s Warrant** – Request of Treasurer to authorize paid bills.

IX. **TOWN MANAGER’S COMMENTS**

X. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

XI. **EXECUTIVE SESSION:** (None Anticipated)

XII. **ADJOURNMENT**

**In order to assure your full participation in this meeting,  
we would appreciate your informing us of any special  
requirements you might have due to a disability.**

**Please call 288-4098**

Manager's  
Memo

To: Bar Harbor Town Council  
cc: Department Heads  
From: Cornell Knight, Town Manager  
Date: Thursday, February 11, 2016

Re: **Town Council Meeting of February 16<sup>th</sup>**

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**CALL TO ORDER – 7:00 P.M.**

- I. A. Excused Absences** – None that I am aware of but if there is an absence it would be appropriate to pass a motion to excuse Councilor \_\_\_\_\_ as provided by Town Charter section C-12.B(1)(d).
- V. FINANCIAL STATEMENTS** - Finance Director Stan Harmon has enclosed his monthly report for 7 months into the fiscal year. Expenses to date are at 59%, better than last year. If acceptable a motion: to accept the Financial Report as presented.
- VI. CONSENT AGENDA** – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:
- A. Certification of Property Owners and Abutters Mailing Lists**- Possible motion: to sign the two certifications of the mailing lists used for the notice of the Council's March 1, 2016 public hearings on the Land Use Ordinance Amendments for June 14, 2016.
- B. Memorial Day Ceremony**- Possible motion: to approve the Chamber of Commerce request for use of the town pier on May 30<sup>th</sup> to hold a Memorial Day ceremony.
- VII. Public Hearings:**
- A. Special Amusement Permit Renewals:**
- 1. The Harborside Hotel & Marina Special Amusement Class 3ad.** No issues from the Police Department. Possible motion: to approve the Harborside Hotel & Marina for a Class 3ad Special Amusement Permit as advertised.

**2. The Bar Harbor Regency Hotel Special Amusement Class 3ad.** No issues from the Police Department. Possible motion: to approve the Bar Harbors Regency Hotel for a Class 3ad Special Amusement Permit as advertised.

**3. Bluenose Inn, Special Amusement Class 3ad.** No issues from the Police Department. Possible motion: to approve the Bluenose Inn for a Class 3ad Special Amusement Permit as advertised.

- B. FY 2017 Municipal Budget-** Bring your budget book. Town spending (operations and capital) is up 2.5% over last year. The largest expenditure increase in Operations is hydrant rental at \$61,892 and in CIP it is \$50,000 towards a broadband engineering study next year for the municipal fiber portion only. As proposed the town budget is well under the LD 1 limits. The total tax impact with school and county increases is a 2.3% increase from \$10.59 mil rate to \$10.84. (Changes to the High School budget will be voted on by the school board on Feb. 22<sup>nd</sup> but the lower amounts proposed are included in the 2.3% increase). Enclosed is the memo to the Warrant Committee that touches on some of the highlights in the budget. A possible motion: to adopt the proposed 2017 municipal budget (with or) without changes and recommend it to the Warrant Committee.

#### **VIII. Regular Business**

- A. Municipal Review Committee –** The solid waste contract with PERC expires in 2018. The MRC is recommending that the MRC member municipalities send their MSW to Fiberright, LLC which will build a new facility in Hampden once 150,000 tons is signed up. Enclosed is a memo from Chip Reeves, PW Director and chair of the MRC Board of Directors listing the disposal options for the town. Chip will do a brief Powerpoint presentation at the meeting. Also enclosed is the resolution to be adopted; the independent legal review of the Joinder Agreement by James Katsiaficas a municipal attorney at Perkins Thompson; the MRC summary of the Joinder agreement; the Joinder Agreement; the PERC waste agreement proposal and a review of that agreement from the MRC, and a cost comparison between PERC/Agri-Energy and the MRC proposal. Ed Bearor, Town Attorney said the Town Council has the requisite authority to enter into an agreement. The MRC has represented the member towns well for the last 25 yrs. and I would expect that to continue and would recommend adoption of the resolution. A possible motion: to approve the Town Council Resolution Authorizing Execution of the Municipal Joinder Agreement with the Municipal Review Committee dated February 16, 2016.
- B. Treasurer's Warrant –** A possible motion: to sign the Treasurer's Warrants for paid bills.

## Joint Workshop

### Bar Harbor Town Council & Communication Technology Task Force

February 2, 2016

- I. **CALL TO ORDER – 6:00 p.m.** – In attendance were Councilors: Paul Paradis, Gary Friedmann, Anne Greenlee, Peter St. Germain, Burt Barker, David Bowden, Clark Stivers; and Town Manager Cornell Knight.
  - A. **Excused Absence(s)** – All were present.
- II. **Broadband & Fiber Optic** – *Discussion and follow up of the Tilson presentation with the Communication Technology Task Force.* – Following a number questions and comments, discussion ensued. Council took no action. There will be an informational meeting with the CTTF on February 4<sup>th</sup> for public comments and an opportunity to provide answers to questions.

## Minutes

### Bar Harbor Town Council

Resumed regularly scheduled Town Council Meeting at 7:00 pm

- III. **PUBLIC COMMENT PERIOD** – *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person.* – Resident Donna Karlson reported that she did not receive a Broadband Survey in her tax bill, and the Zabulas who were sitting in the audience confirmed they too did not receive a survey.  
  
Resident Roger Innes spoke of the need for tax relief. He passed out a seven page document of summary and questions regarding budget and tax relief. He provided comparison of incomes in Maine and used our school system salaries. In addition, he expressed concerns of the Town developing fiber optic or broadband coverage for all of the Town at a cost of \$15,000,000.
- IV. **APPROVAL OF MINUTES**
  - A. **January 19, 2016 – Regular Meeting**
  - B. **January 21, 2016 – Special Meeting**
  - C. **January 26, 2016 – Special Meeting**
  - D. **January 28, 2016 – Special Meeting**

Councilor St. Germain noted his name was incorrect in the minutes of January 21, 2016, first page, first item, third paragraph. Mr. Friedmann, with second by Ms. Greenlee, moved to approve minutes of January 21, 2016 as amended and January 19, 26, 28, 2016 as presented. Motion passed 7-0.

- V. **ADOPTION OF AGENDA** – Mr. Stivers, with second by Ms. Greenlee, moved to adopt the agenda as presented. Motion passed 7-0.
- VI. **CONSENT AGENDA** – *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:*

- A. **LUO Amendments for June 14, 2016** – *Possible action to schedule a final public hearing on March 1st and to sign the Land Use Ordinance certifications for the public hearing.*

Mr. St. Germain, with second by Ms. Greenlee, moved to approve the consent agenda as published. Motion passed 7-0.

VII. **REGULAR BUSINESS:**

- A. **Cruise Ship Committee** – *Review of the 2015 Cruise Ship season by Committee Chair Eben Salvatore and possible motion to accept.* – Cruise Ship Committee Chair Eben Salvatore summarize another successful cruise ship season despite the cancellations due to weather, netting 13,000 fewer passengers than 2014. Cruise ship funds are used to fund the ferry terminal study, comfort station services, sidewalk reconstruction and maintenance, and debt service for various Town parks and projects. He announced Professor Gabe from the University of Maine will meet with the committee, on March 11, and hope he will agree to another survey providing updated statistics about the economic impact cruise ships have on Bar Harbor. Professor Gabe previously did a survey in 2002.

Mr. St. Germain, with second by Mr. Barker, moved to thank Eben Salvatore for the presentation and accept the report and place it on file in the town records. Motion passed 7-0.

- B. **Cruise Ship Informational Services** – *Annual report by Chamber of Commerce Interim Executive Director Martha Searchfield on the 2015 cruise tourism season and possible motion to accept.* – Interim Executive Director Martha Searchfield and Melanie Graten, Director of Visitor Services, provided statistics on the three locations the Chamber provides visitor information. They saw an improvement in the service at the bus drop off point with more police presence. Following the brief summary, Mr. Friedmann, with second by Ms. Greenlee, moved to thank Melanie Graten and the Chamber of Commerce for the review and accept the report and place it on file in the town records. Motion passed 7-0.

- C. **FY17 Budget** – *Final review of FY17 Budget and tentatively adopt the budget as presented or amended and schedule a public hearing for February 16.* – Town Manager Cornell Knight was pleased to announce reduced budgets from the Bar Harbor School department, mainly due to lower cost

for heating oil; the County budget came in less than estimated; and Town's reduced heating cost adjustments resulted in a blended tax rate of 2.6%.

Following further discussion to reinstate the Broadband engineering study into one fiscal year for the original amount; Mr. Clark, with second by Mr. Friedmann, moved to amend the FY17 CIP Broadband study to the original funding of \$100,000. Motion failed 3-4(Nay: Mr. Bowden, Mr. Paradis, Mr. St. Germain, Ms. Greenlee).

Mr. Friedmann, with second by Mr. St. Germain, moved to tentatively adopt and submit the FY17 Budget to the Warrant Committee as submitted to-date and schedule a public hearing for February 16, 2016. Motion passed 6-1(Nay: Mr. Stivers).

**Town Council's Budget Adjustments - FY2017**

Date	Cost Ctr A/C #	Line Item - Description	Adjustments		Effect on Taxes ( ) = Reduction
			Adjusted Revenues	Adjusted Expenses	
1/21/16	86-5902	reduce HS assessment		(54,962)	(54,962)
	68-5962	Wash Hancock County Agency		(1,132)	(1,132)
	68-5942	American Red Cross		(1,418)	(1,418)
	68-5948	CH & C Service		(255)	(255)
1/26/16	24-5508	Muni Bldg Heating Oil		(6,500)	(6,500)
	49-5508	Pub Safety Heating Oil		(4,275)	(4,275)
	77-5508	Bus Garage Heating Oil		(1,658)	(1,658)
1/28/16	2140-6202	CIP-Amb. Defibrillators		(10,000)	(10,000)
	2122-6115	CIP-Tech.-Broadband Eng. Study		(50,000)	(50,000)
2/2/16	86-5900	County Assessment -		(2,782)	(2,782)
	88-5982	Elem School- oil & other reductions		(87,477)	(87,477)

86-5902	HS Assessment - oil cost reduction??			
	Total Changes to Date			(220,459)

D. **Treasurer’s Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. St. Germain, with second by Ms. Greenlee, moved to sign the Treasurer’s warrant for paid bills. Motion passed 7-0

VIII. **TOWN MANAGER’S COMMENTS** – Mr. Knight announced in addition to the public hearing of the FY17 Budget next agenda, there will also be Pay As You Throw and MRC joinder agreement to consider.

IX. **COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

**Mr. Clark** reminded everyone of the February 4th meeting at 7:00 p.m. to discuss the same broadband and fiber optics project and an opportunity for the public to comment.

**Mr. Bowden** suggested for consideration that the League of Towns be a participant of the MDI high school budget process.

**Mr. St. Germain** agreed with Mr. Bowden, more eyes on the budget.

**Ms. Greenlee** thanked Roger Innes and those who provided comments and information this evening. It is helpful to hear what people are thinking and encourage it.

Ms. Greenlee inquired if Council could work with a zero increased budget. If you have X amount of dollars and a project comes in greater, you find ways to work within the budget. Can that be done?

**Mr. Friedmann** was pleased to report over 200 people showed up in Northeast Harbor for the “Climate To Thrive”, a project to see MDI go more energy efficient.

**Mr. Paradis** stated that this budget is pretty flat except Hydrant Rentals and Broadband.

X. **EXECUTIVE SESSION:**

A. **Legal Consultation** – *Pursuant to Title 1 MRSA Section 405-6 (E) for the purposes of consulting with the Town’s Attorney by phone concerning pending litigation.* – Mr. St. Germain, with second by Mr. Barker, moved to go into executive session pursuant to Title 1 MRSA Section 405-6 (E) for the purposes of consulting with the Town’s Attorney by phone concerning pending litigation. Motion passed 7-0. Council entered into executive session at 8:00 p.m. and returned to regular session at 8:24 p.m. No action was taken.

- XI. **ADJOURNMENT** Mr. Bowden, with second by Ms. Greenlee, moved to adjourn at 8:24 p.m. Motion passed 7-0.

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Patricia A. Gray, Town Clerk

# Memo



To: Town Councilors; Cornell Knight  
 From: Stan Harmon, Finance Director  
 CC: Department Heads  
 Date: 2/9/2016  
 Re: Fiscal Year 2016 – January 31, 2016 – 7 Months Results

## General Fund

Attached are the financial results for seven months of operations for FY 2016.

### **Expenditures (58% goal)**

The January summary statements show 59% spent versus 61% of the budget spent last year. 57% of the \$3.6 million in budgeted municipal *wages* are spent year-to-date compared to 56% in January 2015. No overspending trends are a concern at this point in the fiscal year. Highway has spent \$39,000 *less* at this point this year versus last year to date.

### **Non-Property Tax Revenues (58% goal)**

61% of the budget for non-property tax revenues is now collected versus the same 61% at this point last year. Vehicle Excise is up 8% over last year (\$43,000) and should exceed the budget, but the revenue pace slowed down in January. Harbor docking fees has made its budget. Recycling income is down \$20,000 from last year and Ambulance revenues are \$28,000 below last year and will likely not reach its FY16 targeted budget.

#### Ambulance Revenues -lower volume this year; primarily with less Bangor runs

FY 2016	7 Months YTD Runs Billed	526	Ave. <u>Gross</u> Billing (per run)	\$606
FY 2015	7 Months YTD Runs Billed	534	Avg. <u>Gross</u> Billing (per run)	\$649
FY 2014	7 Months YTD Runs Billed	588	Avg. <u>Gross</u> Billing (per run)	\$622
FY 2016	7 Months YTD Runs billed	526	<u>Net</u> Collections (per run)	\$381
FY 2015	7 Months YTD Runs billed	534	<u>Net</u> Collections (per run)	\$403
FY 2014	7 Months YTD Runs billed	588	<u>Net</u> Collections (per run)	\$388

	<u>1/31/2016</u>	<u>1/31/2015</u>
Ambulance Accounts Receivable	\$161,469	\$141,486

Excise-Motor Vehicle Revenues- total revenue data shows we are up 8% over last year, continuing to reflect a national trend of motor vehicle replacements in numbers and pricing.

FY 2016	7 Months YTD	2793 units	\$568,851	= \$203 / per vehicle
FY 2015	7 Months YTD	2740 units	\$525,025	= \$188 / per vehicle
FY 2014	7 Months YTD	2765 units	\$519,995	= \$168 / per vehicle
FY 2013	7 Months YTD	2929 units	\$476,476	= \$163 / per vehicle

Building Permitting Revenue- revenue is about equal to last year at this time..

FY 2016	7 Months YTD	168 permits	\$41,926	= \$250 / permit
FY 2015	7 Months YTD	153 permits	\$43,212	= \$282 / permit
FY 2014	7 Months YTD	159 permits	\$148,900	= \$936 / permit
FY 2013	7 Months YTD	157 permits	\$41,539	= \$265 / permit

### **FY '16 Previously Authorized Council Budget Adjustments or Transfers:**

#### **Contingency Fund Activity for FY '16:**

Beginning Balance	(Town Meeting Approval)	\$53,366
	Minutes-Town Council Mins 10/20/15-Backyard Study	<u>-\$10,000</u>
Ending Balance	@ 1/31/16 (available #1036-5906)	<u>\$43,366</u>

#### **General Fund Transfers:**

From:	Expense #1028-xxxx (No approved transfers)	(\$00)
To:	Expense #1034-xxxx	\$00

#### **Capital Improvement Transfers/Adjustments:**

From:	Assng #2132-6115 GIS Info System (Town Council 7/7/15)	(\$4,000)
	HWay #2177-6426 Sidewalks	(\$26,000)
	Undes #2182-6190 Undesignated CIP	(\$20,000)
To:	MuniB #2124-6130 Municipal Building Renovations	<u>\$50,000</u>
From:	HWay #2177-6408 Grader Reserve (Town Council 8/18/15)	(\$84,794)
To:	HWay #2177-6414 FrntEndLoader-Snow Blower	<u>\$84,794</u>
To:	UnDesig #2182-6190 Unallocated CIP (Town Council 10/20/15)	\$13,500
To:	Comft Sta #2170-6352 Pier Comfort Station	\$ 3,100
To:	CIP Revs #2188-4364 CS Fees Transferred In	<u>\$16,600</u>

#### **Cruise Ship Fund Transfers:**

To:	CIP Fund -Pier Comfort Station Project (Town Council 10/20/15)	\$16,600
From:	CShip Fund Balance-Port Fees	\$16,600
To:	Ferry Terminal Study #6510-5356 (T/C 2/17/15 -MOU signed 10/15/2015)	\$48,000
From:	CShip Fund Balance-Pass Serv Fees	\$48,000

#### **Property Tax Collection & Receivable Update:**

Outstanding current year's taxes at the end of January, as a percent of total uncollected, increased from 38.5% outstanding to 40.1% due partly to elimination of the 2<sup>nd</sup> half discount in FY16. 2nd half tax bill reminders will be sent out in February.

Tax Year	Property Taxes Outstanding Balance	@ 1/31/16 %	@ 1/31/15 Balance	%
2006-07	\$ 1,274	0.1%	\$ 5,877	0.1%
2008	\$ 1,643	0.1%	\$ 6,788	0.1%
2009	\$ 4,728	0.1%	\$ 10,282	0.1%
2010	\$ 5,248	0.1%	\$ 17,510	0.1%
2011	\$ 6,619	0.1%	\$ 27,426	0.2%
2012	\$ 6,415	0.1%	\$ 28,013	0.2%
2013	\$ 5,183	0.1%	\$ 237,588	1.7%
2014	\$ 201,640	1.4%	\$ 5,707,526	38.5%
2015	\$ 6,244,014	40.1%		

**Cash Investment and Status Report / Banking**

On January 31st, the Town had \$14,050,000 on hand in all funds—approximately \$1.9 million more monies available than last year’s total balances at this same time period. The higher amount of total funds on hand is due to the new bond monies received. Checking interest rates are at .33% vs. the same .33% last year.

**Wastewater Division Fund**

**Financials (58% - 7 month Benchmark)**

	Annual Budget	Jan YTD Actual	% Spent
Spending shows the following:			
<i>Oper &amp; Maint-FY2016-this year</i>	\$1,330,551	\$719,882	54%
<i>Oper &amp; Maint-FY2015-last year</i>	\$1,335,225	\$665,757	50%
	<u>1/31/2016</u>	<u>1/31/2015</u>	
Accounts Receivable-Wastewater	\$350,998	\$316,051	

**Water Division Fund**

**Financials (58%-7 month Benchmark)**

	Annual Budget	Jan YTD Actual	% Spent
Spending shows the following:			
<i>Oper &amp; Maint-FY2016-this year</i>	\$1,053,291	\$529,705	50%
<i>Oper &amp; Maint-FY2015-last year</i>	\$1,051,000	\$534,697	51%
	<u>1/31/2016</u>	<u>1/31/2015</u>	
Accounts Receivable-Water	\$187,138	\$141,092	

**Technology**

In the January report from Steve, he indicated considerable PD cruiser equipment work, preliminary PD *Spillman* software planning and some other PD fixes. In Harbor the pier camera needed repair and some equipment was needed to be replaced due to a water leak. He also spent time moving phones, copiers and pc’s, etc. due to employees moving their locations due to the renovations and he worked with the sub-contractor to correct some cable wiring installs. Lastly, there continued to be a focus on the fiber/broadband project in informational meetings, conference calls and in budget reviews.

### Assessing

Justin re-worked the job description and after approval from the Town Manager moved ahead with advertising for the replacement of the administrative assistant position that has been vacant. He also spent a good deal of time building and re-building new GIS databases for Wastewater that work better with the new line imaging software that the line crew utilizes.

### Cruise Ship Fund

Expenses-Direct Discretionary Exps: FY2016	<u>Budget</u> \$164,874	<u>Actual</u> \$127,689	<u>%</u> 69%
Revenue activity so far – 7 months: FY2016	<u>Budget</u> \$605,735	<u>Actual</u> \$533,481	<u>%</u> 88%
FY2015	\$632,224	\$563,453	89%
FY2014	\$656,933	\$600,859	91%

### Municipal Building Construction

After substantial completion was determined in mid-January, staff from Finance, Code, Planning & Assessing moved across the hall so that demo and renovation could start in the Code & Planning offices.

**Town of Bar Harbor**  
**Expenses - Period Ending**  
**1/31/16**

09-Feb-16

58% of Year Completed

General Fund	Dept	A FY '16 Annual Adj'd Budget	B FY '16 7 Months Actual	C FY '15 12 Months Actual	D Bud Variance Under (over) Col. A-B	E % Spent of Budget (B/A=E)	FY '14 12 Months Actual	Comments on variances
Town Council	10	\$ 37,952	\$ 13,762	\$ 37,388	8,250	36.3%	\$ 32,920	timing
Town Manager	12	\$ 127,031	\$ 68,584	\$ 131,270	5,094	54.0%	\$ 131,036	
Town Clerk	14	\$ 140,381	\$ 64,814	\$ 123,202	16,607	46.2%	\$ 119,475	timing
Finance Dept.	16	\$ 328,189	\$ 198,498	\$ 322,362	(8,148)	60.5%	\$ 316,215	timing
Town Attorney	18	\$ 19,150	\$ 5,560	\$ 36,982	5,547	29.0%	\$ 67,420	
Elections	20	\$ 12,717	\$ 1,663	\$ 12,156	5,713	13.1%	\$ 10,361	timing
Technology	22	\$ 174,287	\$ 109,900	\$ 147,667	(8,814)	63.1%	\$ 121,486	timing
Municipal Building	24	\$ 74,825	\$ 41,876	\$ 96,879	1,523	56.0%	\$ 80,273	
Town Offices	26	\$ 33,452	\$ 21,729	\$ 35,269	(2,327)	65.0%	\$ 37,566	timing
Employee Benefits	28	\$ 1,376,319	\$ 762,318	\$ 1,252,271	35,947	55.4%	\$ 1,345,347	
Code Enforcement	30	\$ 74,851	\$ 42,335	\$ 91,282	1,079	56.6%	\$ 69,142	
Assessing Dept.	32	\$ 139,128	\$ 65,984	\$ 116,759	14,710	47.4%	\$ 115,497	lower trend
Planning Dept.	34	\$ 156,893	\$ 66,793	\$ 91,360	24,205	42.6%	\$ 118,722	less legal exp
Miscellaneous	36	\$ 211,104	\$ 170,370	\$ 211,723	(47,930)	80.7%	\$ 180,505	timing
Ambulance	40	\$ 450,258	\$ 256,265	\$ 404,660	4,885	56.9%	\$ 391,936	
Fire Department	42	\$ 357,964	\$ 203,182	\$ 327,018	4,437	56.8%	\$ 316,107	
Hydrant Rentals	42	\$ 523,710	\$ 386,635	\$ 480,468	(82,883)	73.8%	\$ 480,468	timing/ low budget
Police Dept.	45	\$ 1,030,871	\$ 626,509	\$ 983,866	(28,604)	60.8%	\$ 919,922	timing-seasonal
Dispatch Division	47	\$ 211,054	\$ 128,006	\$ 204,277	(5,595)	60.7%	\$ 201,945	
Public Safety Bldg.	49	\$ 38,916	\$ 22,176	\$ 42,602	395	57.0%	\$ 45,807	timing
Street Lights	51	\$ 71,575	\$ 39,196	\$ 69,069	2,318	54.8%	\$ 63,278	
Harbor Dept.	53	\$ 113,786	\$ 65,810	\$ 116,162	186	57.8%	\$ 121,891	
Parks & Rec & Gln M	59	\$ 235,251	\$ 145,209	\$ 229,730	(8,763)	61.7%	\$ 228,873	timing-seasonal
Emrg Mgt & Gen Assis	63/66	\$ 1,444	\$ 721	\$ 1,170	117	49.9%	\$ 1,445	
Cooperatng Agency	68	\$ 42,843	\$ 42,843	\$ 45,231	(17,994)	100.0%	\$ 39,843	
Comfort Station	70	\$ 93,361	\$ 66,524	\$ 83,607	(12,375)	71.3%	\$ 90,729	timing-seasonal
Public Works	75	\$ 146,122	\$ 83,022	\$ 144,809	1,729	56.8%	\$ 143,623	
Highway Dept	77	\$ 1,007,992	\$ 552,549	\$ 1,160,595	32,086	54.8%	\$ 1,059,443	39k less than 2014
Solid Waste	79	\$ 655,939	\$ 397,375	\$ 611,136	(16,930)	60.6%	\$ 601,229	timing-seasonal
<b>General Fund Totals</b>		<b>\$ 7,887,365</b>	<b>\$ 4,650,208</b>	<b>\$ 7,610,970</b>	<b>\$ (75,536)</b>	<b>59.0%</b>	<b>\$ 7,452,504</b>	
payroll periods		26	15	26		57.7%	26	

Includes \$25,374 in carryover encumbrances from FY2015

General Fund - Revenues

Town of Bar Harbor  
YTD January 31, 2016

58% - 6 Months

<u>Department</u>	<u>Budget FY'16 12 Months</u>	<u>Actual FY'16 7 Months</u>	<u>Actual FY'15 12 Months</u>	<u>Bud. Var. Favorable (Unfavorable)</u>	<u>% Rev's Received 58% Goal</u>	<u>Variances From Budget Goal Comments</u>
Town Clerk Fees	\$ 28,304	\$ 10,973	\$ 27,254	(5,443)	39%	timing
Finance Department	\$ 181,510	\$ 94,450	\$ 200,066	(10,826)	52%	timing
Municipal Building	\$ 30,000	\$ 21,620	\$ 33,416	4,220	72%	
Code Enforcement Permits	\$ 160,358	\$ 73,585	\$ 187,533	(19,423)	46%	lower trend
Planning Fees	\$ 20,694	\$ 1,105	\$ 10,209	(10,898)	5%	lower trend
Ambulance/Fire Fees	\$ 396,100	\$ 201,627	\$ 351,052	(28,111)	51%	lower trend
Police Department	\$ 69,841	\$ 55,239	\$ 77,679	14,731	79%	seasonal
Harbor Department	\$ 49,203	\$ 53,018	\$ 54,351	24,480	108%	higher - made budget
Parks & Recreation	\$ 600	\$ 150	\$ 950	(198)	25%	
Highway Division	\$ 9,953	\$ 11,313	\$ 10,451	5,540	114%	higher - made budget
Solid Waste-Recycling	\$ 86,338	\$ 32,083	\$ 64,434	(17,993)	37%	lower trend - pricing
<b>Departmental</b>	<b>\$ 1,032,901</b>	<b>\$ 555,163</b>	<b>\$ 1,017,395</b>	<b>(43,920)</b>	<b>54%</b>	
P.I.L.O.T.'s	\$ 126,306	\$ 129,187	\$ 129,401	55,930	102%	timing - all PILOT's paid
Interest Income	\$ 20,350	\$ 17,855	\$ 25,330	6,052	88%	timing
Misc, Cable Franch., other	\$ 122,992	\$ 73,763	\$ 126,205	2,428	60%	
Excise & Other Taxes	\$ 986,441	\$ 599,039	\$ 1,013,463	26,903	61%	higher trend
Intergovernmental	\$ 218,504	\$ 152,928	\$ 209,123	26,196	70%	timing
<b>Revenues-Subtotal</b>	<b>\$ 2,507,494</b>	<b>\$ 1,527,935</b>	<b>\$ 2,520,917</b>	<b>73,588</b>	<b>61%</b>	
Property Taxes	\$ 15,588,096	\$ 15,602,181	\$ 14,957,966	14,085	100%	
Transfers In-CS & Other Funds	\$ 264,817	\$ -	\$ 268,907	-	0%	
Fund Balance Used	\$ 110,000	\$ -	\$ 412,639	-	0%	
<b>Grand Total-General Fund</b>	<b>\$ 18,470,407</b>	<b>\$ 17,130,116</b>	<b>\$ 18,160,429</b>	<b>-</b>	<b>92.7%</b>	
<b>Wastewater Revenues</b>	<b>\$ 2,212,776</b>	<b>\$ 1,396,848</b>	<b>\$ 2,099,773</b>	<b>-</b>	<b>63%</b>	2 Qtrs Billed
<b>Water Revenues</b>	<b>\$ 1,930,105</b>	<b>\$ 1,372,147</b>	<b>\$ 1,981,903</b>	<b>-</b>	<b>71%</b>	3 Qtrs Billed
<b>CIP Fund Rev's/Transfers</b>	<b>\$ 2,569,177</b>	<b>\$ 1,408,554</b>	<b>\$ 4,589,867</b>	<b>-</b>	<b>55%</b>	
<b>Cruise Ship Fund Rev's</b>	<b>\$ 605,735</b>	<b>\$ 533,481</b>	<b>\$ 631,589</b>	<b>-</b>	<b>88%</b>	

**TOWN OF BAR HARBOR  
CASH / INVESTMENT STATUS @ January 31, 2016**

Note	Bank	Acct. No.	Purchase	Maturity	Interest Rate	Amount
<b>**CHECKING ACCOUNTS</b>						
WATER	BHBT	77548556	GL #40-1140		0.33%	\$ 337,000
GENERAL	BHBT	77548521	GL #10-1140		0.33%	\$ 245,000
SEWER	MACHIAS SB	8100333860 / 930	GL #10-1135		0.10%	\$ 189,000
SEWER	BHBT	77548513	GL #35-1140		0.33%	\$ 75,000
Total Checking Accounts						<b>\$ 846,000</b>
GENERAL	BHBT	ICS - CDARS	FDIC custodial bank deposits	GL #10-1130	0.55%	\$ 4,575,000
GENERAL	The 1st		collateralized securities	GL #10-1145	0.75%	\$ 1,150,000
GENERAL	The 1st		collateralized securities	GL #10-1146	0.45%	\$ 1,006,000
SEWER	BHBT-bond \$	ICS - CDARS	FDIC custodial bank deposits	GL #35-1130	0.55%	\$ 1,551,000
WATER	BHBT-bond \$	ICS - CDARS	FDIC custodial bank deposits	GL #40-1130	0.55%	\$ 1,805,000
<b>**CERTIFICATES OF DEPOSIT: money market</b>						
Gen Fnd	The First	14 months	27-Nov-14	27-Jan-16	0.25%	\$ 86,014
Gen Fnd	BHS&L	18 Months	27-Dec-14	27-Jun-16	0.70%	\$ 110,995
Gen Fnd	BHS&L	12 months	04-Dec-15	03-Dec-16	0.65%	\$ 112,176
Gen Fnd	MSB	12 Months	25-Oct-15	25-Oct-16	0.27%	\$ 112,303
Gen Fnd	MSB	1 Year-CDARS	17-Jan-16	17-Jan-17	0.27%	\$ 240,333
Gen Fnd	UTC-Camden	12 Month CD	11-Aug-15	11-Aug-16	0.15%	\$ 107,132
Gen Fnd	UTC-Camden	12 Month CD	10-Feb-15	10-Feb-16	0.15%	\$ 106,744
Gen Fnd	UTC-Camden	1 Year-CDARS	02-Oct-15	02-Apr-16	0.10%	\$ 236,361
#10-1160 Total Certificates of Deposit						<b>\$ 1,112,058</b>
<b>CIP Reserves: Bar Harbor Banking &amp; Trust - Trust Department</b>						
GENERAL	COMB-combined funds		Money Mkt Funds Sweep		0.10%	\$ 164,880
	Chesapeake Energy		Bond - S&P BBB-	3/15/2016	3.25%	\$ 47,875
	Microsoft Corp		Bond - AAA	03-Nov-18	1.30%	\$ 99,822
	Statoil ASA		Bond - AA	15-May-18	1.15%	\$ 98,355
	Federal Farm Cr Bank		Bond - AA+	11/27/2017	0.88%	\$ 99,301
	Fed Natl Mtg Assoc		Bond - AAA	2/19/2019	0.88%	\$ 247,658
	Fed Home Loan Mtg Corp		Bond - AAA	1/4/2018	0.00%	\$ 267,333
	Mortgage Stanley		Bond - A-	2/25/2016	1.75%	\$ 100,116
	Toronto Dominion Bank		Bond - AA-	5/2/2017	1.13%	\$ 99,677
	Nippon Teleg & Tel Corp.		Bond - AA-	7/18/2017	1.41%	\$ 99,621
	US Treasury Note		Note	9/30/2017	0.63%	\$ 248,272
	US Treasury Note		Note	10/15/2018	0.88%	\$ 197,796
	Vanguard Scottdale FDS		Mutual Funds		2.00%	\$ 236,970
#10-1170 Total In Trust Fund						<b>\$ 2,007,676</b>
<b>TOTALS: All CASH &amp; INVESTMENTS</b>						<b>\$ 14,052,734</b>

Notes: Checking Accounts and money markets above \$250,000 are protected by Bar Harbor Bank's collateral (US Gov't or agency securities) that are held in joint custody at the Federal Reserve Bank of Boston.

COMB = Combined General, CIP, School and Cruise Ship Cash Accounts  
SWR = Sewer Fund  
WTR = Water Fund

BHBT = Bar Harbor Bank & Trust Co.

The First = First National Bank Of Damariscotta

UTC = Union Trust Company & now Camden National Bank

BHS&L = Bar Harbor Savings & Loan Co.

MSB = Machias Savings

Town Bond Rating: Affirmed August '15 Aa2 Moody's  
Affirmed August '15 AAA S & P's

State of Maine Bond Rating: May '12 AA S & P's  
State of Maine Bond Rating: June '14 Aa2 Moody's  
State of Maine Bond Rating: Jan '13 AA Fitch  
Hancock County Rating: Jan '11 Aa2 Moody's  
Hancock County Rating: Jan '11 AA S & P's  
U.S. Government Rating: August '11 AA S & P's

**Certification**

of

**Property Owners and Abutters Mailing List**

for

**Bar Harbor Town Council Notice of Public Hearing for March 1, 2016 on the Proposed Land Use Ordinance amendments, dated December 2, 2015, for the Downtown Village Districts for June 14, 2016 annual town meeting warrant.**

Pursuant to the Bar Harbor Town Code Chapter 125-9, The Bar Harbor Town Council hereby certifies that the attached mailing list which contains the list of property owners, abutters and addresses were mailed the notice entitled "Town of Bar Harbor Bar Harbor Town Council Notice of a Public Hearing for proposed amendments to the Bar Harbor Land Use Ordinance" on February 4, 2016 from the Bar Harbor Post Office, 55 Cottage Street, Bar Harbor, Maine.

Given under our hands and seal at Bar Harbor on this \_\_\_\_\_ day of \_\_\_\_\_, 2016

**Municipal Officers of the Town of Bar Harbor**

\_\_\_\_\_  
Paul A. Paradis, Chair

\_\_\_\_\_  
Gary Friedmann, Vice Chair

\_\_\_\_\_  
Peter St. Germain

\_\_\_\_\_  
Anne R. Greenlee

\_\_\_\_\_  
Burt O. Barker

\_\_\_\_\_  
David Bowden

\_\_\_\_\_  
J. Clark Stivers



**Town of Bar Harbor**  
**Bar Harbor Town Council**  
**Notice of a Public Hearing for proposed amendments to the**  
**Bar Harbor Land Use Ordinance**

February 4, 2016

«Grantee» «Co\_grantees\_Name»  
«Mailing\_Address»  
«Mailing\_Address\_2»  
«City», «State» «Zip» «Country»

Dear Bar Harbor Property Owner:

This is to notify the public that, under the requirements of Bar Harbor Land Use Ordinance Article I General Provisions, Section 125-9, the Bar Harbor Planning Board will hold a public hearing on the proposed Land Use Ordinance amendments listed below and shown herein. The public hearing will be held on **Tuesday, March 1, 2016 at 7:00 PM** in the Council Chambers of the Municipal Building, 93 Cottage Street, Bar Harbor, Maine, on the following proposed articles to be placed on the June 14, 2016 annual Town meeting warrant with voting thereon to be held by Australian ballot to amend the Land Use Ordinance of the Bar Harbor Town Code, Chapter 125.

**Land Use Ordinance Amendments for Downtown Village I, Downtown Village II and Downtown Village Transitional Districts** - In 2010 there were two Downtown Business districts that were replaced with three Downtown Village districts. With the adoption of the Downtown Village districts, approved by voters in June, 2010, certain uses were not carried forward from the prior Downtown Business districts. What is proposed is to consider restoring certain uses to the Downtown Village districts. This is an area generally located within a block or two of the entire length of Cottage Street and within a block or two of Main Street from “the ballfield” north to West Street. The following amendments are proposed:

**LAND USE ORDINANCE AMENDMENT – Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add farmers market use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? *(Use requires permit from the Code Enforcement Officer).*

**LAND USE ORDINANCE AMENDMENT – Downtown Village II District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add single-family dwelling use and two-family dwelling use to the Downtown Village II District” be enacted? *(Use requires permit from the Code Enforcement Officer).*

**LAND USE ORDINANCE AMENDMENT – Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add automobile sales lot and automobile repair garage uses to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? *(Use requires Planning Board Site Plan Review).*

**LAND USE ORDINANCE AMENDMENT – Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add home occupation use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? *(Use requires permit from the Code Enforcement Officer).*

**LAND USE ORDINANCE AMENDMENT – Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add retirement community use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? *(Use requires Planning Board Site Plan Review).*

Copies of the full text amendments are available at the Town Clerk’s office and Planning Department at 93 Cottage Street, Bar Harbor, Maine 04609. Amendments can also be found on the Town’s website under the Planning Department section at: [www.barharbormaine.gov](http://www.barharbormaine.gov). Public comment is encouraged at the public hearing on March 1, 2016 or may be submitted in advance by email to [council@barharbormaine.gov](mailto:council@barharbormaine.gov) or by US Mail.

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
3	104-100-000	11 RODICK, LLC	C/O LISA GRELLA, REAL ESTATE TAX	1000 MARKET STREET	BUILDING ONE	PORTSMOUTH	NH	03801
4	104-109-000	12 FEDERAL STREET LLC		9 MOUNTAIN AVENUE		BAR HARBOR	ME	04609
5	104-508-000	128 MAINE STREET LLC		128 MAINE STREET	BRUNSWICK	BAR HARBOR	ME	04011
6	107-201-000	14 PLEASANT STREET LLC		49 RODICK STREET		BAR HARBOR	ME	04609
7	104-153-000	1440 GROUP LLC		1001 EAST ATLANTIC AVE	SUITE 202	DELRAY BEACH	FL	33483
8	104-102-000	15 RODICK, LLC		1000 MARKET STREET	BLDG 1 STE 300	PORTSMOUTH	NH	03801
9	107-200-000	18 PLEASANT STREET, LLC		PO BOX 156		BAR HARBOR	ME	04609
10	104-184-000	31 HOLLAND ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
11	108-073-000	321 MAIN STREET, LLC		37 LADYSLIPPER LN		BAR HARBOR	ME	04609
12	104-358-000	39 RODICK STREET, LLC		1098 STATE HWY 3		BAR HARBOR	ME	04609
13	104-359-000	41 RODICK STREET LLC		PO BOX 182		MOUNT DESERT	ME	04660
14	104-361-000	4749 RODICK STREET LLC		C/O JOHN E CAMMICK	PO BOX 400	MATLACHA	FL	33993
15	104-189-000	52 STRAWBERRY LLC		52 STRAWBERRY LEDGE		BAR HARBOR	ME	04609
16	104-375-000	65 MAIN STREET, LLC	MAFFUCCI, BARBARA P & DOUGLAS	C/O ATLANTIC BREWING COMPANY	15 KNOX ROAD	BAR HARBOR	ME	04609
17	104-373-000	8 COTTAGE STREET LLC		8 COTTAGE STREET		BAR HARBOR	ME	04609
18	104-148-000	9 LENOX PLACE LLC		1001 E ATLANTIC AVE	SUITE 202	DELRAY BEACH	FL	33483
19	107-109-000	AB & JR HODGKINS, INC		PO BOX 156		BAR HARBOR	ME	04609-1732
20	104-450-000	ABBE MUSEUM, ROBERT		26 MOUNT DESERT STREET		BAR HARBOR	ME	04609
21	104-418-000	ABBE, BRIE	NGOIMA, MWAURA JT	PO BOX 1152		SOUTHWEST HARBOR	ME	04679
22	104-350-000	ABBOTT, KENNETH R	ABBOTT, LOLA D	8 KENNEBEC STREET		BAR HARBOR	ME	04609-1804
23	105-010-000	ABENDRUH COTTAGE LLC		94 SUMMIT AVENUE		PROVIDENCE	RI	02906
24	104-330-000	ABOLAFIA, RUDOLPH	ABOLAFIA, ADELE E	C/O NORTH AMERICAN CHEM IND	12 TECHNOLOGY DRIVE, SUITE 3	SETAUKET	NY	11733
25	107-194-000	ACADIA GARDENS LLC		PO BOX 806		BAR HARBOR	ME	04609
26	104-503-000	ACADIA LAND, LLC	C/O NORMAN E MURPHY	325 RIDGEVIEW DRIVE		PALM BEACH	FL	33480
27	104-505-000	ACADIA REAL ESTATE HOLDING CO,		PO BOX 24		BAR HARBOR	ME	04609
28	104-130-000	ACADIA REAL ESTATE HOLDING COMPANY LLC		PO BOX 24		BAR HARBOR	ME	04609
29	104-460-000	ACADIANA PROPERTIES, LLC	C/O PETER ROY ESQ	775 BELLA VISTA		MIAMI	FL	33156
30	104-086-000	ACRE, LLC		PO BOX 573		BAR HARBOR	ME	04609
31	104-094-000	ADE, RICHARD C., TRUSTEE	EDEN STREET TRUST	1000 MARKET ST	BUILDING ONE, SUITE 300	PORTSMOUTH	NH	03801
32	104-487-000	ADELMANN, TIMOTHY J.	ADELMANN, JANE P.	224 MAIN STREET		BAR HARBOR	ME	04609
33	104-390-001	ADFIEL LLC		8 LIVINGSTON ROAD		BAR HARBOR	ME	04609
34	104-176-000	ADLER, ELIZABETH L TRUSTEE	ADLER, GARY P TRUSTEE	PO BOX 520		MOUNT DESERT	ME	04660
35	104-134-000	ADLER'S INC		PO BOX 520		MT. DESERT	ME	04660
36	104-494-000	ADLER'S INC		PO BOX 520		MT. DESERT	ME	04660
37	104-091-002	AHRENS, STEPHEN C	AHRENS, SUSAN L	27 ESTAUGH AVE		HADDONFIELD	NJ	08033
38	105-016-002	ALBERT MEADOW #2, LLC	C/O JAMES H & LYNN NOBIL	582 NW DICKENS CT		BOCA RATON	FL	33432-3812
39	107-111-000	ALBERT, ENOCH	KNOPP, SHARON	31 PLEASANT STREET		BAR HARBOR	ME	04609
40	104-043-000	ALLEN, JOAN C		23 BRIDGE STREET		BAR HARBOR	ME	04609-1444
41	104-334-000	ALLEN, JUDITH M		19 KENNEBEC STREET		BAR HARBOR	ME	04609
42	104-246-000	ALLEY, MARY LOU M		56 GREELEY AVENUE		BAR HARBOR	ME	04609-1413
43	108-066-000	ALLEY, THOMAS O		358 MAIN STREET		BAR HARBOR	ME	04609-9749
44	104-364-000	ALPACA TRADING, LLC		589 AIRLINE DRIVE		AMHERST	ME	04605
45	104-090-000	ALSTON, GRACE M	BARANOWSKI, JOHN E & KIANA M	108 COTTAGE STREET		BAR HARBOR	ME	04609
46	104-268-000	AMERICAN LEGION POST	GEORGE EDWIN KIRK POST #25	70 COTTAGE STREET		BAR HARBOR	ME	04609
47	105-001-000	ANDERHOLM, JEFFREY E	ANDERHOLM, TERI W	PO BOX 242		BAR HARBOR	ME	04609

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
48	105-089-000	ANDREWS, RANDALL F JR	ANDREWS, KATHLEEN Z JT	9258 FULTON AVENUE		LAUREL	MD	20723
49	104-496-000	ANDRO, DAVID		3385 ROSANNA STREET		LAS VEGAS	NV	69117
50	104-092-000	APTO HOLDING, LLC		71B COTTAGE ST		BAR HARBOR	ME	04609
51	104-020-000	ARBACH PROPERTIES LLC		405 LAMOINE BEACH ROAD		LAMOINE	ME	04605
52	105-016-004	ARNOLD, GRACE W.		17 ALBERT MEADOW, UNIT # 4		BAR HARBOR	ME	04609
53	104-531-000	BAR HARBOR BANKING & TRUST		82 MAIN STREET		BAR HARBOR	ME	04609
54	107-149-000	BAR HARBOR HAVEN, LLC		423 BROOKWAY RD		MERION STATION	PA	19066
55	104-140-000	BAR HARBOR JAZZ FESTIVAL		PO BOX 10		BAR HARBOR	ME	04609
56	104-402-000	BAR HARBOR MAIN & NEWTON REAL		PO BOX 10		BAR HARBOR	ME	04609
57	108-053-000	BAR HARBOR MAIN AND NEWTON		PO BOX 10		BAR HARBOR	ME	04609
58	107-131-000	BAR HARBOR PROPERTIES, INC		PO BOX 63		BAR HARBOR	ME	04609
59	104-383-000	BAR HARBOR SAVINGS	LOAN ASSOCIATION	103 MAIN STREET		BAR HARBOR	ME	04609
60	104-058-000	BAR HARBOR, TOWN OF		93 COTTAGE STREET		BAR HARBOR	ME	04609
61	108-060-001	BARKER, BRENT		10 CENTER ST		BAR HARBOR	ME	04609
62	108-060-000	BARKER, BURT O		15 WAYMAN LANE		BAR HARBOR	ME	04609
63	108-060-002	BARKER, BURT O	WRIGHT, LONA M	10 MOUNTAIN AVE		BAR HARBOR	ME	04609
64	104-454-000	BARKOFF, ALFHILD ANDA		12A MOUNT DESERT STREET		BAR HARBOR	ME	04609
65	107-195-000	BARMETTLER, BRADD C TRUSTEE	BARMETTLER, KELLY TRUSTEE	BARMETTLER TRUST	2421 EAST 16TH ST #5	NEWPORT BEACH	CA	92663
66	104-084-000	BARRAIN, LLC		1001 EAST ATLANTIC AVENUE	SUITE 202	DEL RAY BEACH	FL	33483
67	104-064-000	BARRY, JANN M	BARRY, JEROME A	845 SARAH DRIVE		ELDERSBURG	MD	21784-8906
68	107-283-000	BATSON, ROLAND R TRUSTEE	BATSON, MELODIE J TRUSTEE	ROLAND R BATSON REVOCABLE TR	31 S-CURVE ROAD	SPRINGVALE	ME	04083
69	104-355-000	BAYSIDE INVESTMENTS, INC		46 COTTAGE STREET		BAR HARBOR	ME	04609
70	108-052-000	BEAM, MARJORIE		1 1/2 OLIVER STREET		BAR HARBOR	ME	04609
71	104-233-000	BEAUTUCK, LLC		99 STATE HWY 3		BAR HARBOR	ME	04609
72	104-284-000	BEDIGIAN, HENDRICK B	HANCOCK-BEDIGIAN, MARY	2703 FALLING TIMBER TRAIL		EDGEWATER	MD	21037
73	107-105-000	BEGIN, CHARLES B TRUSTEE	LIVING REV TRUST OF CHARLES BEGIN	8720 BIRKENHEAD CT		LAUREL	MD	20723
74	107-153-000	BENCE, VICKI S		40 NORWAY DRIVE		BAR HARBOR	ME	04609
75	104-050-000	BENNETT, CHRISTOPHER L	BENNETT, ANGELIQUE M	1214 DELTA GLEN CT		VIENNA	VA	22182
76	105-082-000	BENSON, JOHN	BENSON, LYNN	PO BOX 213		BAR HARBOR	ME	04609
77	105-083-000	BENSON, JOHN M	BENSON, LYNN	PO BOX 213		BAR HARBOR	ME	04609
78	104-009-000	BHTC 111, LLC		1000 MARKET ST	BLDG 1, SUITE 300	PORTSMOUTH	NH	03801
79	104-078-000	BHV LLC		20 OAK STREET		ELLSWORTH	ME	04605
80	107-207-000	BIRD, DOUGLAS	HUBBARD, CANDACE L	17 EDGEWOOD STREET		BAR HARBOR	ME	04609
81	104-324-000	BIRKENMEIER, CONNIE S.		8 HIGH STREET		BAR HARBOR	ME	04609-1817
82	105-028-000	BITTENBRING, COURTNEY D	SANDIN, NORMAN A JR	604 CROOKED ROAD		BAR HARBOR	ME	04609
83	107-158-000	BLANEY, CONNIE D	BLANEY, RICHARD M	15 DES ISLE AVENUE		BAR HARBOR	ME	04609
84	104-335-000	BODGE, STEVEN	BODGE, ALLIE JT	21 KENNEBEC STREET		BAR HARBOR	ME	04609
85	104-343-000	BOHRER, ANN W		22 KENNEBEC STREET		BAR HARBOR	ME	04609
86	104-519-000	BONO, PETER F TRUSTEE	BONO, BEVERLY A TRUSTEE	PETER F & BEVERLY A BONO REV T	80 MAIN STREET	BAR HARBOR	ME	04609
87	104-422-000	BOOHER, BRIAN K	BOOHER, JENNIFER I	27 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
88	104-328-000	BOOHER, MARY L		5 KENNEBEC STREET		BAR HARBOR	ME	04609-1803
89	108-037-000	BOUCHARD, ERNEST S	BOUCHARD, CAROLA	10 LIVINGSTON ROAD		BAR HARBOR	ME	04609
90	105-045-000	BRECHER, STEWART H	BRECHER, MELITA	54 HANCOCK STREET		BAR HARBOR	ME	04609-1715

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
91	107-184-000	BREVENT HOLDINGS, LLC		1 CLOSTER COMMONS, UNIT 233		CLOSTER	NJ	07624
92	104-228-000	BREWER, LESLIE JR		PO BOX 60		BAR HARBOR	ME	04609
93	104-331-003	BROOKS, ERICA E		PO BOX 564		BAR HARBOR	ME	04609
94	104-331-001	BROOKS, ERICA M		PO BOX 564		BAR HARBOR	ME	04609
95	107-122-000	BROOM, RICHARD A	BROOM, SHARON H	5 ASH STREET		BAR HARBOR	ME	04609
96	105-011-000	BROWN, BEVERLY B TRUSTEE	BEVERLY B BROWN REVOCABLE LIVING TRUST	18 ALBERT MEADOW		BAR HARBOR	ME	04609
97	104-244-000	BROWN, H A FURNITURE CO		17 HODGKINS LANE		LAMOINE	ME	04605
98	104-374-000	BROWN, LEE	MCGARR, LARRY & SHARON JT	22 GREELEY AVENUE		BAR HARBOR	ME	04609
99	105-079-000	BROWN, MARK	BROWN, KAREN	17 ATLANTIC AVENUE		BAR HARBOR	ME	04609
100	104-245-000	BROWN, MARY K		11 GREELEY AVENUE		BAR HARBOR	ME	04609-0667
101	104-266-000	BROWN, STEPHEN C	RODGERS, LINDA	12 GREELEY AVENUE		BAR HARBOR	ME	04609-1413
102	107-196-000	BROWN, TIMOTHY C		15 PLEASANT STREET		BAR HARBOR	ME	04609
103	108-008-001	BUELL, TIMOTHY		2A WAYMAN LANE		BAR HARBOR	ME	04609
104	108-041-000	BUNKER, LESTER E JR TRUSTEE	BUNKER, HELEN P TRUSTEE	LESTER E BUNKER, JR TRUST	454 LEVENSELLER ROAD	HOLDEN	ME	04429
105	107-188-000	BURTON, JOSEPH T III	BURTON, DAWNA W	6 FIRST SOUTH STREET		BAR HARBOR	ME	04609-1713
106	104-499-000	BUTLER, JILLAIN M		9 ALBERT MEADOW		BAR HARBOR	ME	04609
107	104-497-000	BUTTERFIELD BLOCK LLC	C/O THOMAS B WHEATLEY, ESQ	109 MAIN STREET		BAR HARBOR	ME	04609
108	104-472-000	CACCESE, VINCENT	ABBOUD, BECHARA	175 GROVE STREET		BANGOR	ME	04401
109	104-080-000	CARLSON, BRUCE H	CARLSON, APRIL B	27 COTTAGE STREET		BAR HARBOR	ME	04609
110	104-138-000	CARLSON, BRUCE H	CARLSON, APRIL BLAIR	17 FEDERAL STREET		BAR HARBOR	ME	04609
111	104-185-000	CARSON, EVIN K		35 HOLLAND AVENUE		BAR HARBOR	ME	04609
112	104-224-000	CARSON, MICHAEL L TRUSTEE	CARSON, FRANCINE TRUSTEE	CARSON FAMILY REV TR 4/17/15	411 N NEW RIVER DR EAST # 3105	FORT LAUDERDALE	FL	33301
113	104-033-000	CARUSO, GAIL L TRUSTEE	GREEN, WILLIAM P TRUSTEE	GAIL L CARUSO LIVING TRUST	PO BOX 214	BAR HARBOR	ME	04609
114	104-326-000	CENTRAL HOUSE, LLC	C/O ARTHUR DAVIS	PO BOX 955		BAR HARBOR	ME	04609
115	104-446-000	CHAI, LEON	RYAN, CARA	19 SCHOOL STREET		BAR HARBOR	ME	04609
116	104-077-000	CHANT ENTERPRISES, LLC		C/O MATTHEW BRESTLE	505 GREENWAY DRIVE	NORTH PALM BEACH	FL	33408
117	104-444-000	CHASE, ELIZABETH R		4 CEDAR AVENUE		BAR HARBOR	ME	04609
118	105-054-000	CHASHEL, LLC		C/O THOMAS E STEWART	64 LUPINE LANE	SYLBA	NC	28779
119	104-068-000	CHIHOSKI, DONALD R	CHIHOSKI, RUSSELL A	211 TIDEWATER DRIVE		WARWICK	RI	02889
120	104-063-000	CHILDS, KIMBERLY DAWN	MICHAEL, DOUGLAS JAMES	11 KIEF FARM ROAD		BAR HARBOR	ME	04609
121	104-525-000	CLARK, JEFFERY TRUSTEE	MOLLY REALTY TRUST	C/O EVERLASTING IMAGES	PO BOX 830	CAPE NEDDICK	ME	03902
122	104-420-000	CLEAVES, DAVID S		23 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
123	107-210-000	CLOUSE, SALVADORE		2 SHANNON ROAD		BAR HARBOR	ME	04609
124	104-107-000	COB PEN INC		PO BOX 32		BAR HARBOR	ME	04609
125	104-034-000	COBALT PROPERTIES LLC		55 UNION ST, SUITE 700		ST JOHN	NB	E2L5B7
126	104-306-000	COGGINS, WILLIAM M	COGGINS, EMILY H	PO BOX 807		VINEYARD HAVEN	MA	02568
127	104-521-000	COGGINS, WILLIAM M		66 MAIN STREET		BAR HARBOR	ME	04609
128	108-022-000	COLKET, TRISTRAM C JR		BOX 245	ROCK HILL FARM	PAOLI	PA	19301-0245
129	105-026-000	COLLIER, ROBERT V		3 DERBY LANE		BAR HARBOR	ME	04609
130	104-341-000	CONGREGATIONAL CHURCH OF B.H.	HUGHES, MARSHALL, REV.	29 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1751
131	105-081-000	CONGREGATIONAL CHURCH OF B.H.		CONGREGATIONAL CHURCH	29 MOUNT DESERT STREET	BAR HARBOR	ME	04609
132	104-342-000	CONGREGATIONAL CHURCH OF BH	REED, SANDRA	29 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1751
133	104-128-000	COOPERSMITH, JACK	COOPERSMITH, SHERRI L	1685 STATE HWY 102		BAR HARBOR	ME	04609

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
134	104-511-000	COSTON, CHRISTOPHER E		PO BOX 352		BAR HARBOR	ME	04609
135	108-054-000	COSTON, DAVID JAMES		1 WAYMAN LANE		BAR HARBOR	ME	04609
136	104-398-000	COSTON, PAUL A JR		38 RODICK STREET		BAR HARBOR	ME	04609
137	104-061-000	COTTAGE ON COTTAGE	ALLGOOD JOHN, ET ALS	200 SAND POINT ROAD		BAR HARBOR	ME	04609
138	104-242-000	COUGH BROTHERS INC		C/O JAMES COUGH	32 ORKNEY STREET	PORTLAND	ME	04103
139	104-242-001	COUGH BROTHERS, INC	C/O JAMES COUGH	32 ORKNEY STREET		PORTLAND	ME	04103
140	107-096-000	CRICELAIR, THOMAS G		369 CROOKED RD		BAR HARBOR	ME	04609
141	104-426-000	CROCK, SALLY S.		2121 DEWEY STREET		SANTA MONICA	CA	90405
142	104-427-000	CROCK, SALLY SCULLY TRUSTEE	SALLY SCULLY CROCK TRUST	2121 DEWEY STREET		SANTA MONICA	CA	90405
143	104-470-000	CRONIN, RYAN	SLAVIN, TIMOTHY	180 GATES STREET		PORTSMOUTH	NH	03801
144	104-218-000	CROWE, BRENDA E	CROWE, RICHARD D III	27 VALLEY VIEW ROAD		HOLDEN	ME	04729
145	104-453-000	CTW, LLC		7 TEMPLE STREET		BAR HARBOR	ME	04609
146	104-466-000	CTW, LLC		7 TEMPLE ST		BAR HARBOR	ME	04609
147	108-002-000	CUNNINGHAM, SADIE F.		C/O MICHAEL CUNNINGHAM	2 MINUTEMAN DRIVE	SCARBOROUGH	ME	04074
148	105-056-000	CURRAN, KEVIN B	CURRAN, LEE M	42 WESTBURY DRIVE		SPARTA	NJ	07871
149	108-049-000	CURTIS, CHERYL D		901 LEXINGTON VLG		PEACHTREE CITY	GA	30269
150	104-524-000	CURTIS, JEFFREY D	CURTIS, AUDREY L	5 COMMERCIAL STREET		BOOTHBAY HARBOR	ME	04538
151	104-137-000	CURTIS, MATTHEW S		48 MT DESERT ST		BAR HARBOR	ME	04609
152	107-129-000	CUTLER, ELIZABETH		PO BOX 806		BAR HARBOR	ME	04609
153	107-092-000	D'AGOSTINO, NANCY C		8 WESCOTT AVENUE		BAR HARBOR	ME	04609
154	104-186-000	DAIGLE ENTERPRISES, LLC		39 HOLLAND AVENUE		BAR HARBOR	ME	04609
155	104-088-000	DALCH III, WALTER EDWARD	DALCH, SUZANNE M.	1004 PRISCILLA LANE		ALEXANDRIA	VA	22308
156	104-036-000	DALTON, GREGORY W	DALTON, ANNE A	7 ROCKY ROAD		MOUNT DESERT	ME	04660
157	104-423-000	DAMM, EDWARD A	DAMM, ANNIE I	24 LEDGELAWN AVE		BAR HARBOR	ME	04609
158	104-387-000	DAVID B PAINE, INC		80 COTTAGE STREET		BAR HARBOR	ME	04609
159	104-125-000	DAVIS, ARTHUR	C/O SPINDLETOP, INC	19 MAIN STREET		BAR HARBOR	ME	04609-1731
160	104-283-000	DAVIS, ROGER K	CONSTANTINE-DAVIS, JEAN JT	18705 WILLOW OAK DRIVE		DERWOOD	MD	20855
161	104-437-000	DAVIS, SCOTT G	DAVIS, MONICA C	5 CEDAR AVENUE		BAR HARBOR	ME	04609
162	107-090-000	DECHEUBELL, ALAN		16 CEDAR AVE		BAR HARBOR	ME	04609
163	105-006-000	DEMAS, GEORGE N		81 WHISPERING PINES DRIVE		PALM COAST	FL	32164
164	107-185-000	DEMURO, ELISA M		12B 1ST SOUTH ST		BAR HARBOR	ME	04609
165	104-473-000	DEMURO, LEONARD J JR		7 DES ISLE AVENUE		BAR HARBOR	ME	04609-1710
166	104-169-000	DENEGRE, JAMES M	HAYAMIZUI, TERRY F	21 EDEN STREET		BAR HARBOR	ME	04609
167	107-161-000	DES ISLE LLC		C/O WILLIAM FERM ESQ	PO BOX 804	ELLSWORTH	ME	04605
168	104-389-000	DESIMONE, ROBERT J		PO BOX 80		BAR HARBOR	ME	04609
169	104-136-000	DFTM, INC		21A COTTAGE ST		BAR HARBOR	ME	04609
170	108-056-000	DICKSON, GEORGE A III	DICKSON, KELLY S	15 NORTH TERRACE		CAMBRIDGE	UK	CB58DJ
171	107-204-000	DNS-JR HOLDINGS LLC		PO BOX 761		ELLSWORTH	ME	04605
172	104-181-000	DOBBS, JEFFERSON	COPLON, SAMUEL R	112 COTTAGE STREET		BAR HARBOR	ME	04609
173	105-067-000	DOBBS, JEFFERSON G	DOBBS, WALTER B	30 GREELEY AVE		BAR HARBOR	ME	04609
174	104-502-000	DOHERTY, DIANA L		PO BOX 604		BAR HARBOR	ME	04609
175	104-356-000	DONAHUE, MICHAEL A	DONAHUE, LEAH R	118 NORWAY DRIVE		BAR HARBOR	ME	04609
176	104-349-000	DOREIKA, LEO J	DOREIKA, EILEEN R	10 KENNBEC STREET		BAR HARBOR	ME	04609
177	107-155-000	DOW, DAVID	DOW, TAMMY	4 ASH STREET		BAR HARBOR	ME	04609
178	104-469-000	DRUMMOND, EILEEN E		15 NEWTON WAY		BAR HARBOR	ME	04609
179	104-322-000	DRURY, MARY C TRUSTEE	MARY C DRURY LIVING TRUST	10 HIGH STREET		BAR HARBOR	ME	04609

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
180	108-072-000	DUFRESNE, LLC		16 BOWLES AVE		BAR HARBOR	ME	04609
181	107-198-000	DUNN, THOMAS G	DUNN, PENNY L	PO BOX 64		HULLS COVE	ME	04644
182	104-248-000	DUPRAY, DAVID M		52 GREELEY AVENUE		BAR HARBOR	ME	04609
183	104-099-000	DXD INVESTMENTS, LLC		WEST STREET CAFE	76 WEST STREET	BAR HARBOR	ME	04609
184	105-066-000	DYER, DEBORAH M		26 HANCOCK STREET		BAR HARBOR	ME	04609
185	104-037-000	EARLY-WARD, ERIN C		4 HOLLAND AVENUE		BAR HARBOR	ME	04609
186	108-047-000	EASA, EASA	EASA, PATRICIA	303 CHESTNUT STREET		WEST HEMPSTEAD	NY	11552-2422
187	107-187-000	EASTER, DUSTIN T		61 LEE BROOK ROAD		THORNTON	NH	03223
188	104-303-002	EATON, DWIGHT L		12 EATON LANE		BROOKSVILLE	ME	04617
189	104-271-000	EDEN MANOR LLC		3 WAYMAN LANE		BAR HARBOR	ME	04609
190	104-321-000	EDWARDS, BRUCE		16 HIGH STREET		BAR HARBOR	ME	04609
191	104-263-000	EHRlich, JOSHUA S	IRELAND, LISA M	20 GREELEY AVENUE		BAR HARBOR	ME	04609
192	104-368-000	EIDER COVE, INC		201 BAYVIEW DRIVE		BAR HARBOR	ME	04609
193	104-365-000	ELEFTHERIOU, BASIL E JR	SOROKIN, HEATHER L	182 PINE HEATH ROAD		BAR HARBOR	ME	04609
194	104-062-000	ELK, JAMES W	ELK, CATHERINE	577 NORWAY DRIVE		BAR HARBOR	ME	04609
195	104-397-000	ELLIS, SYLVESTER		34 BREEZY BAY ROAD		BAR HARBOR	ME	04609-1810
196	107-219-000	EMERA MAINE		ATTN PROPERTY TAX DEPT	970 ILLINOIS AVE	BANGOR	ME	04402-0932
197	104-070-000	EN FAMILLE, LLC		19 STRAWBERRY HILL RD		BAR HARBOR	ME	04609
198	107-176-000	ERICKSON, JEFFRY W	MURPHY, SUSAN C	11 1ST SOUTH STREET		BAR HARBOR	ME	04609
199	104-457-000	EVERGREEN POTTERY, LLC		785 OAK POINT RD		TRENTON	ME	04605
200	104-276-000	FARLEY, MERTON W JR		63 GREELEY AVENUE		BAR HARBOR	ME	04609-1432
201	104-166-000	FENNO, H LINCOLN	FENNO, DENICE A	136 COTTAGE STREET		BAR HARBOR	ME	04609
202	105-070-000	FENTON-HATHAWAY, KATHERINE L	KATHERINE FENTON-HATHAWAY	3240 N LAKESHORE DRIVE	APT 15B	CHICAGO	IL	60657
203	108-055-000	FIELD, CHRISTOPHER I	FIELD, KATHLEEN M	3 WAYMAN LANE		BAR HARBOR	ME	04609
204	105-005-000	FIELD, KATHLEEN M	FIELD, CHRISTOPHER I	3 WAYMAN LN		BAR HARBOR	ME	04609
205	104-081-000	FINE, MARC S	FINE, MARION M	21 FEDERAL STREET		BAR HARBOR	ME	04609
206	107-095-001	FIRST BAPTIST CHURCH OF BAR		46 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
207	105-003-000	FIRST NATIONAL BANK OF B.H.		PO BOX A	MAIN STREET	BAR HARBOR	ME	04609
208	104-495-000	FITZGERALD, CHARLES		117 VAUGHN ROAD		DOVER-FOXCROFT	ME	04426
209	104-163-000	FLEMINGS, ELSPETH M	CLEARY, RICHARD C	25 EDEN STREET		BAR HARBOR	ME	04609
210	104-431-000	FLETCHER, WILSON C	FLETCHER, ALISON E	2 KAVANAUGH PLACE		BAR HARBOR	ME	04609-1726
211	107-182-000	FRAZIER, BEVERLY M		20 FIRST SOUTH STREET		BAR HARBOR	ME	04609-1713
212	104-132-000	FRED BETESH, INC		57 MAIN STREET		BAR HARBOR	ME	04609-1845
213	104-222-000	FRIEDLANDER, JOHN J		2 MYRTLE AVENUE		BAR HARBOR	ME	04609
214	107-162-000	FRIEDMANN, GARY R	FRIEDMANN, GLENON J	7 PINE STREET		BAR HARBOR	ME	04609
215	104-178-000	FROST, DONALD M	FROST, MOLLIE H	9 MYRTLE AVENUE		BAR HARBOR	ME	04609-1421
216	104-348-000	GAINES, HOWARD N	GAINES, DONNA S	1008 N LIBERTY STREET		ARLINGTON	VA	22205
217	104-304-000	GALLAGHER, APRIL R		442 EAST CENTER AVE		NEWTON	PA	18940
218	107-183-000	GALLAGHER, BRIAN J	GALLAGHER, MELISSA E	88 MOYER RD		TELFORD	PA	18969
219	107-139-000	GALPERIN, PHILIP A	GALPERIN, MARY E	604 SAINT ANDREWS DRIVE		CAPE MAY CT HOUSE	NJ	08210
220	104-441-000	GARIEPY, ADAM R	GARIEPY, BROOKE B JT	6 ASH STREET		BAR HARBOR	ME	04609
221	107-154-000	GARIEPY, BROOKE A	GARIEPY, ADAM	6 ASH STREET		BAR HARBOR	ME	04609
222	104-157-000	GEIGER, ELIZABETH J		130 COTTAGE STREET		BAR HARBOR	ME	04609
223	105-016-003	GERSTNER, JOSEPH S.	GERSTNER, CATHRYN C.	15 HIGHLAND STREET # 213		WEST HARTFORD	CT	06119
224	104-501-000	GIARRUSSO, ROY P	GIARRUSSO, KRISTEN F	2 BUTTON COVE ROAD		HINGHAM	MA	02043
225	107-127-000	GLOVER, ANDREW J	GLOVER, EMILY W	3973 GAGE CENTER		SAN JOSE	CA	95124
226	104-095-000	GOLD PARK, LLC		1000 MARKET ST	BUILDING ONE, SUITE 300	PORTSMOUTH	NH	03801
227	104-010-000	GOLDEN ANCHOR, L C		1000 MARKET STREET	BUILDING ONE, SUITE 300	PORTSMOUTH	NH	03801

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
228	104-325-000	GOLDEN PERCH, LLC		6 HIGH STREET		BAR HARBOR	ME	04609
229	105-009-000	GOLDTHWAIT, SHELDON F JR	GOLDTHWAIT, JILL	22 ALBERT MEADOW		BAR HARBOR	ME	04609
230	104-032-000	GOODRICH, KEITH N.		PO BOX 947		BAR HARBOR	ME	04609
231	107-186-000	GOODWIN, JANICE M	GOODWIN, GORDON	28 WEST STREET EXTENSION		BAR HARBOR	ME	04609
232	104-526-000	GORER, ELIZABETH ET ALS		142 MOUNTAIN AVENUE		CAMDEN	ME	04843
233	107-147-000	GOWER, CHARLES E		73 SCHOOL STREET		BAR HARBOR	ME	04609
234	Account Number	Grantee	Co_grantee's Name	Mailing Address	Mailing Address 2	City	State	Zip
235	105-087-000	GRAVES, MICHAEL H		10 ALBERT MEADOW		BAR HARBOR	ME	04609
236	104-119-000	GRAY, RAYMOND C		286 A MAIN STREET		BAR HARBOR	ME	04609
237	104-452-000	GREENBERG, RON TRUSTEE	GREENBERG, KAREN A TRUSTEE	203 OAK HILL ROAD		BAR HARBOR	ME	04609
238	104-170-000	GREGORY, LINDA L ET AL	GREY, JEFFREY J	560 WHITEWOOD DRIVE		SAN RAFAEL	CA	94903
239	104-220-000	GUIDI, ALLISON		4 MYRTLE AVENUE		BAR HARBOR	ME	04609
240	107-125-000	GUTRADT, GAIL		PO BOX 714		BAR HARBOR	ME	04609
241	104-451-000	H & P ENTERPRISES LLC		PO BOX 551		BAR HARBOR	ME	04609
242	104-267-000	H A BROWN FURNITURE CO		17 HODGKINS LANE		LAMOINE	ME	04605
243	107-214-000	HALL, HYLIE J K		66 SCHOOL STREET		BAR HARBOR	ME	04609
244	104-173-000	HALLETT, KARL W	HALLETT, TRACY L (JT)	59 SANDY LANE		BAR HARBOR	ME	04609
245	105-007-002	HAMMOND, SCOTT S	HAMMOND, DEBRA W	43 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
246	104-310-000	HAMOR, BRIAN TRUSTEE	MARITAL TRUST UNDER L HAMOR	C/O ROSS AGENCY	PO BOX 1123	ELLSWORTH	ME	04605
247	104-141-000	HANDEL, RICHARD W JR	HANDEL, MARILYN G	PO BOX 23		BAR HARBOR	ME	04609
248	104-111-000	HANLEY, DANIEL A.	HANLEY, DENISE A.	417 SEABREEZE AVENUE		PALM BEACH	FL	33480-4107
249	104-126-000	HANNAN, FREDERICK L	HANNAN-SMITH, PATRICIA A	55 HURD POINT ROAD		DEDHAM	ME	04429
250	108-067-000	HANSCOM & HANSCOM, LLC		359 MAIN STREET		BAR HARBOR	ME	04609
251	107-164-000	HARDY, TODD D	HARDY, KRISTEN J	25 A FIRST SOUTH STREET		BAR HARBOR	ME	04609
252	104-425-000	HASKELL, BRADFORD D	HASKELL, CARLA M	20 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
253	107-091-000	HATCH, DONNA L		25 SCHOOL STREET		BAR HARBOR	ME	04609
254	104-101-000	HATHAWAY, SUSANNE S		3 FEDERAL STREET		BAR HARBOR	ME	04609
255	104-394-000	HATSANA, LLC		PO BOX 964		BAR HARBOR	ME	04609
256	105-075-000	HEDEN, DOUGLAS J	HEDEN, BECKY N	7 ATLANTIC AVENUE		BAR HARBOR	ME	04609
257	104-302-000	HELFRICH, ELLEN M		12 ROBERTS AVENUE		BAR HARBOR	ME	04609
258	104-091-004	HELFRICH, ELLEN MARTHA		12 ROBERTS AVE		BAR HARBOR	ME	04609
259	104-357-000	HEPBURN, BARBARA F		37 RODICK STREET		BAR HARBOR	ME	04609-1805
260	104-075-000	HERSEY, ANDREA		2 BILLINGS AVE		BAR HARBOR	ME	04609
261	104-467-000	HEWLETT ENTERPRISES LIMITED		60 MARINE STREET		ST AUGUSTINE	FL	32084
262	105-018-000	HEWLETT ENTERPRISES LTD		21 ALBERT MEADOW		BAR HARBOR	ME	04609
263	105-016-005	HOARE, DENNIS L	HOARE, SUSAN K JT	117 KEARNEY COURT		NOLENVILLE	TN	37135
264	107-108-000	HODGKINS, A B	HODGKINS, J R	45 SCHOOL STREET		BAR HARBOR	ME	04609-1732
265	105-033-000	HOLLEY, DUNCAN H	HOLLEY, KRISTIN D	8 ATLANTIC AVENUE		BAR HARBOR	ME	04609
266	107-240-000	HUBBELL, BRIAN L	HUBBELL, ELIZABETH A	66 PARK STREET		BAR HARBOR	ME	04609
267	107-121-000	HUBBELL, SUZANNE		PO BOX 7		MILBRIDGE	ME	04609
268	104-161-000	HULBERT, IAN A		320 COPELAND HILL ROAD		HOLDEN	ME	04429
269	104-520-000	HULBERT, STEVENS R TRUSTEE	HULBERT, MARILYN R TRUSTEE	PO BOX 974		BAR HARBOR	ME	04609
270	104-051-000	HULBERT, THOMAS M		PO BOX 634		BAR HARBOR	ME	04609
271	107-140-000	HUNTER, NORENE		26 PLEASANT STREET		BAR HARBOR	ME	04609
272	104-449-000	HURD, RONALD E	HURD, MARLENE M	12 SCHOOL STREET		BAR HARBOR	ME	04609-1722
273	104-105-000	HURLEY, DAVID D	HATHAWAY SUSANNE S	3 FEDERAL STREET		BAR HARBOR	ME	04609
274	104-287-000	HUTCHINS, BOBBIE LYNN		1501 STATE HGWY 102		BAR HARBOR	ME	04609

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
275	104-175-000	INTOWN BAR HARBOR LLC		C/O JOHN F KURGAN	1 MYRTLE AVENUE	BAR HARBOR	ME	04609
276	104-382-002	ISLAND ARTISANS INC		P.O. BOX 793		BAR HARBOR	ME	04609
277	107-177-000	ISLAND HOUSING CORPORATION		28 WEST STREET EXTENSION		BAR HARBOR	ME	04609
278	104-492-000	IVY MANOR INN	C/O ROBERT & JUDY STANLEY	194 MAIN STREET		BAR HARBOR	ME	04609-1742
279	104-380-000	J & S CORP		2031 EAST 12TH ST		BROOKLYN	NY	11229
280	104-393-000	JAMES PIKE, LLC		32 RODICK ST, APT 2		BAR HARBOR	ME	04609
281	107-118-000	JARVIS, PETER G		982 RIVER ROAD		HOLLIS	ME	04042
282	107-151-000	JAUCH, ANDREW	GOWER, LAURA JT	18 ASH STREET		BAR HARBOR	ME	04609
283	104-434-000	JESUP MEMORIAL LIB OF BH		34 MOUNT DESERT STREET		BAR HARBOR	ME	04609
284	105-007-000	JOEL MAGYAR, PETER & SALLY	FAMILY LTD PARTNERSHIP	STEPHENS LANE		BAR HARBOR	ME	04609
285	104-017-000	JOHN, SIMON W M	JOHN, LISA D	7 HOLLAND AVENUE		BAR HARBOR	ME	04609-1414
286	104-500-000	JOHNSON, ROGER C	JOHNSON, PAULINE L	11 ALBERT MEADOW		BAR HARBOR	ME	04609
287	104-167-000	JONES, CARRIE	FARRAR, SHAUN K JT	98 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
288	107-146-000	JONES, CARRIE E	FARRAR, SHAUN K JT	98 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
289	107-181-000	JONES, PETER	JONES, MARLA	22 FIRST SOUTH STREET		BAR HARBOR	ME	04609
290	104-265-000	JOPEK, WILLIAM M.	JOPEK, KAREN K.	16 GREELEY AVENUE		BAR HARBOR	MA	04609
291	104-104-000	JOYCE, SHARON		PO BOX 536		BAR HARBOR	ME	04609
292	104-103-000	JOYCE, SHARON LEE		PO BOX 536		BAR HARBOR	ME	04609
293	107-093-000	JUDSON, PORTIA		7A WESCOTT AVE	APT #1	BAR HARBOR	ME	04609
294	104-066-000	KASE, JEFFERY	KASE, ELIZABETH	20 BRIDGE ST		BAR HARBOR	ME	04609-1407
295	105-002-000	KASINDORF, ROY	HARTON, HELENE	16 THE FIELD		BAR HARBOR	ME	04609
296	104-468-000	KEELEY, SHAWN	KEELEY, SARAH JT	337 MAIN STREET		BAR HARBOR	ME	04609
297	107-170-000	KEENEY, KAREN A		127 LOOKOUT POINT RD		BAR HARBOR	ME	04609
298	107-160-000	KELLY, JAMES P	KELLY, JULIE FULTON	19 DES ISLE AVENUE		BAR HARBOR	ME	04609
299	104-331-000	KENNEBEC COTTAGE ASSOC, LLC		PO BOX 46		BAR HARBOR	ME	04609
300	104-223-000	KIEF, DAVID L	KIRK, CHRISTINE A	463 NORWAY DRIVE		BAR HARBOR	ME	04609
301	105-071-000	KIEF, DAVID PR & KIEF, KATHRYN PR	COLE, KAREN KIEF PR	ESTATE OF JEAN H KIEF	463 NORWAY DRIVE	BAR HARBOR	ME	04609
302	107-120-000	KIERS, MICHAEL D	TROWBRIDGE, JENNIFER J	32 PLEASANT STREET		BAR HARBOR	ME	04609
303	104-424-000	KOLLMAN, JOHN F	KOLLMAN, GAYLE H	22 LEDGELAWN AVE		BAR HARBOR	ME	04609-1304
304	107-084-000	KRASON, LAWRENCE S		208 STATE HWY 3		BAR HARBOR	ME	04609-1706
305	104-091-003	KRASSOWSKI, DAVID N	KRASSOWSKI, ELAINE	400 GOLDEN EAGLE DRIVE		BROOMFIELD	CO	800200
306	104-045-000	LABIANCA, MICHELE		157 OTTER CLIFF ROAD		BAR HARBOR	ME	04609
307	104-076-000	LABIANCA, MICHELE S	LABANCA, DORRIE	7 FEDERAL STREET		BAR HARBOR	ME	04609
308	107-085-000	LAMBERT, GEORGE R III		36 LEDGELAWN AVE		BAR HARBOR	ME	04609
309	105-088-000	LAMBERT, GEORGE R JR	LAMBERT, CLAIRE E	5 ATLANTIC AVENUE		BAR HARBOR	ME	04609-1703
310	108-006-000	LAMBERT, JAMES J	LAMBERT, BARBARA H	C/O STEVE WHEATON PA	2640E 7TH STREET	TUCSON	AZ	85716
311	104-227-000	LANGLEY, STEPHEN H		12 MAPLE AVENUE		BAR HARBOR	ME	04609
312	107-106-000	LAW, CELESTE		PO BOX 539		MOUNT DESERT	ME	04660
313	104-439-000	LAWFORD, HOMER R	LAWFORD, MARCIA D	9 KAVANAUGH PLACE		BAR HARBOR	ME	04609-1726
314	104-415-000	LAWNLEDGE HOUSE, LLC	ATTN: LISA ADE	1000 MARKET ST	BLDG ONE, SUITE 300	PORTSMOUTH	NH	03801
315	104-247-000	LEIGHTON, PHYLLIS H		54 GREELEY AVENUE		BAR HARBOR	ME	04609
316	104-121-000	LEISER, RICHARD	LEISER, GAIL	PO BOX 411		BAR HARBOR	ME	04609-0411
317	104-150-000	LEISER, RICHARD G.	LEISER, GAIL GLOVER	65 KEBO STREET		BAR HARBOR	ME	04609
318	104-015-000	LEWIS-CLAPPER, R. CASKIE	CLAPPER, GERARD F	15757 NORTH 90TH PLACE	APT 2003	SCOTTSDALE	AZ	85260
319	107-141-000	LI, HONGRUN		12 MOUNT DESERT STREET, STE B		BAR HARBOR	ME	04609
320	104-513-000	LIBBY, RICHARD S	LIBBY, NANCY C	C/O SELINA MCGLAUFLIN POA	2207 MIDDLE ROAD	SIDNEY	ME	04330
321	107-205-000	LINN, MAX P TRUSTEE	MAX P LINN TRUST	9 NEWTON WAY		BAR HARBOR	ME	04609

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
322	104-219-000	LLOYD, JOHN T	LLOYD, LANEY R	867 LUDLOW RD		LUDLOW	ME	04730
323	104-461-000	LOELZORO, LLC		16 THE FIELD		BAR HARBOR	ME	04609
324	104-311-000	LOZANO, ANDRE L		PO BOX 363		BAR HARBOR	ME	04609
325	107-165-000	LOZANO, AUGUST J JR	LOZANO, MARYELLEN S	34C SCHOOL STREET		BAR HARBOR	ME	04609
326	107-168-000	LOZANO, AUGUST J.	SARGENT, MARYELLEN	34C SCHOOL STREET		BAR HARBOR	ME	04609-1731
327	104-183-000	LRG TUCKER FAMILY, LLC		PO BOX 405		BAR HARBOR	ME	04609
328	104-345-000	LUKE, SARAH R		105 EDEN STREET		BAR HARBOR	ME	04609
329	104-014-000	LYONS, LINDA G		134 WEST STREET		BAR HARBOR	ME	04609
330	104-438-000	MACCULLOCH, KATHY		7 RICHTOWN ROAD		BERNARD	ME	04612
331	105-069-000	MACE, PATRICIA A	MACE, RICHARD M	16 HANCOCK STREET		BAR HARBOR	ME	04609
332	105-080-000	MACE, RICHARD M		16 HANCOCK STREET		BAR HARBOR	ME	04609
333	107-150-000	MACGOWN, DOUGLAS N		20 ASH STREET		BAR HARBOR	ME	04609-1602
334	104-351-000	MACGREGOR, JESSIE ARLEEN		205 OLD ROUTE ONE		HANCOCK	ME	04640
335	104-442-000	MACK, RODERICK G II	WEBER, JILL E	9 CEDAR AVENUE		BAR HARBOR	ME	04609
336	104-187-000	MACQUINN, E BARBARA TRUSTEE ET	E BARBARA MACQUINN MARITAL	41 HOLLAND AVENUE		BAR HARBOR	ME	04609
337	107-117-000	MACQUINN, RONALD P JR		180 STATE HWY 3		BAR HARBOR	ME	04609
338	107-169-000	MADDATU, DR TERRY P		32 SCHOOL STREET		BAR HARBOR	ME	04609
339	104-337-000	MAFFUCCI, BARBARA P & DOUGLAS	BARBARA PATTEN MAFFUCCI TRUST	15 KNOX ROAD		BAR HARBOR	ME	04609
340	104-336-000	MAFFUCCI, DOUGLAS & BARBARA,	DOUGLAS CHRISTOPHER MAFFUCCI	15 KNOX ROAD		BAR HARBOR	ME	04609
341	104-416-000	MAGGIE'S, LLC		2 MOUNTAIN AVE		BAR HARBOR	ME	04609
342	105-007-001	MAGYAR, JOEL C TRUSTEE	JOEL C MAGYAR REVOCABLE TRUST	14250 ROYAL HARBOUR CT	UNIT 1213	FORT MYERS	FL	33908
343	104-285-000	MAHONEY, DANIEL M	BAKER, JODI L	7 MEADOW DRIVE		BAR HARBOR	ME	04609
344	104-465-000	MAINE OFFICE, LLC		204 37TH AVE NORTH, #449		ST PETERSBURG	FL	33704
345	104-024-000	MARINKE, THOMAS		123 COTTAGE STREET		BAR HARBOR	ME	04609-1442
346	107-175-000	MARINO, ELLEN H TRUSTEE	MARILYNE B MARINO LIVING TRUST	225 EISENHOWER DRIVE		ORWIGSBURG	PA	17961
347	104-421-000	MARTIN, LAWRENCE H JR	MARTIN, LINDA L	25 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
348	104-135-000	MBR, INC		21 COTTAGE STREET		BAR HARBOR	ME	04609
349	108-061-000	MCARTOR, WILLIAM A	SEARS, ELIZABETH A	PO BOX 409		NORTON	MA	02766
350	104-188-000	MCCALLION, BRANDAN E	MCCALLION, MONIKA K	47 HOLLAND AVENUE		BAR HARBOR	ME	04609
351	104-158-000	MCCANN, ROBERT J	MCCANN, MICHELLE	128 COTTAGE STREET		BAR HARBOR	ME	04609-1410
352	104-535-000	MCEACHERN, LESLIE W	MCEACHERN, JANET L	HCR 33 BOX 69		BASS HARBOR	ME	04653-9704
353	104-179-000	MCFARLAND, BOYD W	MCFARLAND, LINDA M	11 MYRTLE AVENUE		BAR HARBOR	ME	04609-0262
354	104-093-000	MCFARLAND, DONNA LYNN		51 GLEN MARY RD		BAR HARBOR	ME	04609
355	104-430-000	MCFARLAND, VERNON S JR		42 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1747
356	104-091-000	MCFARLAND, WILLIAM		63 COTTAGE STREET		BAR HARBOR	ME	04609
357	104-022-000	MCFARLAND, WILLIAM K	MCFARLAND, KAREN A	113A COTTAGE STREET		BAR HARBOR	ME	04609-1442
358	104-471-000	MCINNIS, JAMES V JR	MCINNIS, DONNA O	18 SCHOOL STREET		BAR HARBOR	ME	04609
359	104-065-000	MCPARTLIN, TIMOTHY	CUSACK, EVA-MARIE	3 SHERWOOD PL		STATEN ISLAND	NY	10308
360	104-413-000	ME PROPERTIES, LLC		74 MOUNT DESERT STREET		BAR HARBOR	ME	04609
361	104-386-000	MEDDYBEMPS LAND TRUST OF 2006		109 MAIN STREET		BAR HARBOR	ME	04609
362	104-447-000	MEEHAN, DENNIS A	EDWARDS, LAURA E	23 SCHOOL STREET		BAR HARBOR	ME	04609-1733
363	104-282-000	MEGQUIER, GLENN A		4 ROBERTS SQUARE		BAR HARBOR	ME	04609
364	104-509-000	MELASECCA, RICHARD M		PO BOX 869		BAR HARBOR	ME	04609

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2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
365	104-091-001	MELLOW, ALICIA & VICTOR,	THE ALICIA C MELLOW LT DATED	400 NORTH MAIN STREET, APT 305		GREENVILLE	SC	29601
366	104-436-003	MILLER, JEFFREY R		P.O. BOX 806		BAR HARBOR	ME	04609
367	104-023-000	MINUTOLO, ALBERT F	MINUTOLO, JOSEPH R	141 COTTAGE STREET		BAR HARBOR	ME	04609
368	104-026-000	MINUTOLO, JOSEPH L.	MINUTOLO, ALBERT F.	3 CADILLAC AVE		BAR HARBOR	ME	04609
369	104-308-000	MOON, STEPHEN H		1 HIGH STREET		BAR HARBOR	ME	04609
370	105-029-000	MOORE-TESTA, KATHERINE M		8 DERBY LANE		BAR HARBOR	ME	04609
371	108-058-000	MORSE, SUZANNE R		9 WAYMAN LN		BAR HARBOR	ME	04609
372	107-191-000	MOUNT DESERT ISLAND HOSPITAL		10 WAYMAN LANE		BAR HARBOR	ME	04609
373	104-414-000	MOUNT DESERT STREET LLC		38 RODICK STREET		BAR HARBOR	ME	04609
374	104-230-000	MSB LEASEING, LLC		PO BOX 318		MACHIAS	ME	04654
375	108-009-000	MTB LLC		PO BOX 876		BUCKSPORT	ME	04416
376	104-354-000	MULLEN, JOHN P & BRENDA L.	VANDENBOSCH, % P. CLIFFORD	ACADIA BIKE & CANOE	PO BOX 405	BAR HARBOR	ME	04609
377	105-068-000	MURRAY, STEPHEN A	MURRAY, REBECCA J	18 HANCOCK STREET		BAR HARBOR	ME	04609
378	104-141-002	NATIONAL PARK SEA KAYAK TOURS		PO BOX 705		BAR HARBOR	ME	04609
379	104-475-000	NEWTON PROPERTY, LLC		PO BOX 343		SULLIVAN	ME	04664
380	104-303-000	NH REALTY		109 MAIN STREET		BAR HARBOR	ME	04609
381	108-012-000	NORDAN, RICHARD	NORDAN, MISSY JT	3322 ROLLER MILL COURT		RALEIGH	NC	27607
382	104-191-000	NORTHERN NEW ENGLAND	TELEPHONE OPERATIONS, LLC	PO BOX 1659		BANGOR	ME	04402
383	104-016-000	NORTON, SANDRA F TRUSTEE	NORTON, PHILIP B TRUSTEE	SANDRA F NORTON REVOC LIV TR	13897 LONG LAKE LANE	PORT CHARLOTTE	FL	33953
384	104-044-000	NORWOOD, WALTER J	NORWOOD, HELEN L	25 BRIDGE STREET		BAR HARBOR	ME	04609
385	105-004-000	NOTSOC, INC		PO BOX 352		BAR HARBOR	ME	04609
386	104-240-000	O'BRIEN, JOHN S	EVELAND, RUTH A	22 ASH PL		BAR HARBOR	ME	04609
387	105-015-000	O'CONNELL, TERENCE E	HUGHES, RICHARD G	44 HOLLAND AVENUE		BAR HARBOR	ME	04609-1433
388	107-130-000	O'CONNOR, JOSEPH F	O'CONNOR, CONSTANCE J	115 N WAKEFIELD STREET		ARLINGTON	VA	22203-2622
389	104-054-000	O'CONNOR, MARGARET	DBA MAGGIES CLASSIC SCALES	234 CROOKED ROAD		BAR HARBOR	ME	04609-1424
390	104-060-000	OH, TIMOTHY	PARK, AUDREE	67 COTTAGE ST		BAR HARBOR	ME	04609
391	107-163-000	O'HALLORAN, D L		99 CLOVER LANE		BREWER	ME	04412
392	104-392-000	OLD POLICE STATION LLC		38 RODICK STREET		BAR HARBOR	ME	04609
393	108-033-000	OLIVER STREET PROPERTY, LLC	C/O DEBORAH MCCOY BARTLETT	66 FREDERICKS RD		GLENVILLE	NY	12302
394	104-363-000	OLSON, ERIC J		PO BOX 860		BAR HARBOR	ME	04609-1805
395	104-049-000	ONEIL, BRADLEY	ONEIL, MARGARET	234 CROOKED RD		BAR HARBOR	ME	04609
396	104-269-000	ONEIL, BRADLEY A	ONEIL, MARGARET JT	234 CROOKED ROAD		BAR HARBOR	ME	04609
397	104-106-000	PAINE, DAVID B		80 COTTAGE STREET		BAR HARBOR	ME	04609-1441
398	104-485-000	PAINE, DEAN B	MACE, DANIELLE A	240 MAIN STREET		BAR HARBOR	ME	04609
399	104-443-000	PAINE, EDWARD N	PAINE, PATRICIA A	8 CEDAR AVE		BAR HARBOR	ME	04609-1706
400	108-031-000	PAINTER, DAVID M	DUDZIK, MARY E	6 LIVINGSTON ROAD		BAR HARBOR	ME	04609-1737
401	105-027-000	PAQUET, MARY H LT	BIAS, LINDA V ET AL	10133 BRIDLEWOOD AVENUE		ORLANDO	FL	32825
402	104-463-000	PARADY, STEVEN		195 MAIN STREET, UNIT #3		BAR HARBOR	ME	04609
403	104-462-002	PARADY, STEVEN K	PARADY, CYNTHIA A JT	195 MAIN STREET #3		BAR HARBOR	ME	04609
404	107-180-000	PARADY, STEVEN K		195 MAIN STREET #3		BAR HARBOR	ME	04609
405	104-458-000	PARKSIDE PARTNERS, LLC		9500 SOUTH WEST 61ST COURT		PINECREST	FL	33156
406	104-286-000	PAUL, ANITA	PAUL, HOWARD	123 A EAST MAIN STREET		MERRIMAC	MA	01860-1917
407	104-436-001	PERIWINKLE COTTAGE OF BAR		3322 ROLLER MILL CT		RALEIGH	NC	27607
408	107-118-001	PERSEUS PROPERTIES LLC		45 GLEN MARY ROAD		BAR HARBOR	ME	04609
409	107-118-002	PERSEUS PROPERTIES, LLC		PO BOX 797		BAR HARBOR	ME	04609
410	107-142-000	PETERS, BRUCE W		63 SCHOOL STREET		BAR HARBOR	ME	04609
411	105-065-000	PETERS, LUANNE L TRUSTEE	LUANNE L PETERS REVOCABLE TRUST	28 HANCOCK STREET		BAR HARBOR	ME	04609

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2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
412	104-533-000	PETRA LLC		PO BOX 573		BAR HARBOR	ME	04609
413	104-229-000	PETRA, LLC		867 BAYSIDE ROAD		ELLSWORTH	ME	04605
414	104-160-000	PHIPPS, ROBERT H E	PHIPPS, B DIANE	122 COTTAGE STREET		BAR HARBOR	ME	04609
415	107-193-000	PIKE, DONNA M	STEEVES, WAYNE E	245 BIGGS PURCHASE LANE		LOTHIAN	MD	20711
416	108-071-001	PLEASANT GARDENS, LLC		PO BOX 806		BAR HARBOR	ME	04609
417	104-428-000	PLUMER, DORIS E		10 LEDGELAWN AVENUE		BAR HARBOR	ME	04609-1304
418	104-120-000	PRESTINARI, CHARLES P	PRESTINARI, DIANE J	7 MAIN STREET		BAR HARBOR	ME	04609
419	104-448-000	RAPKIEVIAN, DAVID C	RAPKIEVIAN, CAROLYN D	404 BROWN STREET		WASHINGTON GROVE	MD	20880
420	104-097-000	RASMUSSEN, IVAN C.		PO BOX 956		BAR HARBOR	ME	04609
421	104-098-000	RASMUSSEN, SHERRY J		PO BOX 956		BAR HARBOR	ME	04609
422	108-057-000	REAM, SCOTT W	REAM, DEBRA L	1 FREDON MARKSBORO RD		NEWTON	NY	07860
423	105-014-000	RECHHOLTZ, DEBORAH L		12 ALBERT MEADOW		BAR HARBOR	ME	04609
424	104-085-000	RECHHOLTZ, ROSALIE A. ET. ALS.	RECHHOLTZ, DEBORAH L.	59 COTTAGE STREET		BAR HARBOR	ME	04609-1834
425	104-074-000	REGIMBAL, BRUCE LIFE TEN		6 BILLINGS AVENUE		BAR HARBOR	ME	04609
426	104-366-000	RENCO, LLC		PO BOX 602		BAR HARBOR	ME	04609
427	104-332-000	RESSEL, STEPHEN J	RESSEL, KAREN A	15 KENNEBEC STREET		BAR HARBOR	ME	04609
428	107-190-000	RESTAURANT REALTY LLC		13 NEWTON WAY		BAR HARBOR	ME	04609
429	104-241-001	RICH, GARY C	BURNHAM, HEIDI L	11 ATLANTIC AVENUE		BAR HARBOR	ME	04609
430	107-112-000	RICHARDSON, PAUL W TRUSTEE	RICHARDSON, EDITH E TRUSTEE	35 PLEASANT STREET REALTY TR	7 INTERVALE RD	NAHANT	MA	01908
431	104-089-000	ROBINSON, KIM S TRUSTEE	NOWELL, LISA H TRUSTEE	ROBINSON NOWELL 2008 LIVING TR	2414 ELENDIL LN	DAVIS	CA	95616
432	107-152-000	ROCHON, DEBBIE W		16 ASH STREET		BAR HARBOR	ME	04609
433	104-369-000	ROCKY COAST REAL ESTATE GROUP		30 COTTAGE STREET		BAR HARBOR	ME	04609
434	104-419-000	ROMAN CATHOLIC CHURCH	REV. JAMES MARTEL	56 MOUNT DESERT ST		BAR HARBOR	ME	04609
435	104-510-000	ROPP, PATRICIA		.19 WILCOMB LN		BAR HARBOR	ME	04609
436	104-405-000	ROSS, LLC		PO BOX 1123		ELLSWORTH	ME	04605
437	105-012-000	RUBEL, RACHEL GEIST HEIRS OF	C/O MALCOM RUBEL	C/O SUSAN MCNAMARA	160 HICKS LANE	CLINTON CORNERS	NY	12514
438	107-144-000	RUSSELL, FRANKE	ROBBINS, GLEN	316 WEST RIVERBEND DRIVE		SUNRISE	FL	33326-2219
439	107-126-000	RYAN, ANNA C TRUSTEE	ANNA C RYAN LIVING TRUST	17 ASH STREET		BAR HARBOR	ME	04609-1601
440	104-532-000	SAMUEL, ROGER A		40 HOLLAND AVENUE		BAR HARBOR	ME	04609
441	104-091-005	SANDER, SCOTT	SANDER, VICTORIA	870 CARDINAL POINTS CV		SANFORD	FL	32771-8396
442	105-031-000	SANDIN, NORMAN A		604 CROOKED ROAD		BAR HARBOR	ME	04609
443	108-046-000	SAWYER, NANCY L		19 OLIVER STREET		BAR HARBOR	ME	04609
444	107-202-000	SCHAUFFLER, RICHARD P		PO BOX 102		KITTERY POINT	ME	03905
445	107-119-000	SCHERRER, PAUL		6228 1/2 SAINT MARIE STREET		PITTSBURGH	PA	15206
446	104-346-000	SCHERTENLEIB, PETER	SCHERTENLEIB, URSULA	16 KENNEBEC STREET		BAR HARBOR	ME	04609
447	104-344-000	SCHERTENLEIB, URSULA		16 KENNEBEC STREET		BAR HARBOR	ME	04609
448	107-156-000	SCHOOL STREET HOLDINGS, LLC	HONG SHAO	199 KNICKERBOCKER ROAD		DEMAREST	NJ	07627
449	104-347-000	SCHULZ, CARSTEN		27 MOORE STREET		SOMERVILLE	MA	02144
450	105-032-000	SCOTT G ALLEN, LLC	PAMELA J ALLEN, LLC	12 ATLANTIC AVENUE		BAR HARBOR	ME	04609
451	104-159-000	SCRATCH, LLC		9S119 CUMNOR ROAD		DOWNERS GROVE	IL	60516-5014
452	108-042-000	SERVAITES, MATTHEW D		11 CENTER STREET		BAR HARBOR	ME	04609
453	104-047-000	SHAW, MILFORD H	SHAW, NANCY C	7 SUMMER STREET		BAR HARBOR	ME	04609-1423
454	105-057-000	SHEA, ANDREW R	SHEA, LESLYN M	42 HANCOCK STREET		BAR HARBOR	ME	04609
455	104-309-000	SHEA, BETHANY	SHEA, DONALD R	5 HIGH STREET		BAR HARBOR	ME	04609
456	104-087-000	SHERBLOM, JOHN C	SHERBLOM, ELZABETH C	38 LEIGHTON ST		BANGOR	ME	04401
457	104-456-000	SIDMAN, CHARLES L	SIDMAN, AMY S	PO BOX 200		BAR HARBOR	ME	04609
458	104-013-000	SIPPLE, MARY T		5630 SURREY DOWNS CT		WILMINGTON	NC	28403-3411

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2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
459	108-035-000	SKIFF, CHARLOTTE S		14 LIVINGSTON ROAD		BAR HARBOR	ME	04609
460	104-029-000	SKUBA, MAXINE E TRUSTEE	MAXINE E SKUBA REVOCABLE TRUST	422 N PARK PLACE		YELLOW SPRINGS	OH	45387
461	104-484-000	SMITH, ANDREW W	BRIDGES, CYNTHIA A TC	47 PROSPECT AVENUE		BAR HARBOR	ME	04609
462	104-481-001	SMITH, BRIAN T	SMITH, JACQUELINE J JT	8 LIVINGSTON ROAD		BAR HARBOR	ME	04609
463	104-190-000	SMITH, CHADBOURN H		77 MOUNT DESERT STREET		BAR HARBOR	ME	04609
464	105-047-000	SMITH, DURAND M TRUSTEE	SMITH, THERESA J	101 CAMINO BARRANCA		PLACITAS	NM	87043
465	107-157-000	SMITH, GLENN	SMITH, CLAUDETTE M	28 SCHOOL STREET		BAR HARBOR	ME	04609-1731
466	108-048-000	SMITH, JACQUELINE	SMITH, BRIAN	15 OLIVER STREET		BAR HARBOR	ME	04609
467	108-032-000	SMITH, JACQUILINE J	SMITH, BRIAN T	15 OLIVER ST		BAR HARBOR	ME	04609
468	105-064-000	SMITH, JOAN H	SMITH, ANN	30 HANCOCK STREET		BAR HARBOR	ME	04609
469	104-226-000	SOUZA, MICHELLE		16 MAPLE AVENUE		BAR HARBOR	ME	04609
470	108-070-000	ST CLAIRE PROPERTIES LLC		59 KEBO STREET		BAR HARBOR	ME	04609
471	108-068-000	ST GERMAIN, THOMAS A JR	ST GERMAIN, NINA B	8 EAGLE LAKE ROAD		BAR HARBOR	ME	04609
472	104-053-000	ST SAUVEUR DEVELOPMENT CORP		51 MT DESERT STREET		BAR HARBOR	ME	04609-1327
473	104-171-000	STANLEY, RANDY B		12 BREWER AVENUE		BAR HARBOR	ME	04609
474	104-079-000	STECKEL, AMY	FARHANGI, EDWARD JT	593 MILTON TURNPIKE		HIGHLAND	NY	12528
475	105-048-000	STEVENS, BRUCE A	STEVENS, LOTTIE B	7 HANCOCK LANE		BAR HARBOR	ME	04609
476	105-049-000	STEWART, EDWIN S HEIRS OF.	C/O CHASHEL, LLC	64 LUPINE LANE		SYLVA	NC	28779
477	107-159-000	STORER, STEPHEN E	MARIE, PAULA	17 DES ISLE AVENUE		BAR HARBOR	ME	04609
478	104-110-000	STRATHMAN, PAUL TRUSTEE	PAUL A STRATHMAN LIV TRUST	1134 RICHLAND MEADOWS DRIVE		BALLWIN	MO	63021
479	104-488-000	STRAWBERRY HILL INC		DBA VILLAGER MOTEL	38 RODICK STREET	BAR HARBOR	ME	04609
480	104-489-000	STRAWBERRY HILL INC		38 RODICK STREET		BAR HARBOR	ME	04609
481	104-288-000	STRIEFEL, ANNA T ET ALS	YELVERTON, ANITA I ET ALS	C/O DOUG CHAPMAN	109 MAIN STREET	BAR HARBOR	ME	04609
482	105-074-000	STRIEFEL, JOSEPH H		PO BOX 346		BASALT	CO	81621
483	104-027-000	STROUT, RAYMOND E		2 CADILLAC AVENUE		BAR HARBOR	ME	04609-1408
484	104-372-000	SUMMA INC		C/O MICHAEL LABIANCA	7 FEDERAL STREET	BAR HARBOR	ME	04609
485	104-042-000	SUPERFUND SITE DEVELOPERS, LLC		15 KNOX ROAD		BAR HARBOR	ME	04609
486	108-008-003	SWAN SWAN, LLC		43 COTTAGE STREET		BAR HARBOR	ME	04609
487	108-008-000	SWAN, CARY B		PO BOX 32		BAR HARBOR	ME	04609
488	108-011-000	SWAN, CARY B	SWAN, KIMBERLY S	PO BOX 32		BAR HARBOR	ME	04609
489	108-014-000	SWAN, CARY B	SWAN, JUNE H	PO BOX 32		BAR HARBOR	ME	04609-0063
490	104-172-000	SWAZEY, BETH L		PO BOX 101		HULLS COVE	ME	04644
491	107-104-000	SWEENEY, NANCY		PO BOX 801		SOUTHWEST HARBOR	ME	04679
492	108-036-000	SWEET, JOHN C		12 LIVINGSTON ROAD		BAR HARBOR	ME	04609-1615
493	104-270-000	SYLVIA, SUZANNE		16 LIVINGSTON RD		BAR HARBOR	ME	04609
494	108-050-000	SYLVIA, WILLIAM R		3 1/2 OLIVER STREET		BAR HARBOR	ME	04609
495	107-110-000	TASSEY, MARIA	BILANCIA, JAMES R	59 ALLISON PARK		BREWER	ME	04412
496	105-016-001	TAWNEY, JANE E		PO BOX 1142		SOUTHWEST HARBOR	ME	04679
497	105-030-000	TESTA, THOMAS J		PO BOX 950		BAR HARBOR	ME	04609
498	104-129-000	TESTAS HOTELS & REST INC		PO BOX 950		BAR HARBOR	ME	04609
499	104-512-000	THE FIRST, NA		PO BOX 258		BAR HARBOR	ME	04609
500	104-486-000	TIERNEY, JON D		92 MAIN ST		ORONO	ME	04473
501	104-018-000	TO THE MOON, LLC		109 COTTAGE STREET		BAR HARBOR	ME	04609
502	104-127-000	TOURMALINE KING, LLC	TOURMALINE QUEEN, LLC	1685 STATE HWY 102		BAR HARBOR	ME	04609
503	105-078-000	TRACY, LUCY A		PO BOX 918		BAR HARBOR	ME	04609
504	104-024-001	TRICO, LLC	C/O LISA GRELLA, REAL ESTATE TAX DEPT	1000 MARKET STREET	BUILDING ONE	PORTSMOUTH	NH	03801

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
505	104-412-000	TURNBULL, HOWARD S JR	TURNBULL, JEAN P	76 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1323
506	108-029-000	TWEEDIE, JAMES K JR	MACQUINN-TWEEDIE, LISA A	19 WAYMAN LANE		BAR HARBOR	ME	04609
507	104-367-000	TWO HUBS, INC		37 ROSEBUD LANE		BREWER	ME	04412
508	104-112-000	UNITED STATES OF AMERICA	POST OFFICE	55 COTTAGE STREET		BAR HARBOR	ME	04609
509	104-259-000	UNKNOWN		GREELEY COURT		BAR HARBOR	ME	04609
510	105-076-000	UNUM E DUOBUS, LLC		109 MAIN ST		BAR HARBOR	ME	04609
511	104-154-000	VANDENBOSCH, P CLIFFORD		PO BOX 61		BAR HARBOR	ME	04609
512	104-493-000	VEILLEUX, GREGORY J.	VELLEUX, JULIETTE A.	166 MAIN STREET		BAR HARBOR	ME	04609
513	104-400-000	VILLAGE GREEN RENTALS, LLC		65 KEBO STREET		BAR HARBOR	ME	04609
514	104-340-000	VINCENTY, CHRISTOPHER L	BURTON, LISA A	PO BOX 625		BAR HARBOR	ME	04609-0625
515	107-088-000	VISION REAL ESTATE LLC		25 WILLOUGHBY FARM ROAD		WESTBROOK	ME	04092
516	104-378-000	WADE, LOIS W		30 ACADIAN WOODS ROAD		BAR HARBOR	ME	04609
517	107-143-000	WALDER, NANCY ADELE		65 SCHOOL STREET		BAR HARBOR	ME	04609
518	107-212-000	WALDER, NANCY WALLS		65 SCHOOL STREET		BAR HARBOR	ME	04609
519	104-339-000	WALLS FAMILY LTD. PARTNERSHIP	COLE, BARBARA	109 MAIN STREET		BAR HARBOR	ME	04609
520	107-124-000	WALLS, BRENT A	WALLS, JACOB T JT	89 OTTER CREEK DRIVE		MOUNT DESERT	ME	04660
521	105-073-000	WALLS, HILLARD	WALLS, BETTY A	270 MAIN STREET		BAR HARBOR	ME	04609
522	107-123-000	WALLS, JERYL W		9 ASH STREET		BAR HARBOR	ME	04609
523	108-001-000	WALTON, CATHERINE		108 LEDGELAWN AVENUE		BAR HARBOR	ME	04609
524	107-097-000	WASGATT, SANDRA		891 VIA CIELITO		VENTURA	CA	93003-1217
525	107-100-000	WASGATT, SANDRA		891 VIA CIELITO		VENTURA	CA	93003-1217
526	107-178-000	WEBBER, ROBERT		14 DES ISLE AVE		BAR HARBOR	ME	04609
527	107-184-001	WEBSTER, CHRISTOPHER J	WEIR, HEATHER A	PO BOX 362		BAR HARBOR	ME	04609
528	104-025-000	WELLMAN, LAURIE A.		2 SHANNON ROAD		BAR HARBOR	ME	04609
529	107-103-000	WELLS, EDWARD P II		6 WESCOTT AVENUE		BAR HARBOR	ME	04609
530	105-055-000	WENSELYDALE PROPERTIES LLC		20 ROBERTS AVENUE		BAR HARBOR	ME	04609
531	104-384-000	WEST END DRUG COMPANY		105 MAIN STREET		BAR HARBOR	ME	04609
532	104-116-000	WEST STREET PROPERTIES, LLC		1000 MARKET ST	BLDG 1 STE 300	PORTSMOUTH	NH	03801
533	105-084-000	WEST, LAURIE A TRUSTEE	LAURIE A WEST FAMILY TRUST	C/O SCOTT WEST	9178 BAY POINT DRVIE	ORLANDO	FL	32819
534	104-038-000	WESTFIELD COTTAGE, LLC		1000 MARKET STREET	BLDG 1 SUITE 300	PORTSMOUTH	NH	03801
535	104-241-000	WHITE, JOHN B	ROBINETTE, CHRISTOPHER S	20 ASH PLACE		BAR HARBOR	ME	04609
536	104-436-002	WHITNEY, MARY JANE		48 WAYMAN LANE		BAR HARBOR	ME	04609
537	104-307-000	WHITNEY, NORMAN E INC	C N BROWN COMPANY	PO BOX 200		SOUTH PARIS	ME	04281
538	104-048-000	WIELER, KIM ZARRA LT		19 SOUTH BROOKSVALE ROAD		CHESHIRE	CT	06410
539	105-016-006	WILDMAN, DAVID L	WILDMAN, SHARON B	PO BOX 510097		MELBOURNE BEACH	FL	32951
540	104-333-000	WILLIAMS, MARTHA L		PO BOX 621		BAR HARBOR	ME	04609
541	104-376-000	WILLIS & SONS INC		69 MAIN STREET		BAR HARBOR	ME	04609-1844
542	104-067-000	WILSON, ROGER M		18 BRIDGE STREET		BAR HARBOR	ME	04609
543	105-007-003	WITHAM FAMILY LIMITED		BEST WESTERN ACADIA PARK INN	215 HIGH STREET	ELLSWORTH	ME	04605
544	104-480-000	WITHAM FAMILY PARTNERSHIP		215 HIGH STREET		ELLSWORTH	ME	04605
545	105-058-000	WOODFIN, PAUL B	WOODFIN, JOANNE S	WOODFIN LIVING TRUST	633 SECOND STREET	BROOKLYN	NY	11215-2601
546	105-060-000	WOODFIN, PAUL B III	WOODFIN, MARY V	5 HANCOCK PLACE		BAR HARBOR	ME	04609-1715
547	105-063-000	WOODFIN, PAUL B.	WOODFIN, JOANNE S.	WOODFIN LIVING TRUST	633 SECOND STREET	BROOKLYN	NY	11215-2601

	A	C	D	E	F	G	H	I
2	104-182-000	108 COTTAGE ASSOCIATES, LLC		31 HOLLAND AVENUE		BAR HARBOR	ME	04609
548	104-481-000	WOOSTER, JEFFERY ET ALS		227 MAIN STREET		BAR HARBOR	ME	04609
549	108-024-000	WOOSTER, JEFFREY A	SYLVIA, SUZANNE	16 LIVINGSTON ROAD		BAR HARBOR	ME	04609
550	104-329-000	WORRICK, ANN B	WORRICK, RUSSELL S	7 KENNEBEC STREET		BAR HARBOR	ME	04609
551	104-327-000	WORTHY LLC		358 1/2 MAIN STREET		BAR HARBOR	ME	04609
552	104-174-000	WYATT, AMY L		3 SCHOONER LANDING		YORK	ME	03909
553	105-059-000	WYNN, SARAH WOODFIN		10 BUTTENHEIM TERRACE		MADISON	NJ	07940
554	104-462-001	YAU, CHUNG MING		195 MAIN STREET		BAR HARBOR	ME	04609
555	107-113-000	YORK ,PETER B	YORK, JILL S	3811 SUNBURST LANE		NAPERVILLE	IL	60564
556	104-073-000	YOUNG, ROBERT E	YOUNG, ELISHA	9 BILLINGS AVENUE		BAR HARBOR	ME	04609
557	102-002-000	YOUNG'S PIER, LLC		1000 MARKET ST	BUILDING ONE, SUITE 300	PORTSMOUTH	NH	03801
558	104-432-000	YWCA OF MOUNT DESERT ISLAND		36 MOUNT DESERT STREET		BAR HARBOR	ME	04609
559	107-208-000	ZHENG, QING YIN	YU, HE PING	2768 RICHMOND ROAD		BEACHWOOD	OH	44122
560	104-352-000	ZIMMERMAN, DONALD W	ZIMMERMAN, DOREEN I	816 PEACE PORTAL DRIVE		BLAINE	WA	98230
561	104-312-000	ZINK, GERARD	ZINK, BETH	194 BERESFORD CREEK STREET		DANIEL ISLAND	SC	29492
562	104-478-000	ZOIDIS, ANN M		11 DES ISLE AVENUE		BAR HARBOR	ME	04609

# Certification

of

**Property Owners and Abutters Mailing List**

for

**Bar Harbor Town Council Notice of Public Hearing for March 1, 2016 on the Proposed Land Use Ordinance amendments, dated December 2, 2015, for the Signs, Lighting, and Design Review Board, for June 14, 2016 annual town meeting warrant.**

Pursuant to the Bar Harbor Town Code Chapter 125-9, The Bar Harbor Town Council hereby certifies that the attached mailing list which contains the list of property owners, abutters and addresses were mailed the notice entitled "Town of Bar Harbor Bar Harbor Town Council Notice of a Public Hearing for proposed amendments to the Bar Harbor Land Use Ordinance" on February 4, 2016 from the Bar Harbor Post Office, 55 Cottage Street, Bar Harbor, Maine.

Given under our hands and seal at Bar Harbor on this \_\_\_\_\_ day of \_\_\_\_\_, 2016

## Municipal Officers of the Town of Bar Harbor

\_\_\_\_\_  
Paul A. Paradis, Chair

\_\_\_\_\_  
Gary Friedmann, Vice Chair

\_\_\_\_\_  
Peter St. Germain

\_\_\_\_\_  
Anne R. Greenlee

\_\_\_\_\_  
Burt O. Barker

\_\_\_\_\_  
David Bowden

\_\_\_\_\_  
J. Clark Stivers



**Town of Bar Harbor**  
**Bar Harbor Town Council**  
**Notice of a Public Hearing for proposed amendments to the**  
**Bar Harbor Land Use Ordinance**

February 4, 2016

«Grantee» «Co\_grantees\_Name»  
«Mailing\_Address»  
«Mailing\_Address\_2»  
«City», «State» «Zip» «Country»

Dear Bar Harbor Property Owner:

This is to notify the public that, under the requirements of Bar Harbor Land Use Ordinance Article I General Provisions, Section 125-9, the Bar Harbor Planning Board will hold a public hearing on the proposed Land Use Ordinance amendments listed below and shown herein. The public hearing will be held on **Tuesday, March 1, 2016 at 7:00 PM** in the Council Chambers of the Municipal Building, 93 Cottage Street, Bar Harbor, Maine, on the following proposed articles to be placed on the June 14, 2016 annual Town meeting warrant with voting thereon to be held by Australian ballot to amend the Land Use Ordinance of the Bar Harbor Town Code, Chapter 125.

**Land Use Ordinance Amendments for General Review Standards, Light and glare & Signs and advertising, Definitions and Design Review** – These proposed amendments are intended to define and regulate internally illuminated signs and to make corrections and clarifications to the Signs and advertising and Design Review sections of the Land Use Ordinance.

**LAND USE ORDINANCE AMENDMENT – Definitions - General Review Standards, Light and glare and Signs and advertising** – Shall an Ordinance dated December 2, 2015 and entitled “Amendments to add terms and definitions for categories of internally illuminated signs, amendments to clarify lighting requirements for signs and amendments to prohibit certain types of internally illuminated signs” be enacted?

**LAND USE ORDINANCE AMENDMENT – General Review Standards, Signs and advertising.** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to clarify Design Review Board sign review authority” be enacted?

**LAND USE ORDINANCE AMENDMENT – Design Review Board** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to clarify the boundaries of the Design Review overlay district” be enacted?

**LAND USE ORDINANCE AMENDMENT – Design Review / Signs and advertising** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to move certain signage regulations from the Design Review section to the Signs and advertising section” be enacted?

**LAND USE ORDINANCE AMENDMENT – Signs and advertising** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment clarify the allowable sign area of regulated signs” be enacted?

Copies of the full text amendments are available at the Town Clerk’s office and Planning Department at 93 Cottage Street, Bar Harbor, Maine 04609. Amendments can also be found on the Town’s website under the Planning Department section at: [www.barharbormaine.gov](http://www.barharbormaine.gov). Public comment is encouraged at the public hearing on March 1, 2016 or may be submitted in advance by email to [council@barharbormaine.gov](mailto:council@barharbormaine.gov) or by US Mail.

LUO Addresses for Signs, Lightings, Design Review Board  
Public Hearing March 1, 2016

Account Number	Grantee	Co_grantee's Name	Mailing Address	Mailing Address 2	City	State	Zip
104-385-000	107 MAIN STREET PROPERTY GROUP, LLC		141 BEECH HILL ROAD		MOUNT DESERT	ME	04660
104-237-000	52 STRAWBERRY, LLC		52 STRAWBERRY LEDGE		BAR HARBOR	ME	04609
104-375-000	65 MAIN STREET, LLC	MAFFUCCI, BARBARA P & DOUGLAS C, TRUSTEE	C/O ATLANTIC BREWING COMPANY	15 KNOX ROAD	BAR HARBOR	ME	04609
104-373-000	8 COTTAGE STREET LLC		8 COTTAGE STREET		BAR HARBOR	ME	04609
104-450-000	ABBE MUSEUM, ROBERT		26 MOUNT DESERT STREET		BAR HARBOR	ME	04609
104-504-000	ACADIA REAL ESTATE HOLDING COMPANY LLC		PO BOX 24		BAR HARBOR	ME	04609
104-507-000	ACADIA REAL ESTATE HOLDING COMPANY LLC		PO BOX 24		BAR HARBOR	ME	04609
104-487-000	ADELMANN, TIMOTHY J.	ADELMANN, JANE P.	224 MAIN STREET		BAR HARBOR	ME	04609
104-494-000	ADLER'S INC		PO BOX 520		MT. DESERT	ME	04660
104-268-000	AMERICAN LEGION POST	GEORGE EDWIN KIRK POST #25	70 COTTAGE STREET		BAR HARBOR	ME	04609
104-092-000	APTO HOLDING, LLC		71B COTTAGE ST		BAR HARBOR	ME	04609
103-015-000	BAGATELLE MAINE, LLC		2505 METROCENTRE BLVD, STE 301		WEST PALM BEACH	FL	33407
104-254-000	BAHR, ROBERT A	BAHR, ANNE M	57 MOUNT DESERT STREET		BAR HARBOR	ME	04609
104-516-000	BAR HARBOR BANKING & TRUST CO.		82 MAIN ST.		BAR HARBOR	ME	04609
104-531-000	BAR HARBOR BANKING & TRUST COMPANY		82 MAIN STREET		BAR HARBOR	ME	04609
104-140-000	BAR HARBOR JAZZ FESTIVAL		PO BOX 10		BAR HARBOR	ME	04609
104-402-000	BAR HARBOR MAIN & NEWTON REAL ESTATE LLC		PO BOX 10		BAR HARBOR	ME	04609
104-383-000	BAR HARBOR SAVINGS	LOAN ASSOCIATION	103 MAIN STREET		BAR HARBOR	ME	04609
104-058-000	BAR HARBOR, TOWN OF		93 COTTAGE STREET		BAR HARBOR	ME	04609
104-401-000	BAR HARBOR, TOWN OF		93 COTTAGE STREET	SUITE I	BAR HARBOR	ME	04609-1443
104-355-000	BAYSIDE INVESTMENTS, INC		46 COTTAGE STREET		BAR HARBOR	ME	04609
104-039-000	BENNETT, CHRISTOPHER L	BENNETT, ANGELIQUE M	1214 DELTA GLEN CT		VIENNA	VA	22182
104-009-000	BHTC 111, LLC		1000 MARKET ST	BLDG 1, SUITE 300	PORTSMOUTH	NH	03801
103-023-000	BLANCHARD, JAMES A III		7 HARBOR LANE		BAR HARBOR	ME	04609
104-519-000	BONO, PETER F TRUSTEE	BONO, BEVERLY A TRUSTEE	PETER F & BEVERLY A BONO REV T	80 MAIN STREET	BAR HARBOR	ME	04609
104-244-000	BROWN, H A FURNITURE CO		17 HODGKINS LANE		LAMOINE	ME	04605
104-374-000	BROWN, LEE	MCGARR, LARRY & SHARON JT	22 GREELEY AVENUE		BAR HARBOR	ME	04609
104-238-000	BURNS, MARIAN S LTD PRNERSHIP		26 ASH PLACE		BAR HARBOR	ME	04609-1327
104-497-000	BUTTERFIELD BLOCK LLC	C/O THOMAS B WHEATLEY, ESQ	109 MAIN STREET		BAR HARBOR	ME	04609
104-326-000	CENTRAL HOUSE, LLC	C/O ARTHUR DAVIS	PO BOX 955		BAR HARBOR	ME	04609
104-068-000	CHIHOSKI, DONALD R	CHIHOSKI, RUSSELL A	211 TIDEWATER DRIVE		WARWICK	RI	02889
104-525-000	CLARK, JEFFERY TRUSTEE	MOLLY REALTY TRUST	C/O EVERLASTING IMAGES	PO BOX 830	CAPE NEDDICK	ME	03902
104-521-000	COGGINS, WILLIAM M		66 MAIN STREET		BAR HARBOR	ME	04609
101-009-000	COLLEGE OF THE ATLANTIC		105 EDEN STREET		BAR HARBOR	ME	04609
101-032-000	COLLEGE OF THE ATLANTIC		105 EDEN STREET		BAR HARBOR	ME	04609
101-035-000	COLLEGE OF THE ATLANTIC		105 EDEN STREET		BAR HARBOR	ME	04609
104-342-000	CONGREGATIONAL CHURCH OF BH	REED, SANDRA	29 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1751
104-061-000	COTTAGE ON COTTAGE	ALLGOOD JOHN, ET ALS	200 SAND POINT ROAD		BAR HARBOR	ME	04609
104-528-000	CURTIS, JEFFREY D	CURTIS, AUDREY L	5 COMMERCIAL STREET		BOOTHBAY HARBOR	ME	04538
104-387-000	DAVID B PAINE, INC		80 COTTAGE STREET		BAR HARBOR	ME	04609
104-181-000	DOBBS, JEFFERSON	COPLON, SAMUEL R	112 COTTAGE STREET		BAR HARBOR	ME	04609
104-037-000	EARLY-WARD, ERIN C		4 HOLLAND AVENUE		BAR HARBOR	ME	04609
104-070-000	EN FAMILLE, LLC		19 STRAWBERRY HILL RD		BAR HARBOR	ME	04609
104-002-000	FLACH, SUSAN B TRUSTEE	2801 REV TRUST, DATED 10/14/14	PO BOX 868		SOUTHWEST HARBOR	ME	04679
103-022-000	FOSS, KAROL A TRUSTEE	KAROL A FOSS REVOCABLE TRUST	3316 CASEY KEY		NOKOMIS	FL	34275
104-157-000	GEIGER, ELIZABETH J		130 COTTAGE STREET		BAR HARBOR	ME	04609

LUO Addresses for Signs, Lightings, Design Review Board  
Public Hearing March 1, 2016

Account Number	Grantee	Co_grantee's Name	Mailing Address	Mailing Address 2	City	State	Zip
104-003-000	HARKINS, JEFFERSON C	SHEPARD, JOSEPH S III (JT)	3415 CYPRESS STREET		TAMPA	FL	33607
104-492-000	IVY MANOR INN	C/O ROBERT & JUDY STANLEY	194 MAIN STREET		BAR HARBOR	ME	04609-1742
104-433-000	JESUP MEMORIAL LIBRARY		34 MOUNT DESERT STREET		BAR HARBOR	ME	04609-1727
103-021-000	JONES, KEITH A TRUSTEE	KEITH A JONES REVOCABLE TRUST	139 SEABREEZE AVENUE		PALM BEACH	FL	33480
104-255-000	K & J HEIST LLC		39 MACOMBER PINES ROAD		MOUNT DESERT	ME	04660
104-121-000	LEISER, RICHARD	LEISER, GAIL	PO BOX 411		BAR HARBOR	ME	04609-0411
104-219-000	LLOYD, JOHN T	LLOYD, LANEY R	867 LUDLOW RD		LUDLOW	ME	04730
104-004-000	LOSQUADRO, MATTHEW J	LOSQUADRO, KRISTI M	121 WEST ST		BAR HARBOR	ME	04609
104-001-000	MAINE SEA COAST MISSION		127 WEST STREET		BAR HARBOR	ME	04609
103-016-000	MANSFIELD, JOAN FENNO		12 MACKINTOSH LANE		LINCOLN	MA	01773
104-024-000	MARINKE, THOMAS		123 COTTAGE STREET		BAR HARBOR	ME	04609-1442
104-413-000	ME PROPERTIES, LLC		74 MOUNT DESERT STREET		BAR HARBOR	ME	04609
104-386-000	MEDDYBEMPS LAND TRUST OF 2006		109 MAIN STREET		BAR HARBOR	ME	04609
104-509-000	MELASECCA, RICHARD M		PO BOX 869		BAR HARBOR	ME	04609
103-012-000	MILBURY, K DAVID		77 EDEN STREET		BAR HARBOR	ME	04609-1105
103-014-000	MILBURY, K DAVID		77 EDEN STREET		BAR HARBOR	ME	04609-1105
103-051-000	MILLS, ELIZABETH H TRUSTEE	COLLIER FAMILY TRUST UDT 9/27/01	32 HASKELL COURT		ESSEX	MA	01929
104-005-000	MILOTTE, ROBERT W JR	MILOTTE, DEBRA S	LEDMORE	WARREN DRIVE, KINGSWOOD	SURREY	XX	KT206PT
104-317-000	MOULTON, NORMAN W	MOULTON, BARBARA C	39 HIGH STREET		BAR HARBOR	ME	04609-1816
104-392-000	OLD POLICE STATION LLC		38 RODICK STREET		BAR HARBOR	ME	04609
104-041-000	RAAB, STEVEN S	RAAB, SUSAN J	112 WEST STREET		BAR HARBOR	ME	04609
104-097-000	RASMUSSEN, IVAN C.		PO BOX 956		BAR HARBOR	ME	04609
104-419-000	ROMAN CATHOLIC CHURCH	REV. JAMES MARTEL	56 MOUNT DESERT ST		BAR HARBOR	ME	04609
104-006-000	ROWLAND, MELISA D TRUSTEE	HENGGELER, SCOTT W TRUSTEE	117 WEST STREET		BAR HARBOR	ME	04609
104-481-001	SMITH, BRIAN T	SMITH, JACQUELINE J JT	8 LIVINGSTON ROAD		BAR HARBOR	ME	04609
108-068-000	ST GERMAIN, THOMAS A JR	ST GERMAIN, NINA B	8 EAGLE LAKE ROAD		BAR HARBOR	ME	04609
104-318-001	ST SAVIOURS CHURCH		41 MT DESERT STREET		BAR HARBOR	ME	04609
104-489-000	STRAWBERRY HILL INC		38 RODICK STREET		BAR HARBOR	ME	04609
104-131-000	TESTAS HOTELS & REST INC		PO BOX 950		BAR HARBOR	ME	04609
104-512-000	THE FIRST, NA		PO BOX 258		BAR HARBOR	ME	04609
104-297-000	THORNHEDGE INN, LLC		47 MOUNT DESERT STREET		BAR HARBOR	ME	04609
104-112-000	UNITED STATES OF AMERICA	POST OFFICE	55 COTTAGE STREET		BAR HARBOR	ME	04609
104-493-000	VEILLEUX, GREGORY J.	VELLEUX, JULIETTE A.	166 MAIN STREET		BAR HARBOR	ME	04609
104-040-000	WAGNER, WILBUR F.	FERRUCCI, JOHN R.	247 GIRARD AVENUE		HARTFORD	CT	06105
104-384-000	WEST END DRUG COMPANY		105 MAIN STREET		BAR HARBOR	ME	04609
102-004-000	WEST STREET PROPERTIES, LLC		1000 MARKET STREET, BLDG 1		PORTSMOUTH	NH	03801
104-038-000	WESTFIELD COTTAGE, LLC		1000 MARKET STREET	BLDG 1 SUITE 300	PORTSMOUTH	NH	03801
108-003-000	WITHAM FAMILY LIMITED PARTNERSHIP		215 HIGH STREET		ELLSWORTH	ME	04605
104-069-000	WITHAM FAMILY LTD PARTNERSHIP		215 HIGH STREET		ELLSWORTH	ME	04605
104-481-000	WOOSTER, JEFFERY ET ALS		227 MAIN STREET		BAR HARBOR	ME	04609

VI B.



February 10, 2016

Cornell Knight  
Town of Bar Harbor  
93 Cottage Street  
Bar Harbor, ME 04609

Dear Cornell,

I am requesting the following item be placed on the Town Council's agenda at your earliest convenience. Please contact me if you have any questions or need additional information.

The Bar Harbor Chamber of Commerce is requesting permission to hold a ceremony on the town pier on Monday, May 30, 2016 in honor of Memorial Day. The ceremony will start at 10:00 a.m. and last approximately one hour

Sincerely,

Jenny Bishop  
Events Coordinator



**MOUNT DESERT POLICE DEPARTMENT  
BAR HARBOR POLICE DEPARTMENT**

**James K. Willis, Chief of Police**

**[jwillis@mdpolice.org](mailto:jwillis@mdpolice.org)**



BHPD

Lt. David Kerns

37 Firefly Lane

Bar Harbor, Maine 04609

Tel: 207-288-3391

[dkerns@barharbormaine.gov](mailto:dkerns@barharbormaine.gov)

MDPD

Lt. Kevin Edgecomb

21 Sea Street, PO Box 248

NE Harbor, ME 04662

Tel: 207-276-5111

[kedgecomb@mdpolice.org](mailto:kedgecomb@mdpolice.org)

Date: February 12, 2016

To: Town Manager Cornell Knight

From: Chief James Willis

Subject: 2016 Speed Enforcement Grant

I was recently informed of a grant opportunity for funding overtime expenses for speed enforcement. This grant is provided and administered by the State of Maine Bureau of Highway Safety. The materials forwarded to us indicate we have been pre-approved for this grant for a maximum amount of \$2,034.

I am enclosing a letter from the Bureau of Highway Safety which explains the details of this grant. Can you please place this on the next available agenda with a request to apply for and participate in this grant.



Paul R. LePage  
Governor

STATE OF MAINE  
Department of Public Safety  
**Bureau of Highway Safety**  
164 State House Station  
Augusta, Maine  
04333-0164



John E. Morris  
Commissioner

Lauren V. Stewart  
Director

Interim Chief James Willis  
Bar Harbor Police Department  
37 Firefly Lane  
Bar Harbor, ME 04609

February 3, 2016

Dear Interim Chief James Willis:

The Maine Bureau of Highway Safety (MeBHS) is offering a **2016 Speed Enforcement Grant** to selected agencies to reduce speed-related crashes, fatalities and injuries. The MeBHS used speed related crash data from 2007-2013 to select your agency for participation using the NHTSA evidence based approach to grant awarding. As noted in subparagraph 3 below, your department is responsible for identifying months, days, time of day and street locations where speed enforcement should occur. Please see the program details below:

- 1) **The 2016 Speed Enforcement Program begins April 15<sup>th</sup>, 2016 and ends on September 15<sup>th</sup>, 2016.** Your overtime enforcement activities will focus on proven speed data **times and locations**. Each detail worked must be no more than 4 overtime hours in length.
- 2) Your grant awards will be for a maximum of **\$2,034**.
- 3) Your department must identify the months, days, time of day and street locations where your data shows speeding is a problem. Enforcement efforts must be targeted at the locations and times identified in your application.
- 4) As with past programs, participating departments must keep track of the activities of each detail and provide that information to MeBHS on the 2016 Speed Enforcement Detail Report that will be provided with your grant award package. All detail activities must then be totaled and that information shall be provided on the Summary Progress Report also will be included in the award packet.

If you would like to participate in the 2016 Speed Enforcement Program, please complete the enclosed application. **Please submit your application via email to [Angela.Roberts@maine.gov](mailto:Angela.Roberts@maine.gov)** or mail to Bureau of Highway Safety, 45 Commerce Drive Suite 1, Augusta, ME 04330 or Fax 207-287-3042 by **March 1<sup>st</sup>, 2016**. Please be sure to keep a copy of your submitted documents for your files.

Highway Safety Coordinators are always available to meet with you and are available to help prepare applications and assist with sub grant requirements.

Sincerely,

Lauren V. Stewart, Director

Office Located At:  
Central Maine Commerce Center  
45 Commerce Dr, Suite 1  
Augusta, ME 04330  
Phone: (207) 626-3840 Fax: (207) 287-3042



# Town of Bar Harbor Application for Special Amusement Permit

Permit Fee  
\$129

**Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.**

Date: 2/2/16 Application Type:  New  Renewal Permit Number: \_\_\_\_\_

Applicant: Golden Anchor, LC Applicant's Address: 1000 Market Street, Bldg One, Portsmouth, NH 03801  
Name Mailing Address

Business Name: The Harborside Hotel & Marina Business Address: 55 West Street, Bar Harbor, ME  
Physical Address in Bar Harbor

Type of Business: hotel Location to be used: any banquet or reception space located on property  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place? Use back of page if necessary.

Has a liquor license or special amusement permit for this business ever been denied or revoked?  Yes  No  
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony?  Yes  No  
If yes, describe the circumstances in the space below:

**The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.**

Application is hereby made for a Special Amusement Permit for one of the following:

**Without Mechanical Amplification**

- Class 1 – Single musician
- Class 2 – Two musicians
- Class 3 – Three or more musicians

**With Mechanical Amplification**

- Class 1a – Single musician
- Class 2a – Two musicians
- Class 3a – Three or more musicians

**With Mechanical Amplification and Dancing**

- Class 1ad – Single musician
- Class 2ad – Two musicians
- Class 3ad – Three or more musicians

**Other Entertainment or Amusement**

- Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Katrina Walsh  
Applicant's Signature  
Patrick Walsh, Manager

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_ Date

VII A.2



# Town of Bar Harbor Application for Special Amusement Permit

Permit Fee  
\$129

**Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.**

Date: 2/4/16 Application Type:  New  Renewal Permit Number: \_\_\_\_\_

Applicant: The Bar Harbor Regency Hotel, Inc Applicant's Address: 1000 Market Street, Suite 300, Portsmouth, NH 03801  
Name Mailing Address

Business Name: Holiday Inn Bar Harbor Regency Business Address: 123 Eden Street, Bar Harbor  
Physical Address in Bar Harbor

Type of Business: Hotel/Restaurant Location to be used: any banquet or reception space located on property  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place? Use back of page if necessary.

Has a liquor license or special amusement permit for this business ever been denied or revoked?  Yes  No  
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony?  Yes  No  
If yes, describe the circumstances in the space below:

**The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.**

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- Class 1 – Single musician
  - Class 2 – Two musicians
  - Class 3 – Three or more musicians

- With Mechanical Amplification**
- Class 1a – Single musician
  - Class 2a – Two musicians
  - Class 3a – Three or more musicians

- With Mechanical Amplification and Dancing**
- Class 1ad – Single musician
  - Class 2ad – Two musicians
  - Class 3ad – Three or more musicians

- Other Entertainment or Amusement**
- Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

Kathleen Walsh  
Applicant's Signature

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_ Date

\_\_\_\_\_  
Patricia A. Gray, Town Clerk



# Town of Bar Harbor Application for Special Amusement Permit

Permit Fee  
\$129

**Special Amusement Permits are valid only for the license year of the applicant's existing liquor license.**

Date: 1-28-16 Application Type:  New  Renewal Permit Number: \_\_\_\_\_

Applicant: Lafayette Bluenose, LLC Applicant's Address: 155 Littlefield Avenue Bangor, ME 04401  
Name Mailing Address

Business Name: Bluenose Inn Business Address: 90 Eden Street Bar Harbor, ME 04709  
Physical Address in Bar Harbor

Type of Business: hotel Location to be used: The Great Room lounge, The Looking Glass Rest.  
Restaurant, Bar, Nightclub, etc. Where on the premises will the amusement take place? Use back of page if necessary.

Has a liquor license or special amusement permit for this business ever been denied or revoked?  Yes  No  
If yes, describe the circumstances in the space below:

Has the applicant, any partners or corporate officers of the business ever been convicted of a felony?  Yes  No  
If yes, describe the circumstances in the space below:

**The Town Council requests all applicants or their representatives attend the public hearing to answer any questions. Please be advised that the absence of your representative may delay the Council's decision.**

Application is hereby made for a Special Amusement Permit for one of the following:

### Without Mechanical Amplification

- Class 1 – Single musician
- Class 2 – Two musicians
- Class 3 – Three or more musicians

### With Mechanical Amplification

- Class 1a – Single musician
- Class 2a – Two musicians
- Class 3a – Three or more musicians

### With Mechanical Amplification and Dancing

- Class 1ad – Single musician
- Class 2ad – Two musicians
- Class 3ad – Three or more musicians

### Other Entertainment or Amusement

- Class 4 – any other type of entertainment, as provided by 28A MRSA 1054.1.C

I certify that this application is true and correct, that I have received a copy of the Special Amusement Ordinance and that I will read said ordinance prior to offering any special amusement.

[Signature]  
Applicant's Signature

The Municipal Officers of Bar Harbor hereby  approve  deny this application on \_\_\_\_\_  
Date

Patricia A. Gray, Town Clerk

### Bar Harbor FY 2017 Budget Tax Calculation

	FY14	FY15	FY16	FY17	CHANGE	
DEPARTMENT EXPEN	Actual	Actual	Budget	Proposed		
Town Council	\$ 32,920	\$ 37,388	\$ 37,952	\$ 38,434	\$ 482	1.3%
Town Manager	\$ 131,036	\$ 131,270	\$ 127,031	\$ 126,221	\$ (810)	-0.6%
Town Clerk	\$ 119,475	\$ 123,202	\$ 138,437	\$ 130,167	\$ (8,270)	-6.0%
Finance Dept	\$ 316,215	\$ 322,362	\$ 328,189	\$ 335,594	\$ 7,405	2.3%
Town Attorney	\$ 67,420	\$ 36,982	\$ 19,150	\$ 18,950	\$ (200)	-1.0%
Elections	\$ 10,361	\$ 12,156	\$ 12,717	\$ 18,230	\$ 5,513	43.4%
Technology	\$ 121,486	\$ 147,667	\$ 161,695	\$ 131,514	\$ (30,181)	-18.7%
Municipal Building	\$ 80,273	\$ 96,879	\$ 74,825	\$ 69,568	\$ (5,257)	-7.0%
Town Offices	\$ 37,566	\$ 35,269	\$ 33,452	\$ 35,646	\$ 2,194	6.6%
Employee Benefits	\$ 1,345,347	\$ 1,252,271	\$ 1,376,319	\$ 1,434,848	\$ 58,529	4.3%
Code Enforcement	\$ 69,142	\$ 91,282	\$ 74,851	\$ 75,232	\$ 381	0.5%
Assessing	\$ 115,497	\$ 116,759	\$ 135,528	\$ 134,996	\$ (532)	-0.4%
Planning	\$ 118,722	\$ 91,360	\$ 151,893	\$ 152,984	\$ 1,091	0.7%
Miscellaneous	\$ 180,505	\$ 211,723	\$ 211,104	\$ 220,378	\$ 9,274	4.4%
Ambulance	\$ 391,936	\$ 404,660	\$ 450,258	\$ 469,362	\$ 19,104	4.2%
Fire Dept	\$ 316,107	\$ 327,018	\$ 357,964	\$ 362,562	\$ 4,598	1.3%
Hydrant Rentals	\$ 480,468	\$ 480,468	\$ 523,710	\$ 585,602	\$ 61,892	11.8%
Police Dept.	\$ 919,922	\$ 983,866	\$ 1,028,633	\$ 1,056,841	\$ 28,208	2.7%
Dispatch	\$ 201,945	\$ 204,277	\$ 211,054	\$ 215,590	\$ 4,536	2.1%
Public Safety Bldg	\$ 45,807	\$ 42,602	\$ 38,916	\$ 36,143	\$ (2,773)	-7.1%
Street Lights	\$ 63,278	\$ 69,069	\$ 71,575	\$ 71,575	\$ -	0.0%
Harbor Dept	\$ 121,891	\$ 116,162	\$ 113,786	\$ 115,221	\$ 1,435	1.3%
Parks & Rec	\$ 228,873	\$ 229,730	\$ 235,251	\$ 239,154	\$ 3,903	1.7%
Emerg Mgt & Gen Assi	\$ 1,445	\$ 1,170	\$ 1,444	\$ 1,458	\$ 14	1.0%
Cooperating Agency	\$ 39,843	\$ 45,231	\$ 42,843	\$ 40,038	\$ (2,805)	-6.5%
Comfort Station	\$ 90,729	\$ 83,607	\$ 93,361	\$ 92,432	\$ (929)	-1.0%
Public Works	\$ 143,623	\$ 144,809	\$ 146,122	\$ 147,064	\$ 942	0.6%
Highway Dept	\$ 1,059,443	\$ 1,160,595	\$ 1,007,992	\$ 1,040,312	\$ 32,320	3.2%
Solid Waste	\$ 601,229	\$ 611,136	\$ 655,939	\$ 642,434	\$ (13,505)	-2.1%
<b>SUBTOTAL</b>	<b>\$ 7,452,604</b>	<b>\$ 7,610,970</b>	<b>\$ 7,861,991</b>	<b>\$ 8,038,550</b>	<b>\$ 176,559</b>	<b>2.2%</b>
Capital Improvements	\$ 1,738,842	\$ 1,820,106	\$ 1,753,435	\$ 1,823,144	\$ 69,709	4.0%
School Local - Transfer	\$ 5,080,953	\$ 5,176,423	\$ 5,223,669	\$ 5,425,115	\$ 201,446	3.9%
Other Transfers out	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>TOTAL Expense Taxed</b>	<b>\$ 14,272,299</b>	<b>\$ 14,607,499</b>	<b>\$ 14,839,095</b>	<b>\$ 15,286,809</b>	<b>\$ 447,714</b>	<b>3.0%</b>
Hancock County Est.	\$ 553,853	\$ 565,744	\$ 584,111	\$ 599,218	\$ 15,107	2.6%
MDI High School Asses	\$ 2,606,151	\$ 2,831,140	\$ 2,999,610	\$ 3,054,221	\$ 54,611	1.8%
OVERLAY (estimate)	\$ 51,292	\$ 32,045	\$ 32,045	\$ 32,000	\$ (45)	-0.1%
<b>TOTAL ASSESSMENT</b>	<b>\$ 17,483,595</b>	<b>\$ 18,036,428</b>	<b>\$ 18,454,861</b>	<b>\$ 18,972,248</b>	<b>\$ 517,387</b>	<b>2.8%</b>
<b>REVENUES</b>						
General Revenues	\$ 2,360,190	\$ 2,396,046	\$ 2,386,363	\$ 2,411,730	\$ 25,367	1.1%
Reserves-Use of Fund	\$ 288,859	\$ 412,639	\$ 110,000	\$ 105,000	\$ (5,000)	-4.5%
Transfers In -Cruise Sh	\$ 284,259	\$ 268,907	\$ 264,817	\$ 275,147	\$ 10,330	3.9%
<b>SUBTOTAL (REVENUE)</b>	<b>\$ 2,933,308</b>	<b>\$ 3,077,592</b>	<b>\$ 2,761,180</b>	<b>\$ 2,791,877</b>	<b>\$ 30,697</b>	<b>1.1%</b>
State Revenue Sharing	\$ 133,206	\$ 124,871	\$ 122,264	\$ 122,000	\$ (264)	-0.2%
<b>TOTAL DEDUCTIONS</b>	<b>\$ 3,066,514</b>	<b>\$ 3,202,463</b>	<b>\$ 2,883,444</b>	<b>\$ 2,913,877</b>	<b>\$ 30,433</b>	<b>1.1%</b>
<b>Net Commitment</b>	<b>\$14,372,104</b>	<b>\$14,810,010</b>	<b>\$15,588,095</b>	<b>\$16,058,371</b>	<b>\$470,276</b>	<b>3.0%</b>
<b>Valuation (estimate)</b>	<b>\$1,435,774,620</b>	<b>\$1,449,120,900</b>	<b>\$1,471,963,700</b>	<b>\$1,481,606,195</b>	<b>\$9,642,495</b>	<b>0.7%</b>
<b>Mill Rate (estimate)</b>	<b>0.01001</b>	<b>0.01022</b>	<b>0.01059</b>	<b>0.01084</b>	<b>0.00025</b>	<b>2.3%</b>
Total Municipal Budget	\$ 10,364,851	\$ 12,658,195	\$ 9,615,426	\$ 9,861,694		
- Total Deductions	\$ 4,279,856	\$ 6,458,328	\$ 2,883,444	\$ 2,913,877		
= Municipal Property Tax	\$ 6,084,995	\$ 6,199,867	\$ 6,731,982	\$ 6,947,817	\$ 215,835	3.2%
LD-1 Levy Limit - maxir	\$ 6,444,293	\$ 6,632,283	\$ 6,774,604	\$ 7,040,190	\$ 265,586	3.9%
<b>Difference for LD-1</b>	<b>\$ (359,298)</b>	<b>\$ (432,416)</b>	<b>\$ (42,622)</b>	<b>\$ (92,373)</b>	<b>\$ (49,751)</b>	<b>116.7%</b>



February 5, 2016

MEMO

To: Warrant Committee

From: Cornell Knight, Town Manager

Re: 2017 Municipal Budget

The Town Council has completed its review of the 2017 budget. As it stands now with increased expenditures in Town at 2.5% (Operations and Capital), Hancock County at 2.6%, all Schools at 3.6% increase and offset by small increase in revenues and valuation, the tax rate is estimated to rise 2.6% from \$10.59 to \$10.87. That is likely to drop further once the high school budget is adjusted to reflect new heating oil pricing. As proposed, the annual tax increase on a median valued home would be \$82.

No new employees are added to the budget and there are no bond/debt requests.

I am utilizing the same format as last year; some budget info is included underneath the budget line and additional info is in the Charts Tab under budget detail. The same format as in previous years is used for Capital Improvements and the Cruise Ship Fund.

There is a Tax Calculation Page (it follows this memo) of all department expenses, revenues, school and county costs, valuation, tax rate and LD 1 limits. So any changes to expenses or revenues can quickly show the impact on the tax rate. There is also a Budget Summary that calculates the gross municipal appropriations number for the warrant article at Town Meeting. The proposed budget is below the LD 1 limit by \$92,373.

Many of the items funded are part of the Town Council Goals. You will find the list of approved Goals in the Charts Tab section of the book.

Some highlights in the budget:

### ***Revenues***

Revenue estimates show a 1.1% increase. There will be less use of unassigned fund balance (generally referred to as Surplus) from \$110,000 last year to \$105,000. I've included the Fund Balance History in the Charts Tab section for you to see the use over the years and its declining balance in the last 4 years. Rating agencies were concerned on the use of fund balance during our last bond issue review.

Excise tax and Ambulance billings reflect a slight increase with no change to Revenue Sharing (\$122,000 versus the \$309,000 the town should receive by statute). Building permit fees are slightly lower but Harbor fees are slightly higher.

The fee schedule for all departments is included in the Revenue section. Other than an increase in Ambulance fees, no other changes in fees were made.

### ***Expenditures***

Overall spending for operations is up \$176,559 or 2.2%. There is a COLA of 1% for hourly/union staff plus 1% to help offset the increased share of health insurance. The employee/employer split of health premiums goes to 20/80 this year. Department Head staff will receive the 1% for health premium increases only.

A water rate increase caused hydrant rental costs to increase \$61,892, the biggest change in the operations budget.

Fuel expenses reflect \$2.80 per gallon for diesel and unleaded gas at \$2.50. Heating oil is locked in at 98 cents per gallon.

Elections-1020- Although the percent increase (43.4%) is significant the dollar amount (\$5,513) is not too much to cover the cost of the Presidential election.

Tech-1022 Much less spending for equipment purchases this year but still scheduled to replace 10 laptops and PC's.

Employment Benefits 1028- The opt-out program shows a significant increase but reflects actual spending (see the 2015 spent column). Starting July 1, employees will pay 20% of the health premium and the town will pay 80%. The premium increase is estimated at 8% on Jan. 1, as the current year was a 7.5% increase, and 2 additional employees are receiving health coverage. The town's MePERS contribution rate rose 6.7%.

Ambulance- 1040- Increases in over-time and part-time for seasonal coverage and to increase the number of transfer runs, which is reflected in the higher revenues as an offset. There is a stipend increase by contract for paramedics and EMTs.

Police- 1045- The Chief sharing agreement with the Town of Mt. Desert was recently renewed for another year. This agreement covers both the Chief and the Administrative Assistant positions. Many changes are being implemented to share resources between the two departments such as patrol zones, radio frequencies, records management, personnel software, operations policies and supervisory shifts. (Council Goal D-1).

### ***Cruise Ship Fund***

The Cruise Ship Fund reflects a 9.8% increase in revenues to \$679,327. A result of increased passenger counts and the increase in fees to \$4.30 per passenger. This fund transfers \$269,222 to offset town operation costs and \$215,821 to offset capital improvement costs. Environmental monitoring costs were reduced to \$4,000 to reflect a less intensive program. Ferry Terminal improvements were reduced in half to \$28,500 and sidewalk improvements were back up to the previous level of \$90,000. The HUB's request for \$30,000 towards an Executive Director's position is reserved for encumbrance as well as \$25,000 for a Cottage Street development plan. These two requests would come from the cruise ship fund balance. The Maine Port Authority should have the Ferry Terminal under a lease arrangement very soon. (Council Goal E-2)

### ***Capital Improvements***

CIP funding is up 4.0%.

Assessing- Commercial Property Revaluation appropriation of \$8,333. (Council Goal A-3).

Technology- The Town Council voted last month to include the \$100,000 cost of a Broadband Engineering study in the Capital Improvement Budget. It was included in the initial budget proposal but reduced to \$50,000 during the review. (Council Goal E-8).

Ambulance- There is a \$55,000 appropriation this year to purchase (\$171,000) a new ambulance; the 2002 ambulance will be sold and is included in the revenue section. Also included are funds to replace the 12 year old Defibrillators because they can no longer be serviced. The department is using one loaner machine until replacements are made.

Police- The Spillman Records Management System (Council Goal D-1) will be funded from reserves and \$8,000 payments in each of the next 2 years. Officers will begin carrying Tasers that will be funded over a number of years. One cruiser is budgeted for purchase.

Harbor- Due to a \$45,000 grant from the Maine Department of Transportation the floats can be replaced a year earlier than planned and at half the cost (50% match).

Highway-The Maine Department of Transportation's Rte. 3 reconstruction project will begin next year, the town's \$540,000 share is already in reserve. That project is scheduled for bidding in the fall of 2016. There are revenues anticipated from the sale of a plow truck, sweeper and

backhoe none of which will be replaced. This will help offset the purchase of an excavator machine to be used for culvert and ditching work. Due to the cost of the Consolidated Work Plan, I am recommending instead, overlay paving on Cottage, Hancock, Wayman, Pleasant, Schooner Head, Indian Point and Bay View. There is budgeted the purchase of a Bobcat loader with attachments and a light truck. There is also a new appropriation of \$11,000 to purchase the solar array in 2022 from ReVision Energy (Council Goal B-2)

Town Debt- - The first year payment on the Fire Station building repair bond has been added. In Year 2 (2018) it is anticipated that the Transfer Station would be renovated with a \$1.5 million bond. (Council Goal E-6). Other possible bonds are fiber installation and Fire Station floor repair.

Staff and I look forward to assisting you with the budget review starting Monday night.

# Memo

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To: Cornell Knight, Town Manager  
From: Chip Reeves, Public Works Director  
Date: February 1, 2016  
Re: Municipal Solid Waste- Post 2018 Decision

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Last November the Council listened to a presentation from the Municipal Review Committee (MRC) on the proposed solution to the expiration of the Penobscot Energy Recovery Corporation (PERC) contracts. The time now has come for the Town to decide on how they will handle their Municipal Solid Waste (MSW) after April of 2018. To this end, will you place an item on the February 16, 2016 agenda for consideration?

The Town has three options to consider as follows: Do nothing, enter into a contract with PERC or enter into a contract with the MRC. I've summarized each option below.

**Continue with PERC-** The PERC contract offers tip fees of \$84.36/ton for a 15 year contract and \$89.57/ton for a ten year contract. In either case the tip fees will be escalated based on quarterly CPI increases. USA Energy (the general partner in PERC) is stating that the increases will be annual. There are also references to Guaranteed Annual Tonnages (GAT) in sections of the contract which the general partner now states will not be included. Although USA Energy is making statements contrary to what the contracts say, no new draft contracts have been distributed to date.

**Enter into a Contract with MRC-** By approving the resolution included in the package distributed by the MRC, the Town will commit to moving into the next generation of MSW processing at \$70/ton with annual CPI increases and a guaranteed \$5/ton rebate for equity charter members for the first three years of the contract. In comparison to the PERC offer the MRC proposal makes economic sense and continues the history of the MRC advocating on behalf of its members. Additionally the MRC has set up reserve funds to protect its members for a number of different scenarios that may or may not occur.

As organics have become a larger part of the conversation I've included a quick look financially comparing the two options. The MRC proposal includes waste processing focused on utilization of the organics at no extra cost. Should the Town wish implement source separation of organics, that analysis could be shown with the MRC proposal also.

**Do Nothing-** Although this pushes a decision down the road the risks outweigh the only positive of not acting which is cashing in the Town's reserves presently being managed by the MRC. These funds would be available only if the MRC proposal failed to gain support of 150,000 tons worth of communities MSW. Additionally, if the Town opts out of the MRC and decides to participate later, the tip fee at the Fiberight facility will be increased by \$2.21/ton for the term of the agreement and the Town would no longer be eligible for rebates from the Fiberight process.

My recommendation is to approve the resolve and authorize the Town Manager to sign the Joinder Agreement with the MRC. It is my opinion that this action will secure the future management of MSW for the Town as well as the region.

\_\_\_\_\_ **COUNCIL RESOLUTION**

\_\_\_\_\_, **2016**

**Authorizing Execution of Municipal Joinder Agreement with the Municipal Review Committee**

**RESOLVED, by the Town Council of Bar Harbor, Maine, that:**

(i) the Town shall continue as a member of the Municipal Review Committee, Inc. ("MRC"), organized as a Maine nonprofit corporation and acting as a regional association pursuant to Title 13-B and Title 38 of the Maine Revised Statutes, as amended (and specifically Section 1304-B(5-A) of Title 38) for the purposes of managing and facilitating solid waste disposal;

(ii) the Town hereby adopts, ratifies and confirms the Restated Articles of Incorporation and the Restated Bylaws of the MRC in substantially the form on file with the Town Clerk;

(iii) the Town hereby is authorized to execute and deliver a Municipal Joinder Agreement with the MRC in substantially the form on file with the Town Clerk pursuant to which the Town will be a Joining Member of the MRC (as defined therein) and deliver its municipal solid waste for disposal to a waste management facility being developed by Fiberright, LLC and/or its affiliates (collectively, "Fiberright") in Hampden, Maine, or other waste disposal facility; and

(iv) the Town hereby authorizes the MRC to take certain actions on behalf of the Town as set forth in the Municipal Joinder Agreement.

**NOW, THEREFORE, BE IT HEREBY VOTED AND ORDERED BY  
THE TOWN COUNCIL OF BAR HARBOR:**

The Town Manager or his or her designee or designees is authorized as a representative of the Town to execute and deliver the Municipal Joinder Agreement on behalf of the Town and to execute and deliver on behalf of the Town in conjunction therewith such other documents and to take such further actions as they may deem necessary or appropriate in order to effect the transactions contemplated by the Municipal Joinder Agreement.

Dated this 16th day of February, 2016, in Bar Harbor, Maine.

**BAR HARBOR TOWN COUNCIL**

\_\_\_\_\_  
Paul A. Paradis, Chair

\_\_\_\_\_  
Gary Friedmann, Vice Chair

\_\_\_\_\_  
Peter St. Germain

\_\_\_\_\_  
Anne R. Greenlee

\_\_\_\_\_  
Burt O. Barker

\_\_\_\_\_  
David Bowden

\_\_\_\_\_  
J. Clark Stivers

\_\_\_\_\_ **COUNCIL RESOLUTION**

\_\_\_\_\_, **2016**

I certify that I am the duly qualified Clerk of Bar Harbor, Maine, and that the foregoing votes were adopted by the Town Council at a meeting of said Council duly called and legally held in accordance with the laws of Maine on February 16, 2016, that the meeting was open to the public and that adequate and proper notice thereof was given in accordance with the laws of Maine, and that such votes have been entered into and become a part of the permanent records of the and remain in full force and effect and have not been rescinded or amended.

Town of Bar Harbor

\_\_\_\_\_  
Town Clerk

Dated at Bar Harbor, Maine  
\_\_\_\_\_, 2016

**Municipal Joinder Agreement: Summary of Terms and Conditions**  
**Prepared by the Municipal Review Committee, Inc., January 2016**

The Joinder Agreement is the agreement that the entity would vote on and sign if it seeks to become a Joining Member. The Joinder Agreement, which would be countersigned by the MRC, sets forth the terms and conditions for the Joining Member to deliver MSW to the Fiberight facility upon the termination of its existing Waste Disposal Agreement for delivery of MSW to the PERC facility (scheduled for March 31, 2018). The key terms and conditions of the Joinder Agreement can be summarized as follows:

- Initial term: 15 years with five 5-year extensions at option of Joining Member.
- MSW delivery obligation: all MSW under control of Joining Member (unless diverted under a waste reduction or recycling program). Joining Member provides an Estimated Delivery Amount, but there are no shortfall penalties for failure to deliver the Estimated Delivery Amount unless MSW is intentionally diverted to other processing or disposal facilities.
- Acceptable Waste. Includes all materials accepted by PERC under their existing waste disposal agreements. Joining Members shall not deliver Unacceptable Waste.
- Waste reduction and recycling programs. Joining Member can continue its programs.
- Initial tip fee: \$70 per ton escalating once per year with CPI.
- Rebates: not less than \$5 per ton for Equity Charter Municipalities in first three years (\$3 per ton for New Charter Municipalities), with future values to be set by the MRC
- MRC membership: Joining Member becomes a member of the MRC and delegates authority to the MRC to represent its interests consistent with the MRC By-Laws.
- Existing Charter Municipality Assets: MRC continues to manage application and disposition.
- Liabilities to repay debt service or private investment. Joining Members have no such liabilities under any circumstances whatsoever other than intentional adverse acts of gross negligence. Under certain scenarios, the MRC might have exposure to certain identified liabilities, against which the MRC will keep cash reserves.

The following matrix provides a more detailed summary of the contractual provisions in each of the sections of the Joinder Agreement. This matrix is provided for summary and reference purposes only and is not intended to be a substitute or replacement in any way for the full language of the Joinder Agreement. The language of the full Joinder Agreement shall take precedence in the event of any apparent conflict in interpretation with this summary.

<i>Section</i>	<i>Description</i>
Parties	Signed by the Municipality (known as the "Joining Member") and the MRC
1.0 Definitions	Many terms are defined either in the context of the Joinder Agreement or in the Master Waste Supply Agreement or the Site Lease
2.0 Term	Initial term is 15 year from the start of commercial operations as defined in the Site Lease. Joining Members can extend the Agreement three times for 5 years each, or can terminate with nine months' notice before the end of any term. MRC can terminate the Agreement if sufficient Joining Members do not extend or if the Master Waste Supply Agreement is terminated.
3.0 Waste Delivery	Joining Members <ul style="list-style-type: none"> <li>• Will deliver MSW under their control on an exclusive basis under the Agreement.</li> <li>• Will provide an estimate of tons of MSW to be delivered, but will not be penalized for shortfalls against the estimate unless MSW is intentionally diverted to other disposal facilities.</li> <li>• Can continue, expand or discontinue their waste reduction and recycling programs without violating delivery requirements.</li> <li>• Must provide notice to the MRC of proposed changes to the scope of responsibility for managing MSW, and must consult with the MRC regarding such changes prior to implementation..</li> <li>• Must not initiate new programs or expand existing programs to divert organic components from MSW to facilities other than the Facility without prior notice to and consultation with the MRC, and without prior consent of Fiberight.</li> <li>• Are subject to penalties for violating exclusivity if they act to send MSW under their control to another disposal facility.</li> <li>• Agree to pay a special assessment pro rata with all other Joining Members only if (i) there are system-wide delivery shortfalls of MSW below 150,000 tons per year not otherwise mitigated; and (ii) the MRC owes Fiberight more than it draws from reserves for such contingencies</li> <li>• Will not deliver Unacceptable Waste.</li> <li>• Will cause haulers of their MSW to comply with delivery requirements.</li> </ul>
4.0 Tip Fees and Rebates	Per the Master Waste Supply Agreement <ul style="list-style-type: none"> <li>• The initial tip fee will be \$70 per ton and will escalate once per year with the annual rate of change in the CPI.</li> <li>• Joining Members will be invoiced weekly and will pay in 30 days</li> <li>• Departing Municipalities later readmitted to the MRC and new Joining Members that were not Charter Municipalities are subject to a tip fee surcharge of \$2,21 per ton over the Initial Term.</li> </ul>

	<ul style="list-style-type: none"> <li>• Neither Departing Municipalities that are re-admitted to the MRC nor new Joining Members that were not Charter Municipalities and did not enroll timely will be entitled to rebates.</li> <li>• The MRC will manage calculation and payment of rebates to the Joining Members. The MRC will make quarterly rebate calculations available to all Joining Members and may offset rebates against some specific charges.</li> </ul>
5.0 Authorization	<p>The Joining Member</p> <ul style="list-style-type: none"> <li>• Authorizes the MRC to administer its interests in the Master Waste Supply Agreement and the Site Lease.</li> <li>• Remains (or becomes) an MRC member</li> <li>• Accepts the MRC Bylaws and Articles of Incorporation</li> </ul> <p>The MRC will provide notice to Joining Members and will provide opportunities to be heard on contract changes and other matters.</p>
6.0 Transportation and Bypass	<p>If the Fiberight facility cannot accept MSW, the Joining Member will send its MSW to the Crossroads Landfill and will comply with the applicable rules for delivery. This might happen if</p> <ul style="list-style-type: none"> <li>• As of April 1, 2018, if the Fiberight Facility has not yet achieved commercial operation</li> <li>• During the Term the Fiberight Facility needs to bypass the MSW</li> <li>• There is a Force Majeure event or other casualty event</li> </ul>
7.0 Existing Assets	<p>The MRC will manage the disposition of the assets of the Equity Charter Municipalities, including the Tip Fee Stabilization Fund, other funds, and partnership share interests in PERC, per Exhibit B.</p>
8.0 Indemnification	<p>Reciprocal. Limits liability.</p>
9.0 Assignment	<p>Limited. MRC must provide Joining Members with notice and an opportunity to be heard.</p>
10.0 Events of Default and Terminations	<p>Very limited. The MRC and Joining Members are expected to comply with their commitments.</p>
11. Other provisions	<p>The MRC will provide Joining Members with notice and an opportunity to be heard, and will coordinate responses to, Force Majeure events, Changes in Law and other contingencies.          Disputes can be resolved by arbitration.          Other typical contractual provisions are included.</p>
Signature	<p>Will need to be signed by an authorized party with evidence of proper authorization and procedure</p>
Exhibit A	<p>Executed version of the Master Waste Supply Agreement</p>
Exhibit B Disposition of PERC Related Assets	<p>This section addresses in detail how the MRC would apply and allocate the existing assets of the Equity Charter Municipalities that it has managed under the PERC Waste Disposal Agreements since 1998.          Tip Fee Stabilization Fund: would be allocated to the following uses:          \$5.0 million Site Capital Costs          \$7.0 million Building reserve fund</p>

	<p>\$3.0 million Delivery Sufficiency Reserve Fund (shortfall payments)                  \$1.167 million Liabilities of PERC closure                  \$1.00 million Offset transportation costs if commercial operation date is delayed                  Remainder pay balances owed to Departing Municipalities, and rewerve the rest for tip fee stabilization                  Operating Funds: roll over (nominal) fund balances to the MRC                  Debt Service Reserve Fund: release balance to Equity Charter Municipalities after covering and reserving for related costs                  PERC LP interests: manage ultimate distribution per the terms of the PERC LP Agreement</p>
<p>Exhibit C                  Components of                  Ratification</p>	<p>To ratify the agreement properly, Joining Members will need to</p> <ul style="list-style-type: none"> <li>• Execute the agreement with proper evidence of authorization and authority</li> <li>• Provide baseline information on estimated municipal deliveries, existing methods for MSW collection and delivery, and existing recycling programs</li> <li>• Designate preferences for participating in regional approaches to transportation and management of hard-to-manage materials and delivery of source-separated recyclables or other materials</li> </ul>

\_\_\_\_\_ **COUNCIL RESOLUTION**

\_\_\_\_\_, 2016

**Authorizing Execution of Municipal Joinder Agreement with the Municipal Review Committee**

**RESOLVED, by the \_\_\_\_\_ Council of \_\_\_\_\_, Maine, that:**

(i) the \_\_\_\_\_ shall continue as a member of the Municipal Review Committee, Inc. ("MRC"), organized as a Maine nonprofit corporation and acting as a regional association pursuant to Title 13-B and Title 38 of the Maine Revised Statutes, as amended (and specifically Section 1304-B(5-A) of Title 38) for the purposes of managing and facilitating solid waste disposal;

(ii) the \_\_\_\_\_ hereby adopts, ratifies and confirms the Restated Articles of Incorporation and the Restated Bylaws of the MRC in substantially the form on file with the \_\_\_\_\_ Clerk and attached to this Resolution;

(iii) the \_\_\_\_\_ hereby is authorized to execute and deliver a Municipal Joinder Agreement with the MRC in substantially the form on file with the \_\_\_\_\_ Clerk and attached to this Resolution (the "Municipal Joinder Agreement") pursuant to which the \_\_\_\_\_ will be a Joining Member of the MRC (as defined therein) and deliver its municipal solid waste for disposal to a waste management facility being developed by Fiberight, LLC and/or its affiliates (collectively, "Fiberight") in Hampden, Maine, or other waste disposal facility; and

(iv) the \_\_\_\_\_ hereby authorizes the MRC to take certain actions on behalf of the \_\_\_\_\_ as set forth in the Municipal Joinder Agreement.

**NOW, THEREFORE, BE IT HEREBY VOTED AND ORDERED BY  
THE \_\_\_\_\_ COUNCIL OF \_\_\_\_\_:**

\_\_\_\_\_ or his or her designee or designees is authorized as a representative of the \_\_\_\_\_ to execute and deliver the Municipal Joinder Agreement on behalf of the \_\_\_\_\_ and to execute and deliver on behalf of the \_\_\_\_\_ in conjunction therewith such other documents and to take such further actions as they may deem necessary or appropriate in order to effect the transactions contemplated by the Municipal Joinder Agreement.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2016, in \_\_\_\_\_, Maine.

\_\_\_\_\_ **COUNCIL**

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\_\_\_\_\_ COUNCIL RESOLUTION

\_\_\_\_\_, 2016

I certify that I am the duly qualified Clerk of \_\_\_\_\_, Maine, and that the foregoing votes were adopted by the \_\_\_\_\_ Council at a meeting of said Council duly called and legally held in accordance with the laws of Maine on \_\_\_\_\_, 2016, that the meeting was open to the public and that adequate and proper notice thereof was given in accordance with the laws of Maine, and that such votes have been entered into and become a part of the permanent records of the \_\_\_\_\_ and remain in full force and effect and have not been rescinded or amended.

City/Town of \_\_\_\_\_

\_\_\_\_\_  
Clerk

Dated at \_\_\_\_\_, Maine  
\_\_\_\_\_, 2016

# Municipal Joinder Agreement

This Municipal Joinder Agreement (the "*Joinder Agreement*" or "*Agreement*") is made and executed on this \_\_\_\_ day of \_\_\_\_\_, 2016 (the "*Effective Date*") by and between the Municipal Review Committee, Inc., a Maine nonprofit corporation with offices at 395 State Street, Ellsworth, Maine 04605 (the "*MRC*") and \_\_\_\_\_, a [municipality] [solid waste disposal district] [other eligible entity] with offices at \_\_\_\_\_ ("*Joining Member*").

WHEREAS, the MRC was created and has operated since 1991 to represent its membership, consisting of Maine municipalities and public entities (the "*Charter Municipalities*"), in order to ensure the continuing availability to its members of long-term, reliable, safe and environmentally sound methods of solid waste disposal at a stable and reasonable cost; and

WHEREAS, the MRC is governed by a board of directors each of whom is elected by the membership to a three year term and all of whom represent, at large, all member communities; and

WHEREAS, the Charter Municipalities deliver municipal solid waste ("*MSW*") to the refused-derived fuel facility owned by the Penobscot Energy Recovery Company, L.P. ("*PERC*" or the "*PERC Partnership*") in Orrington, Maine, pursuant to long term waste disposal agreements (collectively, the "*Existing PERC Agreements*"); and

WHEREAS, the Existing PERC Agreements are scheduled to terminate on March 31, 2018; and

WHEREAS, the MRC has long experience reviewing operating financials of the PERC facility and has determined and recommended to the membership that it is not in the economic interest of its members to commit to a long term relationship obligating member communities to continue delivering municipal solid waste to the PERC facility beyond expiration of the current waste disposal agreements; and

WHEREAS, consistent with its mission, the MRC has investigated and developed alternative waste disposal arrangements to be available to its members on or about April 1, 2018, which arrangements would replace the Existing PERC Agreements upon their expiration; and

WHEREAS, Fiberight, LLC ("**Fiberight**" or, together with its successors or assignees, the "**Company**") has developed a technology for processing MSW into various marketable products and has expressed interest in developing a facility utilizing such technology in Maine; and

WHEREAS, the MRC and Fiberight have entered into a Development Agreement dated as of February 4, 2015, setting forth general business terms under which Fiberight proposes to develop, construct, maintain and operate a facility utilizing its technology to accept and process MSW (the "**Facility**"); and

WHEREAS, the MRC proposes to reach agreement with Charter Municipalities and other entities to supply to the Facility , in the aggregate, at least 150,000 tons of MSW per year; and

WHEREAS, the historical role of MRC has been to administer individual waste contracts on behalf of its members in order to provide an efficient and effective means of administering the Existing PERC Agreements and to maintain parity and fair treatment among and for its members; and

WHEREAS, tipping fees for municipal solid waste delivered to the proposed Fiberight Facility will be paid directly by each MRC member to Fiberight; and

WHEREAS, the MRC proposes to continue in its role administering revenue sharing among its members and providing for and managing various reserve funds while insulating each Joining Member from exposure to penalties for failure to deliver minimum quantities of municipal solid waste to the Fiberight Facility; and

WHEREAS, the MRC has acquired an option (the "**Site Option**") to purchase property in Hampden, Maine (the "Site") suitable for development of the Facility; and

WHEREAS, the MRC and Fiberight have negotiated a long-term lease of the Site (the "**Site Lease**") upon which Fiberight proposes to develop, construct, maintain and operate the Facility, such Site Lease to be executed following the anticipated exercise by the MRC of the Site Option and acquisition of the Site; and

WHEREAS, the MRC and Fiberight have executed a Master Waste Supply Agreement dated as of January 1, 2016 that, among other things, establishes a common set of terms and conditions pursuant to which interested Maine municipalities and other public and private

entities are expected to make long-term commitments for delivery of MSW to the Facility, which commitments would be memorialized through execution of Municipal Joinder Agreements in the form of this Agreement; and

WHEREAS, pursuant to 38 M.R.S. §1305(1), the Joining Member has responsibility under Maine law for ensuring availability of an option for disposal of MSW originating within its boundaries; and

WHEREAS, the Joining Member currently arranges for disposal of MSW originating within its boundaries by delivery to the PERC facility pursuant to an Existing PERC Agreement that is scheduled to terminate on March 31, 2018; and

WHEREAS, the Joining Member wishes to enter into a long term agreement for management and disposal of MSW originating within its boundaries [with service to commence as of the termination of its Existing PERC Agreement or as soon thereafter as feasible] pursuant to which it would commit to deliver MSW to the Facility on a long term basis and authorize the MRC to administer this Agreement and to otherwise represent its interests under this Agreement;

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration each to the other paid, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

## ARTICLE 1 DEFINITIONS

Capitalized terms when used herein shall have the meanings set forth below. Other capitalized terms not otherwise defined in this Agreement shall, unless the context clearly requires otherwise, have the meanings ascribed to them in the Master Waste Supply Agreement.

**"Acceptable Waste"** shall have the definition set forth in Exhibit A to the Master Waste Supply Agreement.

**"Agreement" or "Joinder Agreement"** shall mean this Municipal Joinder Agreement.

**"Back-up Facility"** has the meaning set forth in Section 6.2.

**"Charter Municipalities"** shall mean the members of the MRC currently delivering MSW to the PERC Plant pursuant to the Existing PERC Agreements.

**"Debt Service Reserve Fund"** shall mean the Debt Service Reserve Fund currently administered by the MRC.

**"Delivery Assessment Reserve Fund"** shall mean the reserve fund created by the MRC pursuant to Section 3.3 as a reserve against payment of assessments to Fiberight for failure of the MRC to meet the Delivery Commitment prescribed under the Master Waste Supply Agreement.

**"Delivery Diversion Charge"** shall mean reimbursement by the Joining Member pursuant to Section 3.2 as a consequence of Acceptable Waste under its control being diverted to facilities other than the Facility for reasons other than those permitted hereunder.

**"Departing Municipalities"** shall mean Charter Municipalities that affirmatively elect not to become Joining Members or that otherwise do not sign a Municipal Joinder Agreement by the later of (i) seven days following the date of any scheduled town meeting of such Joining Member at which approval of the Municipal Joinder Agreement is to be considered, or (ii) May 1, 2016.

**"Effective Date"** shall mean the effective date of this Agreement.

**"Equity Charter Municipalities"** shall mean those Charter Municipalities having the status of Equity Charter Municipalities under the Existing PERC Agreements. **"Estimated Delivery Amount"** shall mean the estimated quantity of Acceptable Waste to which Joining Member has agreed pursuant to Section 3.3(b).

**"Event of Default"** has the meaning set forth in Article 10.

**"Extension Term"** shall have the meaning set forth in Section 2.1.

**"Force Majeure"** shall mean any unforeseeable act, event or condition, not in effect as of the Effective Date, that has had, or may reasonably expected to have, a material adverse impact on the rights or the obligations of either party under this Agreement; or a material adverse effect on the Facility, the Property or the Infrastructure or on the construction, ownership, possession or operation of the Facility, the Property or the Infrastructure, provided that such act, event or condition (a) is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement; (b) is not the result of willful or negligent action, inaction or fault of the party relying thereon; and (c) which, by the exercise of reasonable diligence, such party is unable to prevent or overcome.

Acts, events or conditions of Force Majeure shall include, without limitation; (i) acts of

God, epidemics, landslides, lightning, earthquakes, fires, hurricanes, floods, high-water washouts, and extraordinary storms (but excluding reasonably foreseeable weather conditions); (ii) a strike, work slowdown or similar industrial or labor action not exclusive to the Facility (iii) acts of the public enemy, wars, blockades, insurrections, riots, arrests and restraints by governments, civil disturbances, sabotage, and acts of terrorism or similar occurrences; (iv) catastrophic events such as explosions, breakage or accident to machinery or lines of pipe caused by the foregoing; (v) condemnation or taking by eminent domain of the Property or the Facility, in whole or in part, and (vi) a Change in Law which is not the result of the negligence or willful act of the party relying thereon. Force Majeure shall not include changes in market conditions for the supplies to or products of the Facility, and shall not include changes in the cost of the supplies, materials or labor needed to construct or operate the Facility, or that reduce the profitability of the Facility, unless specifically attributable to a specific Force Majeure event that affects the non-performing party as enumerated above.

**"Force Majeure Plan"** shall have the meaning set forth in Section 13.3 of the Master Waste Supply Agreement.

**"Indemnified Party"** shall have the meaning set forth in Section 8.3.

**"Indemnifying Party"** shall have the meaning set forth in Section 8.3.

**"Initial Term"** shall have the meaning set forth in Section 2.1.

**"Joining Member"** means the entity identified in the preamble to this Agreement.

**"Master Waste Supply Agreement"** means the proposed waste supply agreement between the MRC and Fibright on substantially the terms set forth in the form of agreement attached to this Agreement as **Exhibit A**.

**"MRC Board"** shall mean the Board of Directors of the MRC as it may be constituted by vote of its members from time to time.

**"New Charter Municipalities"** shall mean those Charter Municipalities that are not Equity Charter Municipalities.

**"Non-Charter Municipalities"** shall mean Joining Members who were not Charter Municipalities.

**"Operating Funds"** shall mean the Operating Fund and an Operating Budget Stabilization Fund currently administered by the MRC.

"Party" shall mean a party to this Agreement and "Parties" shall mean both parties to this Agreement.

"Target Value Reserve Fund" shall mean the reserve fund established pursuant to paragraph 2 of Exhibit B of this Agreement.

"Term" shall mean the term of this Joinder Agreement as provided in Article 2.

"Tip Fee Stabilization Fund" shall mean the reserve fund currently maintained by the MRC for the benefit of the Charter Municipalities which is to be administered as provided in Exhibit B.

"Unacceptable Waste" shall have the meaning set forth in Exhibit A to the Master Waste Supply Agreement.

## ARTICLE 2

### TERM

**2.1 Term.** The initial term of this Agreement shall commence on the Effective Date and shall continue through the later of April 1, 2033, or the fifteenth (15<sup>th</sup>) anniversary of the Commercial Operation Date (the "**Initial Term**") unless terminated in accordance with the terms hereunder. Subject to the limitations in Section 2.2 below, the Joining Member shall have the right to extend the Agreement for up to five (5) consecutive periods of five (5) years each (each an "**Extension Term**," and together with the Initial Term, the "**Term**") by written notice to the MRC exercising such right to an Extension Term, which notice must be provided by the Joining Member no later than twelve (12) months prior to the expiration of the then current Term. Upon timely exercise of each right to extend, the Term shall be automatically extended, provided that there is no then existing Event of Default under this Agreement on the part of the Joining Member at either the time of the exercise of the right to extend the Term or the commencement of the applicable Extension Term.

**2.2 Right to Terminate.** Notwithstanding receipt of a notice from Joining Member exercising a right to an Extension Term, the MRC shall have the right at the end of the Initial Term or any applicable Extension Term, to terminate this Agreement by written notice to the Joining Member, which notice shall be given not later than nine (9) months prior to the expiration of the then current Term. Such notice of termination shall not be valid unless the MRC is simultaneously providing valid notices of termination to all Joining Members.

ARTICLE 3  
DELIVERY OF WASTE

**3.1 Delivery.** Joining Member hereby agrees to become a Joining Member of the MRC, as defined in the Master Waste Supply Agreement. Except as otherwise provided in Section 6.2 of this Agreement, beginning on the Commercial Operation Date and continuing through the Term of this Agreement, Joining Member shall deliver, or cause to be delivered, to the Facility under the Master Waste Supply Agreement on an exclusive basis all Acceptable Waste generated within its borders the collection and disposition of which is under its control. Joining Member (a) shall comply with the conditions of delivery set forth in Exhibit E of the Master Waste Supply Agreement; and (b) shall not deliver, or cause to be delivered, Unacceptable Waste. For purposes of this Agreement, Acceptable Waste shall be deemed to be under the control of Joining Member if it is collected and delivered directly by Joining Member, its employees or agents, or by a hauler under contract and at the direction of Joining Member.

**3.2 Diversion of Waste.** Joining Member understands and agrees that violation of its obligation to deliver Acceptable Waste to the Facility on an exclusive basis could have a material adverse effect on the financial performance of the Facility and/or on the Joining Members. Notwithstanding the foregoing, (i) Joining Member shall not be required to institute flow control or implement other measures to the extent that, in its good faith opinion, such measures would constitute a violation of Law; and (ii) Joining Member shall have the right to establish, continue, expand or discontinue, at Joining Member's sole option, existing or future programs intended to encourage reduction, reuse or recycling of MSW generated within its borders, subject to the requirements of Section 3.4, and such activity shall not be deemed a violation of the delivery requirements imposed by this Agreement and shall not subject Joining Member to a Delivery Diversion Charge.

Joining Member agrees that, to the extent that Acceptable Waste under its control is diverted to facilities other than the Facility for reasons other than those permitted hereunder, Joining Member shall pay to the MRC, upon receipt of an invoice, a Delivery Diversion Charge to be deposited into the Delivery Assessment Reserve Fund to be established pursuant to Section 3.3(c) for the benefit of all Joining Members that are Charter Municipalities in the amount of the sum of (a) the product of the diverted tons of Acceptable Waste and the Tipping Fee that would have been paid in respect of the diverted tons had they been delivered to the Facility; plus (b) Joining Member's share of any penalty billed to MRC by the Company as a consequence of such diversion. Provided that Joining Member pays in full when due all Delivery Diversion

Charges imposed hereunder, the diversion of Acceptable Waste forming the basis for such charges shall not be deemed to constitute a breach by Joining Member of its obligations under this Agreement.

### 3.3 Aggregate Delivery Requirements.

(a) The MRC and Joining Member acknowledge that, under the terms of the Master Waste Supply Agreement, the MRC has committed to cause not less than 150,000 tons of Acceptable Waste per Contract Year to be delivered to the Facility by or on behalf of all Joining Members as a group, and that, in order to support the financing of the Facility, the Master Waste Supply Agreement provides that the MRC shall in certain circumstances be liable for Delivery Sufficiency Payments in the event that the MRC minimum delivery requirement is not met. Joining Members shall not have direct responsibility for payment of any Delivery Sufficiency Payments assessed by the Company against the MRC or otherwise.

(b) Joining Member, after consultation with the MRC and consistent with such guidelines as may be established from time to time by the MRC, has agreed that it is reasonable to estimate that its annual deliveries to the Facility will be at least \_\_\_\_\_ tons of Acceptable Waste per Contract Year (the "*Estimated Delivery Amount*"), which will be its estimated annual contribution to the aggregate delivery requirement of the MRC. For purposes of determining the Estimated Delivery Amount for Joining Member, recyclable materials derived from any Single Stream Recycling Program that Joining Member delivered under Section 5.2 of the Master Waste Supply Agreement shall not be included in determining whether the Delivery Commitment has been met. Joining Member agrees to the foregoing Estimated Delivery Amount and acknowledges that it is reasonable in light of current circumstances and historical MSW deliveries by the Joining Member to PERC (and/or such other waste disposal facility as may have been utilized by Joining Member), forecasted changes in MSW generation (net of anticipated waste reduction efforts), delivery patterns, diversion, and management through methods permitted by this Agreement or not under the control of Joining Member. Joining Member and the MRC shall review this commitment either (a) at the written request of either party, such request to be made no more frequently than every five years; or (b) for good cause shown, any such request to be made not less than sixty (60) days prior to the end of the then current calendar year, and the Estimated Delivery Amount of the Joining Member shall be adjusted, as appropriate, to reflect then current circumstances.

(c) The MRC intends to set aside funds in a reserve fund (the "*Delivery Assessment Reserve Fund*"). The Delivery Assessment Reserve Fund shall be managed by the MRC for the

sole purpose of providing a reserve in the event that the Delivery Commitment is not met in any year. The MRC shall have the authority to determine the amount and timing of contributions to the Fund, which shall be derived from other reserve funds, contributions from Joining Members, or such other sources as the MRC Board of Directors may determine to be available. The MRC Board of Directors shall manage investment of the Fund and authorize withdrawals from the Fund, all as it deems appropriate in accordance with the terms of this Agreement.

(d) In the event that Delivery Sufficiency Payments become due under the Master Waste Supply Agreement, they shall be paid as follows:

(i) First, to the extent that a Delivery Sufficiency Payment is attributable to the fact that one or more Joining Members has not delivered, or cause to be delivered, to the Facility all MSW under its control required to be delivered by it pursuant to the terms of this Agreement, each such Joining Member shall be assessed its ratable share of the payment, as determined by the MRC on the basis of tons of Acceptable Waste delivered (each a "*Delivery Diversion Charge*"), and the MRC shall apply the proceeds of such assessment to the payment of the Delivery Sufficiency Payment to which it relates. The MRC acknowledges that the fact that Joining Member has not achieved the Estimated Delivery Amount in and of itself will not justify imposition of a Delivery Diversion Charge.

(ii) Second, from the Delivery Assessment Reserve Fund, that portion of the remaining Delivery Sufficiency Payment allocable to Charter Municipalities as provided in **Exhibit B** to this Agreement.

(iii) Third, each Non-Charter Municipality shall pay an assessment equal to its allocable share of an amount equal to the amount paid from the Delivery Assessment Reserve Fund pursuant to subparagraph (ii) above multiplied by the percentage which aggregate deliveries by or on behalf of Non-Charter Municipalities for the time period as to which the Delivery Sufficiency Payment applied bears to all deliveries by or on behalf of Joining Members during that period.

(iv) Fourth, to the extent that the proceeds of Delivery Diversion Charges, plus amounts available in the Delivery Assessment Reserve Fund, plus amounts paid by Non-Charter Municipalities pursuant to subparagraph (iii) above are not adequate to fully fund a Delivery Sufficiency Payment, after notice to potentially affected Joining Members and an opportunity for them to be heard, each Joining Member may be assessed its ratable share of such penalty, as determined by the MRC consistent with the requirements of this Agreement, which special

assessment may, at the option of the MRC, be either collected directly from Joining Members or offset against rebates otherwise payable to Joining Members, and the MRC shall apply the proceeds of such assessments directly to the payment of the Delivery Sufficiency Payment.

(e) Upon termination of this Agreement, and after payment of reasonable expenses attendant to termination, any balance remaining in the Delivery Assessment Reserve Fund shall be returned to Joining Members as provided in **Exhibit B** to this Agreement.

### **3.4 Changes in Waste Delivery Patterns.**

(a) Subject to subparagraph (b) below, if a Joining Member proposes to alter the scope of its responsibility for collection, transfer and transportation of MSW originating within its borders, it shall provide to the MRC not less than sixty (60) days notice of such proposed change and shall consult with the MRC with regard to such change prior to any implementation. The MRC will advise the Joining Member regarding contract compliance impacts to the Joining Member and all other Joining Members resulting from implementation of any such planned changes in the scope of its responsibility.

(b) In recognition of the importance of organic waste delivered to the Fiberright Facility, as of the Effective Date, Joining Member shall not, (i) without first providing to the MRC not less than sixty (60) days notice of such proposed change and consulting with the MRC with regard to such change prior to any implementation, and (ii) without the prior consent of the Company, initiate new programs, or significantly and materially expand existing programs, to divert organic components from MSW for management through facilities or programs other than the Facility, but may continue to operate existing programs substantially as operated as of the Effective Date. Notwithstanding the foregoing, Joining Member may institute "pay as you throw" or similar waste reduction programs at its discretion without prior approval from the MRC so long as all MSW generated within its borders and under its control continues to be delivered to the Facility.

**3.5 Unacceptable Waste.** Joining Member shall not deliver Unacceptable Waste to the Facility and shall use reasonable efforts to offer residents local options for disposal of household hazardous waste. Joining Member shall pay its full cost for, and shall indemnify and hold harmless the Company and the MRC and the members, directors, officers and agents or each, from and against any liability, claim or damage arising from delivery of Unacceptable Waste to the Facility by or on behalf of Joining Member. The MRC agrees that it will, upon request, provide advice and guidance consistent with the MRC's historical practice to Joining

Member in connection with any claims made against it pertaining to delivery of Unacceptable Waste to the Facility.

**3.6 Compliance By Haulers.** To the extent that Joining Member contracts with independent hauler or haulers to deliver MSW to the Facility, Joining Member shall be responsible for ensuring that all such haulers comply with the delivery requirements set forth in this Agreement including, but not limited to, the requirement that all MSW generated within the borders of Joining Member the collection and disposal of which is under its control be delivered to the Facility or to the Back-up Facility as contemplated by Section 6.2(d).

#### ARTICLE 4 TIPPING FEES AND REBATES

**4.1 Tipping Fees.** Joining Member agrees to pay tipping fees for Acceptable Waste and other wastes delivered and credited to its account in the amount of \$70.00 per ton, subject to annual increase equal to the amount of annual increase in the CPI, as provided in the Master Waste Supply Agreement. Joining Member specifically acknowledges that, if it fails to pay tipping fees on a timely basis, it may be precluded from delivering Acceptable Waste to the Facility or the Back-up Facility under this Agreement. The MRC shall review and accept or dispute tipping fee calculations provided by the Company and used to determine amounts due from Joining Member. Joining Member may make separate arrangements to bring materials collected through Single Stream Recycling programs to the Facility and to pay tipping fees directly to Company for such deliveries.

**4.2 Invoicing.** Joining Member will receive an invoice directly from the Company on a weekly basis within five (5) days of the end of each calendar week setting forth the number of tons of material delivered by or on behalf of Joining Member and accepted at the Facility during the preceding week and the tip fee due in respect of such deliveries. The amount due shall be equal to the then applicable Tipping Fee multiplied by the number of tons (rounded to the nearest twenty pounds) delivered by the Joining Member to the Facility during such calendar week. Joining Member shall pay all such invoices directly to the Company within thirty (30) days of receipt unless the calculation thereof has been challenged by the MRC.

**4.3 Rebates.**

(a) Joining Member hereby authorizes the MRC to manage on its behalf rebates derived from revenue sharing in the Fibrigh Project and payable to the MRC as provided under

the Master Waste Supply Agreement. Without limiting the generality of the foregoing, Joining Member acknowledges that the MRC shall direct disposition of rebates received from the Company in such manner as the MRC may determine to be in the best interests of the Joining Members as a group. Without limiting the generality of the foregoing, the MRC is specifically authorized to offset against rebates otherwise payable to Joining Member (i) any Delivery Diversion Charges against Joining Member; (ii) amounts designated by the MRC to be deposited in the Delivery Assessment Reserve Fund; (iii) any special assessment determined by the MRC to be necessary to cover otherwise unfunded liability for payment of shortfall penalties; (iv) other costs attributable to failure of Joining Member to comply with this Agreement as determined by the MRC; and (v) costs occasioned by the delivery by or on behalf of Joining Member of Unacceptable Waste. The MRC shall provide to all Joining Members a quarterly report summarizing all rebate offsets applied during the preceding calendar quarter.

(b) The Company shall calculate rebates due all Joining Members on a quarterly basis as provided in the Master Waste Supply Agreement and shall forward its calculation to the MRC which shall make such calculation available to all Joining Members. The MRC shall review and accept or dispute the calculation of rebates due, and for that purpose shall review and consider in good faith any dispute of such calculation communicated to it by Joining Member, and shall inform Joining Member and the Company of its action.

(c) The Company shall pay rebates for all Joining Members directly to the MRC which shall, after reserving such funds as the MRC may deem appropriate, pay to each class of Joining Member its allocable share of remaining distributable proceeds based on actual Acceptable Waste delivered to the Facility and in the manner set forth in Exhibit F of the Master Waste Supply Agreement.

(d) Notwithstanding any other provision of this Agreement, in addition to the additional tipping fees contemplated by paragraph 6 of **Exhibit B**, unless the MRC Board of Directors determines otherwise for good cause shown, no Non-Charter Municipality or Departing Municipality that subsequently is re-admitted to membership in the MRC shall be entitled to any rebate payments during the Initial Term.

**4.4 Amendment of Tipping Fee.** The Tipping Fee is governed by both this Article 4 and by Section 5.1 of the Master Waste Supply Agreement. The MRC hereby acknowledges that, except in cases of Force Majeure or actions of the Joining Member or the MRC contrary to the terms of this Agreement or the Master Waste Supply Agreement, it cannot agree to amendments to the Tipping Fee that might be proposed by the Company unless Joining Member explicitly authorizes the MRC to amend the

Tipping Fee by amending this Joinder Agreement. In the event that the Company provides a formal proposal for amendment of the Tipping Fee that the MRC agrees is reasonable and necessary for the Company to continue operation of the Facility on a sustainable basis, the MRC will facilitate presentation by the Company of such proposed amendment to Joining Member for its consideration, and Joining Member agrees to consider such amendment in good faith.

## ARTICLE 5 AUTHORIZATION TO ACT FOR JOINING MEMBER

**5.1 Contract Management and Authorization to Act.** Joining Member explicitly acknowledges that it is one of a group of municipal and quasi-municipal entities that have become Joining Members for the purpose of collectively managing disposal of MSW under the auspices of the MRC for the benefit of all Joining Members. In addition to administering the provisions of this Agreement, the Master Waste Supply Agreement and the Site Lease, the MRC shall serve as an advocate for and advisor to the Joining Members in furtherance of its mission of ensuring the continuing availability to its members of long term, reliable, safe and environmentally sound methods of solid waste disposal at stable and reasonable cost. In order to accomplish these objectives in an efficient and effective manner, it hereby authorizes the MRC to work with all Joining Members to manage the disposal of MSW pursuant to this Agreement and the Master Waste Supply Agreement. Without limiting the generality of the foregoing, and subject to the provisions of the MRC's Articles of Incorporation and Bylaws and of Maine law, in each case as in effect from time to time, Joining Member hereby authorizes the MRC to act in its behalf (a) to ensure that the Company complies with all of its obligations and covenants to or for the benefit of the Joining Members and the MRC set forth in this Agreement, the Development Agreement, the Master Waste Supply Agreement and the Site Lease; (b) to file and prosecute in its own name and/or in the name of Joining Member permit applications relating to this Agreement or the Project; (c) to prosecute or otherwise participate in administrative and court proceedings related to the Project in its own name and/or in the name of Joining Member; (d) to review and administer, accept, invest, apply and distribute tip fees, rebates and other payments to the MRC and/or Joining Members consistent with the terms of this Agreement, including but not limited to the establishment and funding of such reserve funds as the MRC may deem appropriate from time to time; ; and (e) negotiate and enter into in the name of and on behalf of Joining Member and other Joining Members contracts related to the collective transportation, management and disposition of MSW including, without limitation contracts related to the transportation and bypass of waste and the disposition of non-processibles and residuals, it being understood that the MRC will enter into any such contracts only after

appropriate notice to Joining Members affording them an opportunity to be heard with regard to such contracts.

**5.2 Ratification of MRC Articles of Incorporation and Bylaws; Authorization.**

By executing and delivering this Agreement, Joining Member expressly (i) consents to becoming a Joining Member; (ii) agrees to comply with the Components of Ratification specified in **Exhibit C**; and (iii) agrees to become, or continue to be, a Member of the MRC and ratifies and confirms acceptance by it of the MRC Articles of Incorporation and Bylaws, as the same may be amended from time to time. Without limiting the generality of the foregoing, Joining Member hereby authorizes the MRC to collect and distribute payments made to or by Joining Member, including dues to the MRC in such amount as may be set by the MRC Board of Directors (historically \$1.25 per ton), to allocate such payments among Joining Members, and to establish and administer reserve or other similar accounts, in each case such manner, at such times and in such amounts as the MRC may deem to be appropriate after due public review and consideration.

ARTICLE 6

TRANSPORTATION AND DISPOSITION OF BYPASS AND BRIDGE WASTE

**6.1 Transportation.** Joining Member and the MRC each acknowledge that it may be in the interests of all Joining Members to enter into collective arrangements for the transportation of MSW to the Facility and/or for the use of transportation fuel produced at the Facility. Joining Member and the MRC agree to cooperate and afford each other an opportunity to be heard with regard to such arrangements.

**6.2 Disposition of Bridge Capacity and Bypass Waste.** Joining Member acknowledges that the MRC has entered into an agreement for disposal of the following waste streams at a Back-up Facility (the Crossroads Landfill):

(a) Bridge Capacity Waste, which, in the event the Commercial Operation Date is delayed after April 1, 2018, is Acceptable Waste collected by the Joining Member from April 1, 2018, until the Commercial Operation Date (as that term is defined in the Site Lease) that cannot be accepted for processing at the Facility.

(b) Bypass Waste, which is Acceptable Waste that is collected by the Joining Member for delivery to the Facility after the Commercial Operation Date, but cannot be accepted for processing by the Facility, because either (i) the Facility has not yet achieved Commercial

Operation as of the end of the Excused Delay Period; or (ii) the Facility is out of service for maintenance or repair or as the result of a Force Majeure or otherwise.

(c) Joining Member agrees to cooperate and consult with the MRC to implement delivery of Bridge Capacity Waste and Bypass Waste to the Crossroads Landfill. Joining Member shall pay the Tipping Fee with respect to Bypass Waste as if it were Acceptable Waste delivered to the Facility. Joining Member shall pay tipping fees with respect to Bridge Capacity Waste to the Back-up Facility in accordance with the agreement for management of Bridge Capacity Waste as directed by the MRC. Joining Member shall arrange transportation to, and pay transportation costs for, delivery of Bridge Capacity Waste to the Back-up Facility. The MRC agrees to cooperate with the Joining Members and afford them an opportunity to be heard before implementing arrangements for delivery of Bridge Capacity Waste and Bypass Waste with the objective of avoiding or minimizing additional transportation costs to the Joining Members as a group.

(d) Joining Member agrees to comply with the delivery procedures and transporter rules and regulations that govern deliveries of Acceptable Waste to the Back-up Facility.

ARTICLE 7  
DISPOSITION OF ASSETS  
ADMINISTERED BY THE MRC

**7.1 Existing Assets.** If Joining Member is a current member of the MRC and a Charter Municipality currently delivering MSW to PERC pursuant to the Existing PERC Contracts, the provisions set forth in **Exhibit B** shall govern the disposition of assets of Joining Member and other Charter Municipalities, including Departing Municipalities, following expiration of the Existing PERC Contracts, as well as any additional assets held by the MRC.

**7.2 Disposition of Project Site Assets.** In the event of a sale of the Project Site, after payment of expenses of sale, the remaining sale proceeds shall be distributed in accordance with **Exhibit B**.

ARTICLE 8  
INDEMNIFICATION

**8.1 Indemnification by Joining Member.** Joining Member agrees to defend,

indemnify, and hold harmless the MRC, each other Joining Member, and their respective members, directors, elected officials, officers, agents and employees against any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, to the extent resulting from any failure by Joining Member to perform fully, in any respect, its obligations under this Agreement. The foregoing indemnity expressly extends to claims of injury, death, or damage to employees of Joining Member or of a subcontractor, anyone directly or indirectly employed by Joining Member, or anyone for whose acts they may be liable. In claims against any person or entity indemnified under this Section 8.1 by an employee of Joining Member or subcontractor, the indemnification obligation under this Section 8.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Joining Member or a subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. Joining Member expressly waives immunity under workers' compensation laws for the purposes of this indemnity provision.

**8.2 Indemnification by MRC.** The MRC agrees to defend, indemnify, and hold harmless Joining Member, its elected and appointed officials, officers, agents, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, to the extent resulting from (i) any willful or negligent act or omission by the MRC, its directors, officers, agents, employees (including duly authorized volunteers), contractors, or anyone acting on the MRC's behalf; and (ii) any failure by the MRC to perform fully, in any respect, its obligations under this Agreement. The foregoing indemnity expressly extends to claims of injury, death, or damage to employees of the MRC or of a subcontractor, anyone directly or indirectly employed by the MRC, or anyone for whose acts they may be liable. In claims against any person or entity indemnified under this Section 8.2 by an employee of the MRC or subcontractor, the indemnification obligation under this Section 8.2 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the MRC or a subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The MRC expressly waives immunity under workers' compensation laws for the purposes of this indemnity provision.

**8.3 Notice.** A Party asserting a right to indemnification under this Article VII (the "Indemnified Party") shall give to the other Party (the "Indemnifying Party") written notice of the commencement of any legal action or other circumstance which may give rise to a claim for indemnification hereunder within ten (10) days of receipt of written notice by it of commencement of a legal action and within thirty (30) days of learning of any other circumstances giving rise to a claim for indemnification; provided, however, that failure to so notify the Indemnifying Party shall discharge it from its indemnification obligation hereunder only if and to the extent that it has been prejudiced thereby. The Indemnified Party shall afford to the Indemnifying Party access to all records and information relating to such claim, facts and circumstances (except those matters privileged or otherwise protected from disclosure under applicable state or federal law or rules of evidence) reasonably necessary to permit the Indemnifying Party to evaluate the merits of such claim or the accuracy of such facts and circumstances. Upon receipt of notice, the Indemnifying Party may elect to participate in or, if it

acknowledges its obligation to indemnify, assume defense of, such action at its own expense and with counsel of its own choosing. The Indemnified Party shall not settle or compromise any claim with respect to which indemnification is sought without the prior written consent of the Indemnifying Party which consent may not be unreasonably withheld or delayed.

Notwithstanding that the Indemnifying Party may have assumed defense of an indemnified claim, the Indemnified Party shall have the right, at its sole expense, to retain its own counsel to participate in such defense.

**8.4 Opportunity to Cure.** The Indemnifying Party shall be entitled, at its sole cost and expense, to undertake to cure any circumstances or to pay or settle any claim which is the subject of a claim for indemnification provided that, prior to such settlement, the Indemnifying Party either (i) acknowledges its obligation hereunder to indemnify the Indemnified Party, or (ii) obtains the written consent of the Indemnified Party to the settlement.

**8.5 Resolution of Dispute as to Indemnification.** Any dispute relating to indemnification may, at the election of either Party, be resolved through the dispute resolution procedure contemplated by Section 11.8 of this Agreement.

**8.6 De Minimis Payment Provisions.** Notwithstanding the foregoing, no payments in respect of any indemnification claim shall be required of any Indemnifying Party unless and until the total amount of the indemnification claims payable by such Indemnifying Party has exceeded Twenty-Five Thousand Dollars (\$25,000) in the aggregate, after which, however, all such indemnification claims, including those included in the de minimus calculation, shall be subject to payment as provided herein.

**8.7 Limitation of Liability.** Notwithstanding the provisions of this Article 8, except in the case of fraud neither Party shall be liable to the other for any incidental, indirect, or consequential damages arising out of the performance or breach of this Agreement.

**8.8 No Waiver of Immunities.** Nothing in this Agreement or the Master Waste Supply Agreement shall constitute a waiver or diminution by Joining Member or the MRC of any immunities or statutory limitations on liability, nor shall anything in this Agreement be construed to constitute a waiver of any defense, immunity or limitation of liability that may be available to a governmental entity, or any of its officers, officials, agents or employees pursuant to the Eleventh Amendment to the Constitution of the United States of America, the Maine Constitution, the Maine Tort Claims Act (14 M.R.S.A. §8101 *et seq.*), any state or federal statute, the common law or any privileges or immunities as may be provided by law.

**8.9 Assignment.** The Indemnified Party shall assign to the Indemnifying Party all claims it may have that arise in connection with claims indemnified by the Indemnifying Party.

ARTICLE 9  
ASSIGNMENT

**9.1 General Prohibition of Assignment.** Except as otherwise specifically provided herein, neither Party may assign its rights or delegate its obligations under this Agreement, including without limitation any transfer by operation of law, in any manner whatsoever without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any attempt at any such assignment, transfer, or sale without the consent required hereby shall be void and of no effect, and shall, at the option of the other Party, terminate this Agreement.

**9.2 Assignment by the MRC.** Subject to member approval rights as set forth in the Bylaws of the MRC, and notwithstanding the provisions of Section 9.1, the MRC may, after providing prior notice to Joining Members and affording them an opportunity to be heard, assign its rights under this Agreement to a successor entity formed for the purpose of assuming the obligations and mission of the MRC. Any other attempt by the MRC to assign, transfer, or pledge this Agreement, whether in whole or in part, to any person without the prior written consent of the Joining Member shall be null and void.

ARTICLE 10  
EVENTS OF DEFAULT; TERMINATION

**10.1 MRC Event of Default.** Each of the following shall constitute an Event of Default as to the MRC:

(a) The MRC shall have failed to fulfill its obligations under this Agreement, the Master Waste Supply Agreement or the Site Lease and such failure has not been cured within the longer of (a) thirty (30) days following receipt of written notice from the Joining Member specifying that a particular default exists, or (b) any otherwise applicable cure period; provided, however, that if it is not possible to cure such default within the applicable cure period, no Event of Default shall be deemed to exist so long as the MRC takes action within such period to initiate steps to effect a cure and pursues such cure with reasonable diligence.

(b) The MRC or any permitted assignee shall (a) file, or have filed against it a petition which is not dismissed within sixty (60) days, in bankruptcy, reorganization or similar proceedings under, or shall be adjudicated a bankrupt under, the bankruptcy laws of the United States, (b) have a receiver, permanent or temporary, appointed by a court of competent authority for it or on its behalf which is not dismissed within sixty (60) days, (c) request the appointment of a receiver, (d) make a general assignment for the benefit of creditors, or (e) shall have its bank accounts, property or receivables attached and such attachment proceedings are not dismissed within sixty (60) days.

(c) The MRC or any permitted assignee shall dissolve or liquidate or shall have ceased operations for a period in excess of sixty (60) days.

**10.2 Joining Member Event of Default.** Each of the following shall constitute an Event of Default as to the Joining Member:

(a) Joining Member shall have failed to fulfill its obligations as a member under the MRC Articles of Incorporation or Bylaws or under this Agreement, the Master Waste Supply Agreement or the Site Lease and such failure has not been cured within the longer of (i) thirty (30) days following receipt of written notice from the MRC specifying that a particular default exists, or (ii) any otherwise applicable cure period; provided, however, that if it is not possible to cure such default within the applicable cure period, no Event of Default shall be deemed to exist so long as the Joining Member takes action within such period to initiate steps to effect a cure and pursues such cure with reasonable diligence.

(b) Joining Member or any permitted assignee shall (i) file, or have filed against it a petition which is not dismissed within sixty (60) days, in bankruptcy, reorganization or similar proceedings under, or shall be adjudicated a bankrupt under, the bankruptcy laws of the United States, (ii) have a receiver, permanent or temporary, appointed by a court of competent authority for it or on its behalf which is not dismissed within sixty (60) days, (iii) request the appointment of a receiver, (iv) make a general assignment for the benefit of creditors, or (v) shall have its bank accounts, property or receivables attached and such attachment proceedings are not dismissed within sixty (60) days.

(c) Joining Member or any permitted assignee shall dissolve or liquidate.

(d) Joining Member fails to make any undisputed payment due hereunder within thirty (30) days after the same is due.

**10.3 Expiration of Term.** This Agreement shall terminate upon the expiration of the Master Waste Supply Agreement. Notwithstanding termination, Joining Member shall remain liable for any obligations, including payment obligations, arising prior to the date of termination.

**10.4 Remedies.** Either party may terminate this Agreement upon the occurrence and during the continuance of an Event of Default by the other party. Unless otherwise provided by Law, any right or remedy provided for herein shall not be considered as the exclusive right or remedy of the non-defaulting Party, and such right or remedy shall be considered to be in addition to any other right or remedy allowed by Law. Without limiting the generality of the foregoing, Joining Member acknowledges that the MRC and the other Joining Members are relying on its commitment to deliver Acceptable Waste originating within its borders to the Facility under the Master Waste Supply Agreement and that breach of that obligation would cause irreparable damage to the MRC and the other Joining Members for which monetary damages would not provide an adequate remedy. Accordingly, in the event of such a breach, in addition to such other remedies as may be available to the MRC at law or in equity, Joining Member expressly acknowledges that the MRC shall be entitled to specific performance of the delivery obligations of Joining Member hereunder.

**10.5 Limitation on Cure Period.** Notwithstanding any other provision of this Agreement, in the event that either Party shall have breached a provision hereof and shall have relied upon a cure period in order to avoid termination under the provisions of this Article 10, such party shall not, within a period of two (2) years from the date of the initial breach, be entitled to the benefit of a cure period with respect to a subsequent breach of the same provision.

## ARTICLE 11 OTHER PROVISIONS

**11.1 Force Majeure.** In the event either Party is rendered unable, wholly or in part, by a Force Majeure to carry out any of its obligations under this Agreement, and provided that such party is using reasonable business efforts to resume performance at the earliest practicable time, then the obligations of such Party, to the extent affected by such a Force Majeure, shall be suspended during the continuance of the Force Majeure but no longer. Any time that a Party intends to rely upon a Force Majeure to excuse or suspend its obligations hereunder, such Party shall notify the other Party as soon as is reasonably practicable, describing in reasonable detail the circumstances of the Force Majeure. Notice shall again be given when the effect of the Force Majeure has ceased. Notwithstanding the foregoing, the existence of a Force Majeure shall not relieve a Party from its obligation to make payments due or payable prior to or independent of the Force Majeure.

**11.2 Notification of Force Majeure or Event of Default.** The MRC shall notify the Joining Member of the occurrence of any Force Majeure or Event of Default under the Master Waste Supply Agreement or the Site Lease.

**11.3 Waste Deliveries During Force Majeure.** In the event of a Force Majeure under the Master Waste Supply Agreement or the Site Lease that would preclude acceptance and processing of Acceptable Waste at the Facility, the Joining Member shall deliver collected Acceptable Waste to the Facility or to the Back-up Facility at the direction of the MRC for the duration of such Force Majeure, which deliveries shall be treated as Bypass Waste under Section 6.2 hereof.

### **11.4 Opportunity To Be Heard.**

(a) In the event of a Force Majeure under the Master Waste Supply Agreement, promptly upon receipt of a Force Majeure Plan, the MRC shall inform the Joining Members and provide to them an opportunity to be heard as to whether to accept, accept a modified version of, accept subject to dispute, or not accept such Force Majeure Plan, and shall indicate the projected impact of implementing the proposed Force Majeure Plan on future Tipping Fees and Rebates. In the event of an Event of Default under the Master Waste Supply Agreement or the Site Lease, the

MRC shall inform the Joining Members of such default and of the actions proposed to be taken by the MRC in response thereto. Joining Member shall accept and abide by decisions of MRC with respect to any such default or Force Majeure.

(b) In the event that the MRC wishes to amend the Master Waste Supply Agreement or the Site Lease, it shall provide to the Joining Members notice of the proposed amendment and an opportunity to be heard and shall consider in good faith any comments received prior to any such amendment taking effect.

**11.5 Change In Law.** Joining Member shall notify the MRC, and the MRC shall notify Joining Member, promptly as soon as either party has knowledge of any action of the federal government, state legislature, state administrative or regulatory authority, court of applicable jurisdiction, or any other governmental body that could lead to the occurrence of a Change in Law. MRC and Joining Member shall use reasonable efforts to cooperate to avoid any such action and to mitigate its potential adverse impact on their obligations hereunder or on the Master Waste Supply Agreement, the Site Lease, or operation of the Facility or the Back-up Facility.

**11.6 Relationship of Parties.** Nothing in this Agreement is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Except as otherwise provided herein, neither Party shall have the authority to contractually bind the other Party. No employees or agents of one Party shall be deemed the employees or agents of the other Party for any purpose. In addition, nothing in this Agreement is intended or should be construed in any manner to empower the MRC to act other than for the sole and exclusive benefit of all of the Joining Members as a group.

**11.7 Waiver.** The failure of either Party to take action with respect to any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant, or condition. Any waiver by either Party of any breach of any term, covenant, or condition contained in this Agreement shall be effective only if in writing and shall not be deemed to be a waiver of any subsequent breach of the same, or of any other term, covenant, or condition contained in this Agreement. Nothing in this Agreement shall be construed to constitute a waiver of any defense, immunity or limitation of liability that may be available to a governmental entity, or any of its officers, officials, agents or employees pursuant to the Eleventh Amendment, to the Constitution of the United States of America, the Maine Constitution, the Maine Tort Claims Act (14 M.R.S.A. §8101 *et seq.*), any state or federal statute, the common law or any privileges or immunities as may be provided by law.

**11.8 Dispute Resolution.**

(a) Any dispute arising under this Agreement shall be resolved only in accordance with this Section 11.8.

(b) A dispute shall arise when one Party sends a written notice of dispute by certified mail to the other Party. The Parties shall first attempt to resolve the dispute through informal negotiations in which each party agrees to participate in good faith.

(c) If the Parties cannot resolve the dispute informally within fourteen (14) days of such written notice, either Party may submit the dispute to arbitration to be conducted under the commercial arbitration rules of the American Arbitration Association. Arbitration shall be initiated by the serving of a written notice of intent to arbitrate (an "*Arbitration Notice*") by one Party upon the other. Arbitration proceedings shall be conducted by a single arbitrator to be agreed upon by the Parties; provided, however, that if the Parties are unable to agree upon a single arbitrator within ten (10) days from the date of the Arbitration Notice, each Party shall select an arbitrator and the two so named shall name a third arbitrator. The arbitration proceedings shall then be heard by the arbitrator(s) and the decision of the arbitrator, or of a majority if a panel of three has been selected, shall be final and binding on the parties. The arbitrator(s) shall have no authority to add to, detract from, reform or alter in any manner any provision of this Agreement. Judgment upon the arbitration award may be entered in any court of competent jurisdiction. Any Arbitration Notice must be served within two (2) years from the date on which the claim arose, and failure to bring such claim within such two year period shall constitute a waiver of such claim and an absolute bar to further proceedings with respect to it. All arbitration proceedings shall be conducted in Bangor, Maine unless the parties otherwise agree in writing. Notwithstanding the foregoing, nothing in this Agreement shall be deemed to preclude either party from seeking temporary or permanent injunctive relief from a court of competent jurisdiction with respect to any breach of this Agreement. For purposes of this Section 11.8, a claim shall be deemed to have arisen as of the later of (i) the date on which the circumstances forming the basis for the claim first occurred, or (ii) the date upon which such circumstances are discovered or with reasonable diligence should have been discovered.

(d) Each of the Parties will bear its own costs in connection with any dispute resolution proceeding. The Parties shall share equally the cost of any single arbitrator. If a panel of three arbitrators is appointed, each Party shall pay the costs of the arbitrator appointed by it, and the cost of the third arbitrator shall be shared equally.

**11.9 Notices.** All notices, demands, or other writings provided for in this Agreement shall be deemed to have been fully given or made or sent if in writing and either (i) delivered in person, (ii) sent by recognized overnight courier with acknowledgement of receipt, (iii) sent by certified mail, return receipt requested, or (iv) sent by email, provided a confirmation copy is sent promptly by overnight courier or certified mail, in each case to the following addresses:

If to the MRC:           Municipal Review Committee  
                                  395 State Street  
                                  Ellsworth, ME 04605  
                                  Attention: Executive Director

Email: glounder@mrcmaine.org

With a copy to: Eaton Peabody  
80 Exchange Street  
P.O. Box 1210  
Bangor, Maine 04402  
Attention: Daniel G. McKay, Esq.  
Email: dmckay@eatonpeabody.com

If to Joining Member: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

Either party may change the address at which notices to it are to be delivered by providing notice of such change in the manner provided above.

**11.10 Parties Bound.** The covenants and conditions contained in this Agreement shall bind the successors and assigns of each of the Parties.

**11.11 Time of the Essence.** Time is of the essence in this Agreement, and in each and every covenant, term, condition, and provision of this Agreement.

**11.12 References.** The captions appearing under the section number designations of this Agreement are for convenience only, are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement. Unless the context clearly requires otherwise, references to section numbers and exhibits shall be deemed references to the section numbers and exhibits to this Agreement.

**11.13 Governing Law.** This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Maine without regard for conflict of law provisions.

**11.14 Entire Agreement.** This Agreement shall constitute the entire agreement between the parties with respect to its subject matter. Any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

**11.15 Modification of Agreement.** Any modification of this Agreement shall be binding only if such modification is documented in writing and signed by each Party or an

authorized representative of each Party.

**11.16 Additional Documents.** The Parties agree to execute whatever reasonable papers and documents may be necessary to effectuate the terms and intent of this Agreement.

**11.17 No Special or Consequential Damages.** Notwithstanding any other provision of this Agreement, in no event shall either Party be liable under this Agreement for any special or consequential damages whatsoever.

**11.18 Severability.** The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

**11.19 Third Party Beneficiary.** Company shall be a third party beneficiary of the obligations of Joining Member hereunder and may enforce such obligations directly. Otherwise, this Agreement is intended for the sole benefit of the Parties, and no other party shall be regarded as a third party beneficiary of the obligations of the Parties hereunder.

**11.20 Partial Contract Year.** In the event of a partial Contract Year, all amounts and allocations shall be adjusted appropriately based on the ratio which the number of days in such partial Contract Year bears to the number of days in a full 365 day calendar year.

**11.21 Counterparts.** This Agreement may be executed in counterparts. A signature transmitted by facsimile, email or other electronic means shall have the effect of an original.

*[Signature page follows.]*

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed as a sealed instrument as of the date first above written.

MUNICIPAL REVIEW COMMITTEE

By: \_\_\_\_\_

Name:

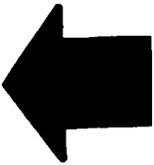
Title:

JOINING MEMBER

By: \_\_\_\_\_

Name:

Title:



**List of Exhibits**

- A Form of Master Waste Supply Agreement**
- B Disposition of Municipal Assets**
- C Components of Ratification**

**Exhibit A**  
**to Municipal Joinder Agreement**

**MASTER WASTE SUPPLY AGREEMENT**

**[Exhibit attached to original]**

**Exhibit B  
to Municipal Joinder Agreement**

**Management and Disposition of  
Existing Municipal Assets and Project Assets**

1. **Applicability.** This Exhibit B sets forth how the MRC shall manage the disposition of assets held in the name of the Equity Charter Municipalities upon the expiration of the Existing PERC Contracts and the disposition of certain payments to be made by Non-Charter Municipalities. The following assets, none of which are owned by the MRC, are addressed herein:

- **The Custody Account and Tip Fee Stabilization Fund.** Pursuant to the Existing PERC Contracts, the MRC manages two reserve accounts held in the names of the Equity Charter Municipalities -- the Custody Account and the Tip Fee Stabilization Fund – with a combined balance on the order of \$26.6 million as of the end of 2015 and projected to be in the range of \$25.0 million to \$28 million by March 2018. The Custody Account, established in 1999, has been used as a working capital account to accept payments from the PERC Partnership and proceeds of sales of Bangor Hydro warrants, and to pay cash distributions to the Charter Municipalities in order to achieve the target values. The Tip Fee Stabilization Fund, established in 2002, has been used for investment of funds in excess of what is needed for cash distributions to the Charter Municipalities. The main sources of funds for these accounts through 2015 have been Performance Credits (\$58.098 million), proceeds of sales of warrants in Bangor Hydro stock (\$19.920 million), Net Cash Flow distributed by the PERC Partnership (\$13.235 million) and earnings on the fund balance (\$6.102 million). Uses have included distributions to the Charter Municipalities (\$60.555 million) and purchases of partnership shares in PERC on behalf of Charter Municipalities (\$10.032 million). Note that all of the Net Cash Flow (resulting from ownership of PERC partnership shares) and proceeds of sales of warrants in Bangor Hydro stock received to date have been distributed to the Equity Charter Municipalities, and that the remaining balances in these accounts are comprised of undistributed Performance Credits and earnings on the fund balance.
- **The Operating Account and the Operating Budget Stabilization Fund.** Pursuant to the Existing PERC Contracts, the MRC manages two operating accounts held in the names of the Equity Charter Municipalities -- the Operating Fund and the Operating Budget Stabilization Fund – with a combined balance of less than \$1.0 million. The

Operating Account, which is funded by dues, has been used to fund MRC administration costs since the MRC was created in 1991. The Operating Budget Stabilization Fund, established in 2004, has been used to provide funds to the Operating Account in order to avoid dues increases while covering the costs of developing an arrangement to manage MSW from Charter Municipalities after termination of the Existing PERC Contracts. The sources of funds for the Operating Budget Stabilization Fund have been releases of reserve funds associated with the financing of PERC, as well as a one-time “windfall” payment made by the PERC Partnership to the Equity Charter Municipalities in 2004.

- **The Debt Service Reserve Fund.** The Debt Service Reserve Fund is a reserve account in the amount of approximately \$1,333,333 which is pledged in support for existing PERC Partnership senior financing and which is held for the term of the financing by the lender for distribution to the MRC for the benefit of the Equity Charter Municipalities. If not called upon to pay debt service, this fund is scheduled to be released to the MRC in early 2018.
- **Limited partnership shares in the PERC Partnership.** The Equity Charter Municipalities own a total of 25.5214 percent of the limited partnership shares in the PERC Partnership, which are managed on their behalf by the MRC. Note that the PERC Partnership is scheduled to be dissolved by the end of 2018.

**2. The Custody Account and the Tip Fee Stabilization Fund.**

Upon expiration of the Existing PERC Contracts, the MRC shall manage and dispose of the funds in the Custody Account and the Tip Fee Stabilization Fund as follows:

(a) Fund up to \$5.0 million for actual expenditures pursuant to the Site Lease, the Master Waste Supply Agreement and this Agreement for acquisition of the Site and development of related infrastructure (the Site Capital Costs);

(b) Pay Equity Charter Municipalities that are Departing Municipalities their allocable share of the Custody Account and the Tip Fee Stabilization Fund as of the date of termination of the Existing PERC Contracts, as determined by cumulative application of the Transaction Guidelines and other policies that have been used to make such allocations since 1998; provided that (i) the balance that is the basis for the allocation calculation shall be increased by up to \$5.0 million to account for actual expenditures for the Site Capital Costs; and (ii) the amount allocated to each Equity Charter Municipality shall assume that all Site Capital Costs are allocated to Joining Charter Municipalities and no Site Capital Costs are allocated to Departing Municipalities; and (iii) the allocation shall account for the costs of administering such payment, including reserves

held for the pro rata share of the Departing Municipalities against total liabilities and costs associated with the dissolution of the PERC Partnership and the closure of the PERC facility. Payment shall be made timely after the termination of the Existing PERC Agreements, subject to such reserves as the Board of Directors may establish on a basis comparable to amounts being reserved from the allocable accounts of the Joining Members, to those Departing Municipalities that have executed a Termination Agreement in such form as may be approved by the MRC, and shall make subsequent and final payments promptly after confirming the extent to which reserve funds continue to be needed.

(c) Use the funds allocable to the Equity Charter Municipalities that are Joining Members to provide initial funding to establish reserve funds in support of the Site Lease, Master Waste Supply Agreement and this Agreement as follows:

- Up to \$7.0 million as a reserve against purchase of the building in the event of termination (the Building Reserve), which amount may be reduced once per year in accordance with Exhibit C to the Site Lease. Amounts released from the fund each year shall be distributed to the Equity Charter Municipalities in accordance with the amount of their original contributions (e.g., their fund balances as brought forward on April 1, 2018). The value of the building, if purchased, shall also be allocated among the Equity Charter Municipalities that are Joining Members pro rata with the amount of their original contributions.
- An initial amount of \$3.0 million for the Delivery Sufficiency Reserve Fund, which shall be used, as needed, to make Delivery Sufficiency Payments for the benefit of all Charter Municipalities that are Joining Members. Funds not used at the end of the term of the Joinder Agreement shall be allocated among the Equity Charter Municipalities that are Joining Members pro rata with the amount of their original contributions.
- \$1.167 million held by the Equity Charter Municipalities that are Joining Members as a reserve against liabilities and costs associated with the dissolution of the PERC Partnership and the closure of the PERC facility (the Closure Reserve Fund). The MRC shall revisit the need to maintain the Closure Reserve Fund before the end of calendar year 2018. When released, amounts in the Closure Reserve Fund shall be allocated among the Equity Charter Municipalities that are Joining Members pro rata with the amount of their original contributions.

- Up to \$1.0 million to offset costs of transportation of Bridge Waste per the direction of the MRC, with amounts remaining in the fund to be transferred to the Target Value Fund as defined below.
- All remaining amounts shall be deposited into a fund (the "Target Value Reserve Fund") for distribution to the Charter Municipalities that become Joining Members as a supplement to rebates provided by Fiberright to Joining Members, all as directed by the MRC. In the first thirty-six months following the Commercial Operation Date, the MRC shall distribute (i) to Equity Charter Municipalities that are Joining Members \$5.00 per ton for each ton delivered to the Facility, and (ii) to New Charter Municipalities that are Joining Members \$3.00 per ton for each ton delivered to the Facility; provided, however, that such payments will be made only to the extent that funds are available therefor and only to the extent necessary in order to achieve a net disposal cost, after payment of all other rebates, of \$65.00 per ton for Joining Members which are Equity Charter Municipalities and \$67.00 per ton for Joining Members which are New Charter Municipalities. Thereafter, distributions from the Target Value Reserve Fund shall be made on such basis as may be approved by the MRC Board of Directors at a properly-noticed meeting in accordance with the MRC Bylaws.

**3. Operating Account and Operating Budget Stabilization Fund.** Upon expiration of the Existing PERC Contracts, the MRC shall manage and dispose of the funds in the Operating Account and the Operating Budget Stabilization Fund as follows:

- Pay Departing Municipalities their allocable share of the Operating Budget Stabilization Fund as of the date of termination of the Existing PERC Contracts, as determined by cumulative application of the Transaction Guidelines and other policies that have been used to make such allocations since 1998.
- Retain the remaining funds in the Operating Account and Operating Budget Stabilization Fund to support administrative costs of the MRC beyond termination of the Existing PERC Contracts.

**4. Debt Service Reserve Fund.** The MRC shall manage the allocation of funds released from the Debt Service Reserve Fund as follows:

- (a) First, pay the costs of securing the release of the funds.

- (b) Second, pay costs of the Equity Charter Municipalities in the dissolution of the PERC Partnership, including the costs to the MRC of representing the Equity Charter Municipalities in the course of such dissolution.
- (c) Third, pay the Equity Charter Municipalities their allocable share of the Debt Service Reserve Fund as determined based on the relative shares of tonnage delivered by each Charter Municipality during the term of the financing to which the Debt Service Reserve Fund relates, which payments shall be net of the costs of subsections (a) and (b) above and net of any amounts held in reserve until the full cost of dissolution is known.

By the end of calendar year 2018, the MRC shall identify the amounts from the Debt Service Reserve Fund that have been used to pay costs per subsections (a) and b) above; that are being held in reserve in anticipation of additional future costs; and that are available for payment to each Equity Charter Municipality. The MRC shall make such payments, if any, promptly after such decision has been made in 2018, and shall make subsequent and final payments promptly after confirming the extent to which reserve funds continue to be needed.

**5. PERC Partnership Limited Partnership Interests.** An Equity Charter Municipality's partnership interest in the PERC Partnership shall continue to be administered by the MRC and shall be disposed of as provided in the PERC Partnership Agreement until either (a) the Partnership is dissolved and its affairs concluded; or (b) Municipality has divested itself of any and all ownership shares in the Partnership. Municipality hereby affirms its authorization of the MRC to represent its partnership interest for all purposes including, but not limited to, determining the value of PERC Partnership interests, approving their disposition and determining or approving the allocable share of any distribution allocable to each Equity Charter Municipality.

**6. Non-Charter Municipalities.** Non-Charter Municipalities shall make additional payments of \$2.21 per ton over the Initial Term of their agreements with the MRC, which payments shall be added to the Target Value Reserve Fund for the benefit of the Charter Municipalities that are Joining Members. Unless the MRC Board of Directors determines otherwise for good cause shown, Departing Municipalities that subsequently are re-admitted to membership in the MRC shall, as a condition to their re-admittance, repay funds previously distributed to them from the Tip Fee Stabilization Account and the Operating Budget Stabilization Account, shall be regarded as Non-Charter Municipalities for purposes of this paragraph only, and shall be obligated to make payments to the Target Value Reserve Fund as contemplated hereby on the same basis as other Non-Charter Municipalities.

**Exhibit C**  
**to the Municipal Joinder Agreement**  
**Components of Ratification**

1.0 Execution of the Joinder Agreement

- Contact information for administrator of the Agreement
- Signed original version of the Agreement
- Evidence to confirm proper authorization and execution of the Agreement (e.g., minutes recording action by the appropriate legislative authority; sworn statement by the Town Clerk, etc.)
- Legal opinion or certificate as to enforceability of the Agreement and delegation of authority by municipal counsel

2.0 Baseline information on Joining Members

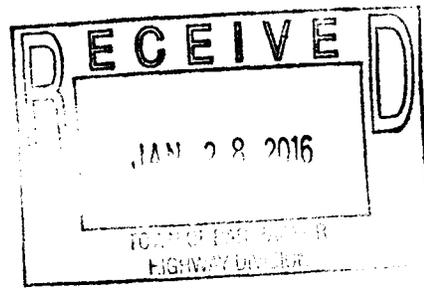
- Value for estimated annual minimum deliveries in tons per year, with description of geographic area (municipal boundaries or other designations) to which the value applies. Identify sources of municipal waste from separate authorities (e.g., schools) and confirm they are included.
- Description of method for MSW collection and delivery as of the Effective Date (including vehicle or container type and capacity, and whether municipal or private), and method for directing deliveries to the Facility
- List of MSW diversion and materials recycling programs sponsored by the Municipality as of the Effective Date, including organics diversion programs

3.0 Joining Member preference items

- Interest in regional approach to transfer or haul to the Hampden Facility
- Preferred bypass arrangements: direct to Facility or direct to Crossroads Landfill
- Interest in delivery of source-separated recyclables or clean wood or brush
- Interest in technical assistance in deciding whether to sustain or discontinue a recycling program
- Interest in regional approach to management of tires and other Unacceptable Wastes, and textiles and other potential Residual Wastes

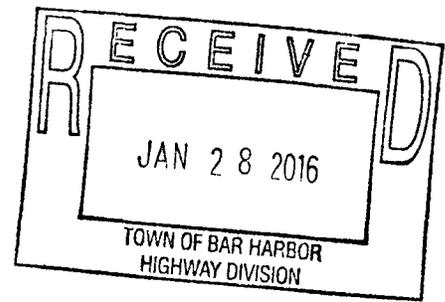
TO: MRC Member Communities  
FR: Greg Louder  
DT: January 28, 2016  
RE: **Independent Legal Review of the MRC Plan for 2018**

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You may be aware that a small number of MRC communities, communicating to MRC through Mr. Roger Raymond, Town Manager in Hermon, approached the MRC and requested our cooperation in funding an independent legal review of the contract documents that make up the MRC Plan for 2018. The MRC agreed to fund this request with the understanding that there would be no MRC involvement in the independent review process other than to make our legal advisor available to answer questions posed by the independent legal reviewer. The MRC also wanted assurance that the final written independent review report would be made available to all MRC Member Communities.

The independent legal review was completed and the MRC incorporated several of the suggestions before finalizing the contract documents. Mr. Raymond recently contacted the MRC to request that the MRC mail a copy of the final independent legal review report to all MRC Member Communities. To accommodate this request, please find enclosed a copy of the final independent legal review report.



## MEMORANDUM

**To:** Roger Raymond, Town Manager, Town of Hermon

**From:** Jim Katsiaficas, Esq., Perkins Thompson

**Date:** January 8, 2016

**Re:** Legal Review of Documents Prepared by the Municipal Review Committee, Inc.  
Regarding the Fiberight Municipal Solid Waste Disposal Proposal

### I. Executive Summary

We have reviewed the major legal documents for MRC's proposed transactions between each municipality and MRC and between MRC and Fiberight. The result is the detailed memorandum, with tables and a timeline, that follows, summarizing the several related documents that together implement the Fiberight solid waste management Project the: Development Agreement, Joinder Agreement, Master Waste Supply Agreement, Site Lease and Waste Disposal Agreement for Crossroads Landfill. However, an overview that focuses on five major questions officials from the municipalities considering this Project may want to ask may be helpful, and this Executive Summary attempts to answer those five questions. (Two additional concerns raised this week are the need to be sure that the Amended and Restated Articles, and not the Bylaws, contain all Fundamental Matters, including authorization of spending by MRC, and that there be nine members on the Board, not three to nine as the Articles currently provide.)

#### 1. **Is the Town/City obligated to send minimum amounts of MSW per year to the Facility/Back-up Facility?**

Yes. By signing the Joinder Agreement, the Joining Member municipality agrees to deliver to the Fiberight Facility all Acceptable Waste generated within its borders for which the collection and disposition is under its control, meaning collected and delivered directly by the municipality or by a contract hauler. Although there is no Guaranteed Annual Tonnage, or "GAT," as there now is under the PERC Agreement, each Joining Member still must agree to an Estimated Delivery Amount of municipal solid waste ("MSW") it will provide during each contract year. This is referred to in Section 3.3(b) of the Joinder Agreement as a "commitment" by the Joining Member municipality which is subject to periodic review, and in Section 3.1(ii) of the Master Waste Supply Agreement as an "obligation."

Failure to deliver the Estimated Delivery Amount alone will not result in a penalty unless the Joining Member diverts MSW to another facility for reasons not permitted under the Joinder Agreement, in which case MRC may invoice a Delivery Diversion charge. If Fiberight demands

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a Delivery Sufficiency Payment from MRC, MRC will pay that amount. MRC may then assess a Delivery Diversion Charge on a Joining Member but only in the circumstance where the Joining Member has not delivered all Acceptable Waste under its control to Fiberight. In all other circumstances, MRC would draw funds to pay the Delivery Sufficiency Payment owed Fiberight from the Delivery Sufficiency Reserve Fund, from Non-Charter Municipalities and, in the event those sources are insufficient, from a special assessment of all Joining Members based on tonnage delivered.

**2. Under the MRC/Fiberight documents, can our municipality maintain our recycling and MSW diversion programs? Can we expand them?**

Yes to the first question, and yes to the second, but with some qualification.

Section 3.2 of the Joinder Agreement recognizes a Joining Member's right, at its sole option, "to establish, continue, expand or discontinue existing or further MSW reduction, reuse or recycling programs" intended to encourage reduction, reuse and recycling of MSW generated within its borders. So long as it complies with the provisions discussed in the next paragraph, the activity will not result in assessment of a Delivery Diversion Charge by MRC.

If a Joining Member wishes to expand its existing MSW recycling, reduction or diversion programs generally, it may do so with 60 days' prior notice to and consultation with MRC, which will advise the Joining Member of any contract compliance impacts of the change(s) on the Joining Member and on all Joining Members. If the proposal is one to initiate new programs or significantly and materially expand existing programs that divert organic waste from MSW for management through other programs or facilities, the Joining Member also must obtain Fiberight's prior consent. Section 3.4(b), however, exempts the continuation of existing organic waste programs substantially as operated on the Effective Date from requiring approval.

3.4(b) also provides that the Joining Member may institute "Pay as you Throw" or other waste reduction programs without MRC's prior approval so long as all (other) MSW generated within its borders and under its control continues to be delivered to the Facility.

**3. What happens if one of various situations occurs that affect the Project or the Facility?**

What happens if:

a) Fiberight does not construct the Facility?

For a number of reasons, Fiberight could abandon the project. It could: fail to obtain needed permits, approvals and licenses; receive a permit, approval or license with an impossible condition; fail to secure financing; or have insufficient amounts of Joining Members and Acceptable Waste.

The Development Agreement allows MRC or Fiberight to terminate if Fiberight does not have adequate financing in place by January 1, 2017. It also permits termination at any time by the

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parties' written mutual agreement. MSW would continue to be delivered to PERC until PERC Agreements expire March 31, 2018.

b) Fiberight constructs the Facility but it does not achieve Commercial Operation:

Development Agreement allows either party to terminate if Commercial Operation is not achieved and if Commercial Operation is not achieved by January 1, 2020; MSW on and after April 1, 2018 is disposed of as "Bridge Waste" at Crossroads Landfill Commercial Operation.

c) MRC unilaterally withdraws development rights or materially breaches the Development Agreement?

Fiberight may terminate and MRC reimburses Fiberight's reasonable development expenses.

d) Fiberight's materially misrepresents under or breaches the Development Agreement?

MRC may terminate and Fiberight reimburses MRC's reasonable development expenses.

e) Fiberight achieves Commercial Operation, but there is insufficient Acceptable Waste, or the process fails or does not function as designed?

If insufficient Acceptable Waste, MRC can help find more Maine MSW, and may be assessed Delivery Sufficiency Payments. MRC could terminate at end of Initial Term, but must offer to purchase building (without Fiberight equipment and personal property) or sell land to Fiberight, at Fiberight's option.

If problems are due to Fiberight's breach of agreements, either MRC or a Joining Member can enforce its contract rights. Joining Member municipalities can seek damages from Fiberight for the increased cost of solid waste disposal resulting from the failure of the Fiberight Facility to work in whole or in part, assuming a court agrees these are direct, and not "consequential" or indirect, damages. A Joining Member's Acceptable Waste is delivered to Crossroads Landfill if a Bypass situation.

f) Fiberight files bankruptcy or goes into receivership?

First, Fiberight recently has taken on a major investor, Covanta Energy Corp., which operates approximately 40 waste-to-energy facilities worldwide (and in full disclosure, was represented by this Firm several years ago in an unrelated matter), and so this question does not reflect specific concerns about Fiberight, but simply raises the issue as a hypothetical.

In bankruptcy, if the petition is for Chapter 7 liquidation, the agreements likely would be disregarded and the assets sold, regardless of language the parties might have drafted in the agreements. The Joining Members likely would have to make other long-term arrangements for MSW management and in the short-term, use Crossroads Landfill for Bypass. If the petition is for Chapter 11 reorganization, the agreements likely would remain in place to allow the Facility

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to remain operating, perhaps with a successor operator. The Bankruptcy Court process could take a year or more to occur. It is unlikely the agreements would be terminated.

Finally, Fiberight, LLC is a Delaware corporation with at least three major ongoing projects in different states. The projects in other states could be a drain on its assets and could affect the proposed Maine project. Therefore, MRC might consider asking Fiberight to form a separate entity for the Maine project, so that all parties and the regulators would know the identity, assets and financial and technical capacity of the Maine Fiberight entity (MRC understands that Fiberight is preparing to take this step).

**4. Can a municipality withdraw at any time from these agreements? Is there a penalty for withdrawing from these agreements?**

No as to the first question. Under the Joinder Agreement, a Joining Member may only terminate its participation in the MRC/Fiberight venture as permitted by that Agreement. Under Article 2, Joining Members may terminate at the end of the 15-year long Initial Term or at the end of any of the five five-year long Extension Terms. Under Article 10, the Joining Member (or MRC) could terminate the Joinder Agreement because of an event of default by the other party, including: failure to fulfill its obligations under this or any of the other related Agreements following a 60-day cure period; filing of a petition in bankruptcy or appointment of a receiver not dismissed within 60 days; or the corporation dissolving, liquidating or ceasing operation for more than 60 days. Also, the Joinder Agreement, which establishes the Joining Member's obligation to deliver Acceptable Waste to Fiberight through MRC, expires when the Master Waste Supply Agreement, which obligates MRC to secure commitments from the Joining Members to deliver Acceptable Waste to Fiberight, terminates.

There is no specific penalty under the Joinder Agreement for a terminating Joining Member, but it is obligated to pay outstanding pre-termination obligations – Tipping Fees, Delivery Diversion Charges, and other assessments. However, if enough Joining Members decide not to exercise their option to Extension Terms, there could be insufficient Acceptable Waste for Fiberight to operate. MRC might have to terminate and would be required to give Fiberight (under the Site Lease) its option to sell the building (less equipment and personal property) to MRC or to purchase the leased premises from MRC. Presumably, if the Facility were operating and additional MSW could be found, Fiberight would want to buy the land its building is on, but if the Facility were not working or were economically not viable, Fiberight would want to sell the building. The purchase cost would be paid from the Building Reserve, which is \$7 million, and is equal to the highest price on the table of depreciated values in Exhibit C to the Site Lease.

**5. What happens to amounts paid by Equity Charter Municipalities into MRC reserve accounts managed by PERC, tip fee stabilization account, operating accounts, and debt service accounts?**

Exhibit B to the Joinder Agreement lists the assets and funds currently managed by MRC, and explains the new MRC-managed funds to which those assets would be assigned, and how those funds would be distributed upon: the termination of the PERC Agreements, the departure of any current municipal members of MRC and the completion of the MRC/Fiberight operation.

January 8, 2016

Disposition and Management of Assets

- |                                       |                                                                                                                                          |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 1) Current Assets - five funds:       | New Funds:                                                                                                                               |
| Reserve Accounts (\$26.6 million) →   | Site Capital Costs: up to \$5 million, and pay Equity Charter Municipalities that are Departing Municipalities their portion of accounts |
| i) Custody Account, working capital)  |                                                                                                                                          |
| ii) Tip Fee Stabilization Fund )      | Reserve Funds:                                                                                                                           |
| Operating Accounts (< \$1 million) )  | Building Reserve - \$7 million                                                                                                           |
| iii) Operating Account                | Delivery Sufficiency Reserve Fund – \$3 million                                                                                          |
|                                       | PERC Closure Reserve Fund - 1.167 million                                                                                                |
| \$1 million                           | Bridge Waste Transportation Reserve Fund -                                                                                               |
|                                       | Target Value Reserve Fund                                                                                                                |
| iv) Operating Budget Stabilization) → | Equity Charter Municipalities that are Departing Municipalities and remainder to MRC                                                     |
| Fund )                                | administrative costs (fund likely will be depleted by 4-2018)                                                                            |

Monies released from the new MRC-managed Building Reserve, Delivery Sufficiency Reserve Fund, and PERC Closure Reserve Fund will be distributed pro rata to the Equity Charter Municipalities. Any remaining Bridge Waste Transportation Reserve Fund amounts will be transferred to the Target Value Reserve Fund, which is distributed by the MRC Board at a properly noticed meeting.

- v) Debt Service Reserve Fund (\$1.33 million) to MRC if not used for debt service, then first used to pay costs of release of funds, for dissolution of PERC Partnership and then to Equity Charter Municipalities based on relative tonnage.

PERC Partnership Ltd. Ptnr. shares – continue to 12-31-2018, then PERC manages until Partnership dissolves or municipalities leave.

- 2) New Charge. Non-Charter Municipalities pay \$2.21/ton over Initial Term, and proceeds are placed in Target Value Reserve Fund. (The \$2.21 is the amount estimated to be required as a "make-up" payment amortized over the 15-year Initial Term recognizing that existing Charter Municipalities are leaving money they now have in the Project in to fund various reserves as noted above.)

- 3) Capital and Maintenance Reserve Account (CMRA). Account maintained by PERC, funded by portion of Tipping Fees, and held by bank in custodial account solely for capital or maintenance expenditures. PERC may withdraw funds to pay or reimbursed capital and

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maintenance costs. If the PERC Agreement is terminated before March 31, 2018, Charter Municipalities are entitled to pro rata share of CMRA balance, if any, based on municipal and PERC contributions.

## **II. Discussion**

On behalf of the Town of Hermon, Maine (“Town”), Perkins Thompson has reviewed the following documents provided to us by the Municipal Review Committee, Inc. (“MRC”) regarding municipal solid waste (“MSW”) management and disposal.

- Draft documents prepared by MRC (the “Proposed Documents”):
  1. Development Agreement between MRC and Fiberight, LLC (dated February 4, 2015) (“Development Agreement”);
  2. Form Municipal Joinder Agreement between MRC and each member town (“Joinder Agreement”) and exhibits (draft dated December 4, 2015);
  3. Master Waste Supply Agreement between MRC and Fiberight, LLC and exhibits (draft dated December 4, 2015);
  4. Site Lease between MRC and Fiberight, LLC (draft dated December 4, 2015) and exhibits;
  5. Amended and Restated Bylaws of Municipal Review Committee, Inc. (To be effective as of April 1, 2018) (“Amended Bylaws”) (undated draft: Eaton Peabody version 1);
  6. Restated Articles of Incorporation of MRC (draft dated December 1, 2015); and
  7. Solid Waste Disposal Agreement between MRC and Waste Management Disposal Services of Maine, Inc. (dated August 24, 2015) (“Crossroads Landfill Agreement”).

We also have reviewed revisions dated December 30, 2015 to documents numbered 2, 3, 4, 5 and 6 listed above.

- Current solid waste-related documents (the “Existing Documents”):
  1. Second Amended, Restated and Extended Waste Disposal Agreement between Town of Hermon and Penobscot Energy Recovery Company dated May 18, 1998 (“Second Amended and Restated Agreement”) (We have not been provided copies of the prior agreements to review.);
  2. Fifth Amended and Restated Agreement of Limited Partnership of Penobscot Energy Recovery Company (dated July 18, 2011);

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3. Amended and Restated Bylaws of Municipal Review Committee, Inc. (Revised as of July 23, 2014) (“Bylaws”); and
4. Articles of Amendment of Municipal Review Committee, Inc. (June 22, 1998).

Because the Proposed Documents are drafts, for purposes of our comments as to the legal effect of these documents we are assuming these drafts will become the final executed documents.

Before we address the Proposed Documents, the Existing Documents and your questions, we observe that these documents and this solid waste management proposal do not exist in a vacuum, but instead exist in a dynamic context that includes the following policy and legal considerations:

- Maine law requires each municipality to “provide solid waste disposal services for domestic and commercial solid waste generated within the municipality,” and further provides that it “may provide these services for industrial wastes and sewage treatment plant sludge.” 38 M.R.S. §1305(1). (Until a 1989 amendment, P.L. 1989, c. 585 E §17, the statute required each municipality to provide a “disposal facility.”) However, there is no State funding to assist in this obligation, which most municipalities meet by paying the tipping fee for disposal of domestic solid waste (and by paying for its collection at transfer stations or by curbside pickup, and transportation) from property tax revenues, offset somewhat by proceeds from “Pay as You Throw” programs, such as pay-per-bag, in municipalities that have adopted such programs.
- Many Maine municipalities have elected to fix and control their long-term solid waste disposal costs by owning an equity interest in the solid waste disposal facility, and to use solid waste disposal methods more environmentally responsible than simple landfilling. This is the case with many of the ecomaine, MMWAC and PERC/MRC municipalities that are owners of interests in these waste-to-energy (WTE) facilities constructed some 30 years ago. Therefore, the cost of providing solid waste disposal services for the municipal solid waste (MSW) generated within these municipalities is not just the tipping fee and collection and transportation costs, but also is the capital and operation and maintenance costs of the solid waste disposal facility.
- Municipalities have limited legal authority to direct the MSW for which they are required to provide disposal services to the solid waste disposal facilities they help finance. Some 30 years ago, Maine municipalities enacted solid waste flow control ordinances to require solid waste generated within their boundaries to be disposed of at the facilities which they had pledged their full faith and credit to finance for 25 to 30 year terms in order to meet their State mandates. However, some haulers challenged these ordinances and disposed of the waste at facilities that charged lower tipping fees, keeping the increased profit. The U.S. Supreme Court held in 1994 in *C&A Carbone, Inc. v. Clarkstown*, 511 U.S. 383, that because solid waste is an item in interstate commerce, ordinances directing solid waste to a particular facility over another were discriminatory and violated the dormant commerce clause of the U.S. Constitution. More recently, in *United Haulers Ass’n, Inc. v. Oneida-Herkimer Solid Waste*, 550 U.S. 330 (2007), the U.S. Supreme Court held that flow control ordinances can be used, and do not discriminate against interstate commerce, when requiring solid waste to be delivered to **publicly** owned

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facilities.

The Proposed Documents require the Joining Member to deliver or cause to be delivered “on an exclusive basis all Acceptable Waste generated within its borders the collection and disposition of which is under its control.” At least one provision states that it does not require a Joining Member will not be required to institute flow control ordinances. However, because a private entity – Fiberight – will own the solid waste disposal facility, the MRC Joining Member municipalities most likely would be prevented by the *Clarkstown* decision from enacting and enforcing flow control ordinances. The only solid waste each MRC Joining Member municipality can guarantee to the proposed Fiberight Facility is that which it collects (by curbside collection or transfer station) and delivers, or has collected and delivered, to the solid waste disposal facility itself or by contract hauler. Municipalities generally collect or contract for the collection of residential MSW, leaving private haulers to collect solid waste from industrial and commercial users under private contracts. Waste collected by private haulers is not controlled by the municipality and could be disposed of at any facility where the private hauler pays a lower tipping fee (and could pocket the difference in cost). Landfills often are a less expensive disposal option than waste-to-energy facilities and are likely to be less expensive than the Fiberight option, but landfilling is lowest on the State and U.S. EPA hierarchies of preferred solid waste disposal methods. In sum, the only Acceptable Waste a Joining Member controls and can commit is that which it collects and delivers or has collected and delivered for it.

- The area of solid waste management is subject to change by federal and State government at any time. The Maine and U.S. EPA solid waste hierarchies favor solid waste reduction, reuse and recycling over waste-to-energy, and favor all of these over landfilling. The Maine Legislature has been studying solid waste management for the last several years, and appears poised to promote reduction, reuse and the 50% MSW recycling goal.

For example, while MRC and its members are pursuing a solid waste disposal method that relies in large part on processing the organic waste stream to create useable byproducts, the Maine Legislature is considering a draft bill that may divert needed organic waste. In January 1995, Maine DEP issued its annual “Maine Solid Waste Generation and Disposal Capacity Report” that at page 1 identifies the diversion of organics as “the largest opportunity to reduce the disposal of Maine’s solid waste stream in landfills and incinerators.” Acting on this, the Environment and Natural Resources Committee of Maine’s Legislature has proposed a draft bill for the Second Regular Session that would add a provision to the Maine Waste Management Act to require large quantity commercial food waste generators (generating one ton of food waste or more per week), including food wholesalers and distributors, restaurants, hospitals, schools, supermarkets, resorts, conference centers and others, to either treat it on site or deliver it to a composting facility with available capacity within 20 miles from the generator (although the generator could elect to deliver it to a composting facility more than 20 miles away). This would not be enacted, if at all, until after the Joining Members approve the MRC documents and as proposed, would not become effective until January 1, 2020. It will take the place of L.D. 313, held over from last session, and the Committee will hold a work session on it on January 6, 2016, at 1:00 pm. Thus, State legislation intended to promote diversion of the organic portion of MSW could reduce the amount of organic MSW available to the proposed Fiberight facility—a facility

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that would be specifically designed to process this waste in order to help municipalities meet their State mandate to provide MSW disposal services.

With those larger policy and legal considerations in mind, we turn to address the following questions posed by the Town:

**1. The Town's obligations and responsibilities under the Proposed Documents.**

**A. Development Agreement.**

This is the framework and timetable for the parties' responsibilities and activities under this business transaction. The Town, as a Joining Member, has no contractual obligations under the Development Agreement, as it is between MRC and Fiberight. However, MRC's obligations under this agreement are on behalf of the Joining Members. The agreement requires MRC to exercise "best efforts" to cause Joining Members to enter into Joinder Agreements. MRC must reimburse Fiberight's "reasonable development expenses" if MRC unilaterally withdraws the exclusive award of development rights to Fiberight or materially breaches its obligations under the Development Agreement. There is no explanation of how this liability would be funded, and there is no dollar cap on MRC's exposure. The agreement further requires MRC to indemnify Fiberight for any "activity related to the Project Site or the Facility undertaken by [MRC]," and for any breach of the agreement by MRC. There is no dollar cap on MRC's financial exposure under the indemnity, although indirect and consequential damages are excluded.

**B. Joinder Agreement. (See Table A for Summary and Comments)**

This is the critical document between each municipality (Joining Member) and MRC that describes the municipal obligations, and Fiberight, as a third-party beneficiary under it, has enforcement rights.

**Initial Term. Notice of Extension.** Section 2.1 establishes an Initial Term of at least 15 years, beginning on the Effective Date and continuing until the later of April 1, 2033 or the 15th anniversary of the Commercial Operation Date, and may be extended for up to five consecutive five-year periods at the Joining Member's discretion; Joining Member must give MRC at least 12 months' written notice to exercise the right of extension. However, as to the right to terminate, Joining Members should recognize that elimination of their MSW may have impacts on all parties under the four separate agreements. Section 10.3 provides that the Joinder Agreement automatically terminates upon expiration of the Master Waste Supply Agreement.

**Delivery of All Acceptable Waste Generated Within Borders and Under its Control to Facility.** Under 3.1, Joining Member agrees to deliver or cause to be delivered to the Fiberight facility ("Facility") "all Acceptable Waste generated within its borders the collection and disposition of which is under its control." Obligation begins on the Commercial Operation Date (defined under the Master Waste Agreement as being the later of (i) the date on which the Performance Test was completed and accepted; and (ii) April 1, 2018). This obligation is exclusive – the Joining Member must deliver or have delivered the Acceptable Waste under its control exclusively to Fiberight, and to no other solid waste disposal facility.

**No Diversion of Acceptable Waste to Another Facility.** Section 3.2 warns the Joining Member that violation of the Art. 3.1 delivery requirements could have a material adverse effect on the Fiberight Facility's financial performance and on the Joining Members. Each Joining Member agrees not to divert the Acceptable Waste to another facility unless permitted under the Joinder Agreement. Failure to comply results in assessment of a Delivery Diversion Charge equal to: 1) the product of the number of tons of waste diverted and the applicable tipping fee, and 2) the Joining Member's share of any penalty billed by Fiberight to MRC as a result of the diversion under Section 3.3 (c). It also recognizes Joining Member's right, at its sole option, "to establish, continue, expand or discontinue existing or further MSW reduction, reuse or recycling programs," subject to Section 3.4 (below) and that these programs will not result in a Delivery Diversion Charge.

**Notice and Consultation before New or Expanded Recycling.** Under Section 3.4(a), a Joining Member proposing to change "the scope of its responsibility" to deliver MSW originating within its borders to the Facility must provide MRC with at least 60 days' notice and "shall consult with MRC" regarding that change "prior to any implementation." MRC will advise the Joining Member of any contract compliance impacts of the change(s) on the Joining Member and on all Joining Members.

**Also, Fiberight Consent before New or Expanded Organic Waste Diversion.** A Joining Member proposing to initiate new programs or significantly and materially expand existing programs that divert organic waste from MSW for management through other programs or facilities also must obtain Fiberight's prior consent. Section 3.4(b), however, exempts the continuation of existing organic waste programs substantially as operated on the Effective Date from requiring approval.

**Pay as You Throw Exception.** Section 3.4(b) also provides that the Joining Member may institute "Pay as you Throw" or other waste reduction programs without MRC's prior approval so long as all (other) MSW generated within its borders and under its control continues to be delivered to the Facility.

**Estimated Delivery Amount.** MRC is obligated under the Master Waste Supply Agreement to deliver, through Joining Members under the Joinder Agreements, at least 150,000 TPY of Acceptable Waste to the Facility, or be liable for Delivery Sufficiency Payments. While this is MRC's obligation under the Master Waste Supply Agreement (Sections 3.3(a) and 6.2), each Joining Member in Section 3.3(b) agrees to an estimated amount of its annual delivery of Acceptable Waste. "Estimated Delivery Amount" does not include recyclable materials delivered to Fiberight as part of its Recycling Program (under Section 5.2 of the Master Waste Supply Agreement), or recyclables collected by Joining Members in separate programs.

**Estimated Delivery Amount is a Commitment; Review.** Although not stated as a guarantee, Section 3.3(b) of the Joinder Agreement sets out the Joining Member's acknowledgement of MRC's commitment to deliver MSW and agreement that the stated Estimated Delivery Amount is a reasonable amount. Therefore, a Joining Member should be careful to include in its Estimated Delivery Amount only that MSW it collects and delivers by

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itself or by a hauler, adjusted for any recycling, reduction or reuse projected during the first five years and perhaps for the full 40 years. Section 3.3(b) states that the Joining Member and MRC “shall review the commitment” at specified times (at either party’s request, but no more frequently than every five years, and for good cause shown) for appropriate adjustment, indicating that the “Estimated Delivery Amount” is a commitment of the Joining Member. (The Master Waste Supply Agreement, in Section 3.1, requires MRC to “secure commitments” from the Joining Members to deliver MSW to the Facility and calls this an “obligation.”)

**Delivery Diversion Charge.** Although a Joining Member is not automatically penalized simply for failure to deliver Acceptable Waste in the amount of the Estimated Delivery Amount (Section 3.3(d) provides that “the fact that Joining Member has not achieved the Estimated Delivery Amount in and of itself will not justify imposition of a Delivery Diversion Charge”), as noted previously, under Section 3.2(b), a Joining Member’s unpermitted diversion results in a Delivery Diversion Charge, which is paid into the Delivery Assessment Reserve Fund to be used when MRC’s aggregate Delivery Commitment of at least 150,000 TPY of Acceptable Waste to the Facility is not met. Section 3.3(c).

**Delivery Sufficiency Payment Contributions.** Under Section 3.3(d), if Fiberight assesses a Delivery Sufficiency Payment against MRC, Joining Members may be required to contribute to that payment as follows:

1) To the extent MRC owes the payment because one or more Joining Members have not delivered all MSW under their control required to be delivered, each such Joining Member is assessed a Delivery Diversion Charge, which is its “ratable share” of the Delivery Sufficiency Payment “as determined by the MRC on the basis of tons of Acceptable Waste delivered,” and is applied against Delivery Sufficiency Payment.

2) The remaining Delivery Sufficiency Payment portion allocable to Charter Municipalities is paid from Delivery Assessment Reserve Fund.

3) Non-Charter Municipalities are required to pay an assessment in an amount equal to their allocable share of the amount paid from the Delivery Assessment Reserve Fund to Charter Municipalities multiplied by the percentage deliveries by Non-Charter Municipalities bears to all deliveries by all Joining Members during the appropriate time period.

4) In addition, each Joining Member may be assessed a special assessment on the basis of its ratable share of the remaining Delivery Sufficiency Payment amount after all other payment sources are applied – however, the actual formula for calculating this assessment is not stated. This would be assessed by MRC after notice to Joining Members and opportunity to be heard, and may be collected or offset against any rebates payable to Joining Members.

When Joinder Agreement terminates, any remaining balance in Delivery Sufficiency Reserve Fund, after expenses, returns to Equity Charter Municipalities pro rata as in Exhibit B.

**Shall Not Deliver Acceptable Waste, and Must Indemnify MRC and Fiberight for Same.** Under Section 3.5, a Joining Member shall not deliver Unacceptable Waste to the

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Facility, and shall pay the “full cost for, and shall indemnify and hold harmless” MRC and Fiberight for any liability, claim or damage arising from delivery of Unacceptable Waste to the Facility. This could constitute a waiver of the Joining Member’s Maine Tort Claims Act (MRC has made some changes to help) immunities, limits and defenses, in addition to disincentivizing Fiberight from actively screening haulers for Unacceptable Waste, and MRC has incorporated our recommended changes to Section 8.8. Joining Member also agrees to use reasonable efforts to offer local options for household hazardous waste disposal. This indemnity is greater than the municipal obligations under the PERC Agreements – may want to go back to that language.

**Hauler Compliance.** Under Section 3.5, a Joining Member is responsible for its contract haulers’ compliance with the Joinder Agreement’s delivery requirements. This means that a Joining Member should ensure that its haulers are adequately insured and that full indemnification provisions are included in its hauler contracts. The Proposed Documents could be revised to require that haulers would be required to sign access agreements with Fiberight, so that Fiberight, and not Joining Members, have responsibility for the acts of haulers. An alternative is for Joining Members to enact licensing ordinances for haulers collecting MSW within their boundaries.

**Payment of Tipping Fees.** Under Sections 4.1 and 4.2, the Joining Member is obligated to pay tipping fees for Acceptable Waste “and other wastes” (undefined and of unknown type) delivered and credited to its account. The Joining Member will receive an invoice directly from Fiberight on a weekly basis within five calendar days of the end of each calendar week and payments will be due to Fiberight within 30 days of receipt unless MRC challenges the calculation of the tipping fee. If the Joining Member fails to make timely payment of tipping fees, it may be precluded from delivering Acceptable Waste to the Facility or Back-up Facility. The Tipping Fee is \$70 per ton, as stated in Section 5.1 of the Master Waste Supply Agreement.

**Authorization to Act for Joining Member.** Under Sections 5.1 and 5.2, the Joining Member acknowledges it is a member of a group of entities for which MRC administers the relationship with Fiberight; agrees to be a Joining Member and a Member of MRC; authorizes MRC to work on behalf of it and all Joining Members to manage MSW disposal; and agrees to ratify its execution of the Joinder Agreement as required.

**Transportation, Bypass and Disposition of Unacceptable Waste.** Under Section 6.1, Joining Member and MRC each is obligated to hear each other’s proposals for collective transportation of MSW to the Facility and/or for use of MSW-produced transportation fuel. Under Section 6.2, Joining Member acknowledges MRC has entered into an agreement for MSW disposal at the Back-up Facility for Bridge Capacity Waste (Acceptable Waste collected between April 1, 2018, and the Commercial Operation Date) and Bypass Waste (Acceptable Waste collected after the Commercial Operation Date, but the Facility has not yet achieved Commercial operation as of the end of the Excused Delay Period or it is out of service for maintenance, Repair or Force Majeure), and agrees to pay the Tipping Fees for Bypass Waste as if it were Acceptable Waste and for Bridge Capacity Waste. Under Section 6.2(d), Joining Member agrees to comply with Back-up Facility’s Acceptable Waste delivery and transporter rules.

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**Indemnification.** The Joinder Agreement provides for reciprocal indemnifications by Joining Member and MRC. Under Section 8.1, Joining Member agrees to defend, indemnify and hold harmless MRC, each other Joining Member and their members, directors, elected officials, officers, agents and employees against claims “resulting directly” from any failure by Joining Member to perform fully its obligations under the Joinder Agreement. MRC has made changes to liability and to recognize the Joining Member’s Maine Tort Claims Act immunities, limitations and cap on liability. MRC’s reciprocal indemnification in Section 8.2 has been extended to “appointed” as well as to elected officials as we suggested.

**Notice of Assertion of Right of Indemnification.** Under Section 8.3, a Joining Member asserting a right of indemnification against MRC must provide MRC with written notice of commencement of a legal action or other circumstances giving rise to claim for indemnification within 10 days and 30 days, respectively. Also, the indemnified party is obligated to provide the indemnifying party access to all records and information relating to the claim, facts and circumstances, except privileged; MRC has amended this to ensure attorney work-product or materials confidential by statute or under the Freedom of Access Act are protected.

**Dispute Resolution.** Under Section 8.5, the parties are obligated to resolve disputes under Section 14.5 (should be Section 11.8, Section 14.5 is the Master Waste Supply Agreement reference), which provides for good faith informal resolution during the 14 days following written notice of dispute, followed by submittal of the dispute to arbitration under the American Arbitration Association’s commercial arbitration rules before a single arbitrator, unless they cannot agree to a single arbitrator, in which case there will be a panel of three arbitrators.

**Changes to Waiver of Immunity Language.** MRC has added language to Section 8.8tas requested by us to make it clear that the Joining Members are not waiving their Maine Tort Claims Act immunities, limitations and cap on liability.

**Must Sign Needed Documents.** Under Section 11.16, the parties are obligated to sign any reasonable papers and documents necessary to effectuate the Joinder Agreement.

**Change in Law.** Must notify MRC when become aware of change in law and cooperate to address it.

**Additional Payment.** Under Exhibit B, Non-Charter Municipalities and rejoining Departing Municipalities will pay an additional \$2.21 per ton over the 15-year Initial Term, with proceeds to Target Value Reserve Fund. Rejoining Departing Municipalities pay this amount and must repay amounts received from reserve and operating accounts.

**Joining Member Must Follow Ratification Steps in Exhibit C.** Exhibit C to the Municipal Joinder Agreements sets out the Components of Ratification, which the Joinder Agreement, Joining Member must follow.

## **C. Master Waste Supply Agreement**

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This is an Agreement between MRC and Fiberight under which the Town is a third-party beneficiary and has third-party beneficiary enforcement rights against Fiberight. The Town has no direct obligations under it, but indirectly is obligated by virtue of having to fulfill obligations to MRC, which does have duties under this Agreement.

However, the Master Waste Supply Agreement in Section 4.3 obligates all entities delivering MSW to Facility, including Joining Members and their Haulers, to agree not to deliver Unacceptable Waste to Facility and to indemnify MRC, Fiberight and its subcontractors for costs related to any such deliveries. For Joining Members, this is a Maine Tort Claims Act issue by potentially modifying or waiving its protections, and may require amendment of existing MSW hauler transportation contracts to comply with this and other hauler requirements. **Section 6.8 should be revised consistent with the proposed revision to Section 8.8 of the Joinder Agreement.**

Also, to the extent Section 6.8 purports to impose obligations on third party haulers, these obligations are not effective because the haulers are not parties to the agreement. A better approach would be to require third party haulers to enter into Facility access agreements with Fiberight where they specifically agree to access terms.

Section 5.1 establishes the initial \$70 per ton tipping fee, subject to upward (but not downward) CPI adjustment each January 1.

**2. MRC's obligations and responsibilities to the Town under the Proposed Documents, whether these differ between "joining" and "member" municipalities, how these differ from MRC's responsibilities under the Existing Documents, and what the ramifications might be for Joining Members.**

**Classification of Joining Members.** To understand MRC's responsibilities to Joining Members, it is necessary to understand the various classes of Joining Members.

A. First, the following are the classes of members as recognized by PERC in the Existing Documents.

Under the MRC Articles of Amendment dated June 22, 1998, there are three categories of MRC members:

- 1) **Equity Charter Municipalities**, which have entered into the Second Amended and Restated Agreement before September 30, 1998;
- 2) **Amending Charter Municipalities**, which entered into the Second Amended and Restated Agreement on or after September 30, 1998; and
- 3) **Original Charter Municipalities** that had entered into the First Amended and Restated Waste Disposal Agreement but not the Second Amended and Restated Agreement.

The Second Amended and Restated Agreement differs slightly and recognizes:

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- 1) **Charter Municipalities** listed in Schedule B;
- 2) **Amending Charter Municipalities** that are of three categories:
  - **Amending Charter Municipalities** that executed the Second Amended and Restated Agreement on or before September 30, 1998 and so had the right to purchase a limited partnership interest in PERC and timely exercised that option (“**Equity Charter Municipalities**”);
  - **Amending Charter Municipalities** that executed the Second Amended and Restated Agreement after September 30 and before March 31, 2004; and
  - **Amending Charter Municipalities** that executed the Second Amended and Restated Agreement after the closing date.

Amending Charter Municipalities in the last two categories did not have the right to receive warrants for Bangor Hydro stock or to purchase limited partnership interests in PERC.

**B.** The following are the classes of members in the Proposed Documents.

The Amended and Restated Articles provide for two classes of members – **Charter Members** (members as of expiration of the PERC Agreements) and **Non-Charter Members**. The Joinder Agreement is between “**Joining Members**” and MRC. The term “Joining Member” includes municipalities, solid waste disposal districts and other “eligible entities” (not defined). The Joinder Agreement divides municipalities into three categories:

- 1) **Charter Municipalities** – MRC members currently delivering MSW to PERC under the Second Amended and Restated Agreement – these include:
  - **Equity Charter Municipalities** – those Charter Municipalities with Equity Charter Municipality status under the Second Amended and Restated Agreement;
  - **New Charter Municipalities** – Charter Municipalities that are not Equity Charter Municipalities (joined after September 30, 1998, and were not entitled to purchase equity interests in PERC);
  - **Charter Municipalities** – **not** stated in the MRC Documents, but those Charter Municipalities that had signed the First Amended and Restated Waste Disposal Agreement but **not** the Second Amended and Restated Agreement.
- 2) **Departing Municipalities** – those Charter Municipalities that either affirmatively elect not to become Joining Members or do not sign a Joinder Agreement by the later of May 1, 2016, or seven days after the date of any town meeting at which approval of the Joinder Agreement is to be scheduled.

**3) Non-Charter Municipalities – Joining Members that were not Charter Municipalities.**

In summary, any municipality or other eligible entity that enters into the Joinder Agreement will be a Joining Member and a Charter Member. Joining Members will include municipalities that are, under the Second Amended and Restated Agreement, Charter Municipalities (including Equity Charter Municipalities and New Charter Municipalities, or “Non-equity Charter Municipalities”), Non-Charter Municipalities, and readmitted Departing Municipalities.

**C. Obligations MRC owes to the Town.**

**1) Under Existing Documents.**

MRC has no obligation to the Town under the Second Amended and Restated Agreement, as it is between the Town and PERC.

However, MRC has obligations to the Town and to each MRC member under the MRC Bylaws and under the Amended Articles of Incorporation. These obligations primarily are to act as a liaison between the municipal members and PERC, to oversee PERC’s financial performance and reporting, to oversee the Capital and Maintenance Reserve Account, to review and verify the calculation of performance credits, to monitor PERC’s compliance with performance standards, to monitor the status of the power purchase agreement, and to receive and direct cash distributions and to act regarding limited partnership interests with regard to the Equity Charter Municipalities. MRC also has the responsibility to identify alternative waste disposal options MRC or a successor organization might implement after PERC agreements terminate, including “any and all actions incident to the development, ownership, financing and/or operation of a new integrated solid waste disposal facility to serve the Charter Municipalities.”

**2) Under the Proposed Documents.**

Under the Joinder Agreement, MRC owes the same general obligations to all Joining Members – to supply an aggregate of at least 150,000 tons per Contract Year of Acceptable Waste delivered by the Joining Members, or on their behalf, to the Facility, and to administer their funds and reserve funds, except that the Joining Members will pay tipping fees directly to the Facility.

Specific MRC obligations to municipalities under Joinder Agreement:

- Provide any notice of termination at least nine months in advance (Section 2.2);
- Consult with Joining Member to establish Estimated Delivery Amount (Section 3.3(b));
- Review Estimated Delivery Amount at Joining Member’s request or for good cause shown (Section 3.3(b));
- Set aside and manage Delivery Assessment Reserve Fund from other reserve funds, Joining Member Contributions and other sources to pay any Delivery Sufficiency

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Payment Assessment (Section 3.3(c));

- Return remaining balance in Delivery Assessment Reserve Fund to Joining Members as in Exhibit B on termination of Joinder Agreement (Section 3.3(e));
- Consult with Joining Members regarding proposed changes in MSW delivery amounts, including where new or expanded recycling, reuse or diversion programs are proposed (Section 3.4);
- Provide advice and guidance to Joining Members with regard to any Unacceptable Waste claims (Section 3.5);
- Review and accept or dispute Fiberight tipping fee calculations (Section 4.1);
- Manage Rebates from Fiberight payable to Joining Members under the Section 5.3 of the Master Waste Supply Agreement in manner that is in best interests of all Joining Members, and may offset Rebates against Delivery Diversion Charges and other assessments, penalties and costs, and provide quarterly report of all rebate offsets (Section 4.3);
- Make Fiberight quarterly rebate calculations available to all Joining Members (Section 4.3(b));
- Pay remainder of rebates to Joining Members on basis of Acceptable Waste delivered (Section 4.3(c));
- Administer Joinder Agreement, Master Waste Supply Agreement and Site Lease on behalf of Joining Members; serve as advocate for and advisor to Joining Members to ensure availability of long-term reliable, safe and environmentally sound MSW disposal at stable and reasonable cost; work with all Joining Members to manage MSW under Proposed Documents; ensure Fiberight compliance with its obligations; file and prosecute permit applications; prosecute or participate in administrative and judicial proceedings; review, administer, accept, invest, apply and distribute tipping fees, rebates and other payments to MRC and Joining Members; and negotiate and enter into collective MSW transportation, management and disposition contracts (Article 5);
- Cooperate with Joining Members for collective MSW transportation (Section 6.1);
- Provide Bridge Capacity and Bypass Waste Facility (Section 6.2);
- Consult with Joining Members before implementing delivery to Backup Facility (Section 6.2);
- Administer Joining Members' assets under Existing Agreements in accordance with Exhibit B (Section 7.1);

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- Distribute Project Site sale assets, net of expenses, in accordance with Exhibit B (Section 7.2);
- Defend, indemnify and hold harmless Joining Member and its elected (should also say “and appointed”) officials, officers, agents, and employees **resulting directly** from (could say “to extent resulting from” instead) any willful or negligent act or omission by MRC and any failure by MRC to perform fully its obligations under Joinder Agreement (Section 8.2);
- Provide notice if asserting right to indemnification (Section 8.3);
- Provide notice and opportunity to be heard before exercising right to assign Joinder Agreement to successor entity (Section 9.2);
- Inform Joining Members and provide them with hearing regarding accepting of a Force Majeure Plan and indicate impact of that Plan on future tipping fees and rebates (Section 11.4);
- Inform Joining Members of Event of Default under Master Waste Supply Agreement or Site Lease and of MRC’s proposed actions (Section 11.4(a));
- Provide Joining Members notice and hearing regarding proposed amendments to Master Waste Supply Agreement or Site Lease (Section 11.4(b));
- Notify Joining Members promptly of change in law, and use reasonable efforts to cooperate to address it (Section 11.5).

MRC also has particular obligations under the Joinder Agreement to certain Joining Members, based upon their status under the Existing Agreements, which are stated in Exhibit B, set out in Table A, and are summarized in the Executive Summary.

**3. Are there any exceptions to the MRC’s; Town’s; and Joining Member, original Charter, Amending Charter and Equity Municipalities’ obligations under the Proposed Documents?**

Exceptions to these parties’ obligations are noted in Tables A, B and C and in this Memorandum. The differences largely are: 1) What these classes of Joining Members are entitled to receive under Exhibit B of the Joinder Agreement and 2) What they are required to pay toward any Delivery Sufficiency Agreement assessed upon MRC.

**4. The meaning and effect of the indemnification and insurance and dispute resolution provisions in the Proposed Documents.**

**A. Joinder Agreement**

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This agreement contains two indemnification provisions – one regarding delivery of Unacceptable Waste and one for non-performance. There are no insurance provisions or requirements.

1) **Unacceptable Waste. Indemnification.** If a Joining Member or its hauler delivers Unacceptable Waste to the Facility, the Joining Member is responsible to pay the “full cost for” and to indemnify and hold harmless Fiberight, MRC and their respective members, directors, officers and agents, from and against any liability, claim or damages arising out of the delivery (Section 3.5). Therefore, if Unacceptable Waste, such as construction or demolition debris; sludge; hazardous wastes; biological wastes; waste oil; flammable wastes; and others listed in Exhibit A to the Master Waste Supply Agreement were delivered to the Facility, the Joining Member would be liable under this Agreement to pay MRC and Fiberight for the full costs of remediation, whether the Unacceptable Waste is delivered by the Joining Member or by a hauler on its behalf. If contamination were to spread to adjoining property or personal injury were to result, the Joining Member would be liable.

Section 4.3 of the Master Waste Supply Agreement provides that if Fiberight finds Unacceptable Waste after the hauler has left the Facility, Fiberight will dispose of the Unacceptable Waste properly. Fiberight reserves the right to pass along uninsured handling and disposal costs and any environmental cleanup and remediation costs to the hauler, but if it cannot be identified or costs cannot be recovered, may pass these on to the Joining Member, if known. If the Joining Member will not pay, MRC will be billed, and if a Joining Member cannot be identified, costs will be offset against rebate payments. Under the Joinder Agreement, the Town would be obligated to defend MRC and Fiberight and pay any damages awarded to third parties against them or for any environmental enforcement and response actions by a governmental agency, such as DEP. In the case of hazardous wastes, these costs could also include Maine DEP response costs, if necessary, and fines assessed for any violation of Maine environmental laws and regulations.

This is a broader defense and payment obligation than currently exists. Currently, a municipality that sends MSW to PERC has the obligation to either remove hazardous or Unacceptable Waste delivered to the Orrington Facility or to reimburse PERC for all costs it incurs in cleanup (Article IX A and B, Second Amended and Restated Agreement), but the Second Amended and Restated Agreement does not require the municipality to defend, indemnify and hold harmless PERC.

Also, by accepting these obligations, the Town could be waiving the general immunity and liability caps offered by the Maine Tort Claims Act (MTCA); MRC has amended the language of Section 8.8 to prevent possible waiver of the MTCA protections; adding it to Section 6.8 of Master Waste Supply Agreement also may help.

Given the Town’s increased potential indemnification liability for Unacceptable Waste under the Proposed Documents, the Town should be careful, in any contract it may enter into with solid waste haulers to collect and/or transport MSW to the Facility, to prohibit the hauler from collecting, transporting and delivering Unacceptable Waste to the Facility; clearly define “Unacceptable Waste” consistent with the Proposed Documents; place the burden on contract haulers to defend, indemnify and hold the Town harmless for any claim, damages or liability of

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MRC or Fiberight resulting from delivery of Unacceptable Waste to the Facility and Back-up Facility; and make sure that the contract hauler has sufficient insurance to meet that obligation. In the alternative, the Joining Members could try to place this burden onto Fiberight, which would require haulers to enter into access agreements to use the Facility or to screen more.

2) **Parties' Indemnification.** Under Article 8, each party agrees to defend, indemnify and hold harmless the other (and all other Joining Members) as well as all of their respective members, directors, elected officials, officers, agents and employees) for any claims, liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorney's fees, **resulting directly** (this has been amended to read "to the extent resulting from") from any failure by the other party "to perform fully, in any respect, its obligations under this Agreement." (Sections 8.1 and 8.2). Please note that the Town's indemnification obligation not only runs to MRC, which is understandable, but also to the other Joining Members. Indemnification payments are required when the claims payable exceed the *de minimus* limit of \$25,000 (Section 8.6).

The Second Amended and Restated Agreement does not contain a cross-indemnification. However, such provisions are common in agreements between private entities, and so private entities often require indemnification clauses in contracts with public entities. Legal counsel for Maine municipal and quasi-municipal bodies – towns, cities, schools, water districts and sewer districts – and for the State and its agencies usually push back against these provisions. This is because of the general immunity and the liability caps on entity and employee liability provided by the MTCA. Most of the Town's obligations under the Joinder Agreement, though, would result in breach of contract claims – not tort claims for property damage or personal injury or harm, and so the MTCA may not provide much protection to the Town for the types of claims that could arise under this Agreement. However, to protect the Town as much as possible, we recommend revising Section 8.8 to clarify that the Town does not waive its MTCA (and other) immunities; and MRC has amended the "No Waiver of Immunities" language at Section 8.8.

Also, the reference in Section 8.5 to the dispute resolution provisions of the Joinder Agreement is incorrect – it is not Section 14.5, but Section 11.8.

- 4) **Dispute Resolution.** Section 11.8 provides for binding arbitration of disputes under this Agreement if the parties are unable to resolve their disputes informally within 14 days of written notice of dispute (sent by certified mail). Arbitration would be under the rules of the American Arbitration Association and would be before a single arbitrator agreed upon by the parties, or before a panel of three arbitrators if they do not agree. Each party will bear its own costs of arbitration, and will share equally the cost of an arbitrator. (Section 11.8(d) also mentions a "mediator," which none of the rest of the Section mentions; this seems to be a stray reference to an earlier version of the agreement that contemplated mediation of disputes.) We have made suggestions for improvements in the time to make claims and when claim periods begin, and MRC has incorporated these.

Either party could seek a temporary or permanent injunction against the other in the court system, but this would be only for maintaining the status quo, or requiring action or compliance -

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- not to obtain money damages for violation of the agreement. Section 10.4 entitled MRC to seek specific performance of a Joining Member under the Joinder Member.

Binding arbitration is the dispute resolution method currently in place under the Second Amended and Restated Agreement (Article XXXII). The use of binding arbitration has increased in the commercial setting because of the cost and length of litigation in the courts. However, some believe that arbitrators are more likely than courts to offer each side something and prefer litigation to binding arbitration.

## **B. Master Waste Supply Agreement**

1) **Indemnification.** Under Section 6.1, Fiberight agrees to defend, indemnify and hold harmless MRC, each Joining Member, and their respective members, directors, elected (should add "and appointed") officials, officers, agents, and employees against any claims, liabilities, damages, costs or expenses resulting directly from any negligent or willful act or omission of Fiberight, from its failure to properly process or dispose of MSW, or from its failure to fully perform its obligations.

2) **Insurance.** No provisions or requirements.

3) **Dispute Resolution.** The parties may submit indemnification disputes to discussion and arbitration under Section 14.5. Otherwise, any dispute under that Agreement is subject to a 14-day informal resolution period, followed by binding arbitration.

## **C. Site Lease.** See Table B, Summary and Comments, for details.

1) **Indemnification.** Under Section 14 of the Lease, the Tenant has the following indemnification obligations:

The Tenant shall indemnify, defend and hold the Landlord harmless against any and all claims, liability, loss, or damage whatever (including without limitation attorneys' and experts' fees) arising from acts or omissions of the Tenant or its employees, officers, agents, licensees or invitees in, on or about the Leased Premises, or a breach by the Tenant of its obligations or representations and warranties under this Lease, except in either case to the extent arising from the gross negligence or willful misconduct of the Landlord, its agents, or employees.

This provision obligates the Tenant (Fiberight) to indemnify and defend Landlord (MRC) against liabilities arising from acts of the Tenant on or about the Leased Premises or from a breach of the Tenant's obligations or representations and warranties under the Lease. We recommend that it be strengthened to include all acts of Tenant, not just on or about the Leased Premises. The indemnification obligation should apply to a broader class of types of damages for the avoidance of doubt (suits, judgments, expenses and costs). The Joining Members, MRC's Affiliates (if any), and their respective elected and appointed officials, officers, directors, employees, and agents should expressly be included as indemnified parties. The Tenant should indemnify the Landlord for any breach of any provision of the Lease, not only for a breach of Tenant's

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“obligations or representations and warranties.” The obligation also should be to defend the Landlord in any suit, whether directly against Landlord or in which Landlord is impleaded. Finally, it is important to state that the indemnification obligation applies regardless of any workers’ compensation immunity.

We recommend the following revised language for Section 14.1 (which MRC has adopted):

The Tenant shall indemnify, defend, and hold the Landlord, Affiliates, and the Joining Members and their respective elected and appointed officials, officers, directors, employees, agents, licensees and invitees (the “Indemnified Parties”), harmless from and against any and all claims, liabilities, losses, damages, suits, judgments, and expenses whatsoever (including without limitation attorneys’ and experts’ fees): (i) arising from Tenant’s possession, use, occupation, or control of the Leased Premises, (ii) occurring while on or about the Leased Premises, or (iii) arising from a breach by the Tenant of this Lease, except in any case to the extent arising from the gross negligence or willful misconduct of the Landlord, its agents, or employees. Tenant shall, at its own cost and expense, defend any and all suits or actions (just or unjust) that may be brought against the Indemnified Parties or in which the Indemnified Parties may be impleaded with others upon any such above-mentioned matter. Tenant agrees that the foregoing agreement to defend, hold harmless, and indemnify the Indemnified Parties extends to claims, liabilities, losses, damages, suits, judgments, expenses and costs (including reasonable attorneys’ and experts’ fees) without regard to any immunity, statutory or otherwise, including any immunity under workers’ compensation laws.

We also recommend adding a specific environmental indemnity to Section 23 (Environmental), as follows, which MRC has adopted:

23.4. Tenant expressly acknowledges and agrees that it will reimburse, indemnify, defend (with counsel reasonably acceptable to Landlord), and hold the Indemnified Parties harmless from and against any and all liabilities, claims, damages, penalties, suits, proceedings, judgments, expenditures, losses, charges, expenses and costs (including, but not limited to, all costs of investigation, monitoring, legal fees, remedial response, removal, restoration, or permit acquisition) that may now or in the future be undertaken, suffered, paid, awarded, assessed, or otherwise incurred as a result of Tenant’s violation of any of the matters referred to in this Section 23.

2) **Insurance.** Section 15 of the Lease obligates the Tenant to keep all improvements insured against loss or damage by fire and the extended coverage hazards for the full replacement value (or actual cash value during any renewal), with loss payable to Landlord and Tenant as their interests appear. The Tenant is also obligated to maintain for the benefit of the Tenant and the Landlord, as a named additional insured, such other insurance coverages as are customary in the industry, including without limitation commercial general liability insurance, including products and completed operations coverage, against any claims for personal injury, death, and property damage; workers’ compensation insurance; employer’s liability insurance; automobile liability insurance; and environmental impairment insurance. The

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Tenant's contractors must also maintain commercial general liability insurance, including products and completed operations coverage, against claims for personal injury, death, and property damage; workers' compensation insurance; employer's liability insurance; automobile liability insurance; and, for subcontractors engaged in work reasonably determined to pose an environmental threat, environmental impairment insurance.

These types of insurance coverage requirements are standard for this type of lease; however, the Lease should also require the Tenant to carry an umbrella liability insurance policy and builder's risk insurance for the construction of the facility and any other construction undertaken on the Leased Premises, which MRC has added. The adequate dollar amount of insurance coverage is beyond the scope of this memorandum and should be determined by the parties, after consulting with their insurers.

3) **Dispute Resolution.** Section 25 of the Lease provides procedures for dispute resolution. If the parties are not able to resolve a dispute informally, either party may submit the dispute to binding arbitration. The time-frame within which to submit a dispute to arbitration is quite short, only one year from the date on which the claim arose. There is no definition of how a claim arises – the Lease does not address whether a claim arises when the act or event giving rise to it occurs or is discovered. We recommend either eliminating the one-year requirement or significantly enlarging it – MRC has increased this to two years. This provision should also address the definition of when a claim is deemed to arise. Each party bears its own costs in connection with any dispute resolution, which is typical.

Parties generally prefer arbitration to litigation because it is quicker and far less costly. Arbitration is not without its risks, however, and some parties prefer the ability to appeal a court's decision.

#### **D. Development Agreement**

1) **Indemnification.** MRC and Fiberight each agreed to indemnify and hold the other party harmless from any and all liabilities, losses and damages and costs suffered or incurred by the other “as a consequence of activity undertaken by the Indemnifying Party, its employees or agents, or a breach by the Indemnifying Party of its obligations hereunder. However, neither party is liable to the other “for indirect, special, or consequential damages or for loss of anticipated profits.”

2) **Insurance.** Fiberight shall maintain adequate insurance policies (general liability, property and casualty, builders' risk, workers' compensation and other appropriate coverage for Project Site and Facility) with limits not less than customary in the industry. MRC is to be named as an additional named insured on all liability and casualty policies – we recommend also adding “the Joining Members and their respective elected and appointed officials, directors, officers, agents and employees” as named insureds to correspond with Fiberight's indemnification obligation under Section 6.12 of the Master Waste Supply Agreement.

#### **5. How the Proposed Documents and obligations for Joining Members affect the Existing Agreements for MRC and equity municipalities.**

The Proposed Documents appear to be designed and intended to establish a clear break between PERC and the Fiberight proposed Facility, so that there should be no conflict between the two operationally for Joining Members. Those Joining Members that are obligated as Charter Municipalities to deliver Acceptable Waste to PERC under the Existing Agreements will do so until those agreements expire on March 31, 2018. If Fiberight requires MSW for start-up tests prior to that date, it will attempt to obtain that MSW elsewhere, and MRC is not required to divert or interfere with Charter Municipalities' MSW deliveries to PERC under the Second Amended and Restated Agreement so long as PERC is accepting those deliveries (Section 3.4 of Master Waste Supply Agreement). The assumed Commercial Operation Date for Fiberight is April 1, 2018, after the PERC obligations have expired.

**6. Outline of potential liabilities and options to Joining Member municipalities should MRC's proposed Fiberight project fail or not meet expectations.**

There are several ways in which the proposed Fiberight project could fail. Fiberight could fail to obtain financing or fail to secure land use and environmental permits; construction might not occur; MRC could unilaterally withdraw from, or the parties could terminate the Development Agreement; MSW delivery commitments may be insufficient; the technology could fail to operate wholly or in part; there could be bankruptcy or insolvency on the part of Fiberight, or Joining Member terminations could cause a loss of needed MSW deliveries.

If the Fiberight project fails or does not commence, Joining Members shall deliver their MSW to the Crossroads Landfill in Norridgewock during the 10 to 20 year term of the agreement MRC has entered into for disposal of two MSW streams at this "Backup Facility." The two MSW streams described in Section 6.2 are:

- Bridge Capacity Waste – Acceptable Waste generated after the projected April 1, 2018 start date until the Commercial Operation Date; and
- Bypass Waste – Acceptable Waste Collected and delivered to the Facility by the Joining Member, but which cannot be accepted for processing because the Facility has not yet achieved Commercial Operation at the end of the Excused Delay Period or the Facility is out of service for maintenance or repair or because of Force Majeure "or otherwise."

(Please note that the Joinder Agreement does not require MRC to provide, obtain or maintain a Backup Facility for MSW, but Section 6.2 simply requires the Joining Member to acknowledge that MRC has entered into the Crossroads Landfill Agreement.)

Also, please note that the use of Crossroads Landfill if Fiberight fails is not an option – it is required. The Crossroads Landfill Agreement in Section 1 requires MRC to "cause to be delivered to Crossroads Landfill, on an **exclusive basis**," all MSW designated by a Participating Member of MRC – a Joining Member – as By-Pass or Bridge Capacity. Section 6.2 of the Joinder Agreement requires MRC to consult with Joining Members before implementing delivery of MSW to Crossroads Landfill, but there is no option for the Town to deliver MSW

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elsewhere unless it or MRC terminates the Joinder Agreement or Fiberight terminates the Master Waste Supply Agreement and the Crossroads Landfill Agreement expires.

If there is insufficient MSW to permit operation of the Facility at full capacity, Section 3.6 of the Master Waste Supply Agreement requires Fiberight to make reasonable commercial efforts to attract MSW and MRC is obligated to support those efforts.

Otherwise, the Joining Member's option would be to terminate to the extent permitted under the Joinder Agreement (see Question 7).

### **Site Lease**

MRC is required to purchase the property prior to entering into the Lease, which represents a risk. Once the Lease is in effect, there are several ways in which Fiberight may avoid its obligation to perform under the Lease, which exposes the MRC, and ultimately the Joining Members, to the risks of having invested time and money in acquiring the Property and installing the infrastructure while not having the benefit of the Facility. In addition, if an event of Force Majeure prevents Fiberight from performing under the Lease, the Lease specifically contemplates the possibility of passing the costs of addressing such an event through to MRC and/or the Joining Municipalities and does not require Fiberight to shoulder any of such costs.

Prior to the Construction Date, Fiberight is allowed to terminate the Lease with 90 days' prior notice if it determines that construction or operation of the Facility is uneconomic or practically infeasible. This is a subjective standard that gives Fiberight great discretion, which, if exercised, leaves the MRC holding the Property with no facility.

Fiberight is excused from causing the Commercial Operation Date to occur by April 1, 2018, if a permit contains a term that would preclude construction or operation on "commercially reasonable terms." This arguably allows Fiberight to determine in its discretion that a permit condition proves too costly and to abandon the project. Fiberight also is excused if a "Force Majeure" or "Change in Law" occurs that would preclude construction or operation on "commercially reasonable terms." "Uncontrollable Circumstance" is not defined in the Lease and has been removed. "Change in Law" is broadly defined to include any change that is "inconsistent with and more stringent than" previously existing law. Taken together, these provisions provide the Fiberight with significant latitude to avoid performance under the Lease. Fiberight may also be excused from performance if it has not obtained financing. Fiberight is only required to use "diligent efforts" to obtain financing, with no objective financing terms that are deemed sufficient for Tenant to perform (for example, a loan of at least \$x, for a term of at least y years, at an interest rate of z%). The ability of Tenant under these provisions to avoid its obligation to perform leaves the Landlord, and therefore the member municipalities, exposed to a fairly significant risk that MRC is left having purchased the real estate and perhaps expended funds on infrastructure with no facility for treatment of the MSW.

In the event the Facility fails because one party is unable to perform due to Force Majeure, the Lease could be terminated. One impact of a Force Majeure event is that the party claiming it must prepare a Force Majeure Plan. The Plan must include "a proposal for costs to be passed

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through to the MRC and/or Joining Member Municipalities as part of the proposed response to address the Force Majeure, which might involve one time payments, an increase in the Tip Fee under the Master Waste Supply Agreement and Joinder Agreements, or other changes to payment provisions as well as any impact on the value of the Facility building as set forth in Exhibit C [to the Lease].” This has been reworded. The Lease should also require Fiberight to bear some of the risks associated with the failure of the Facility due to Force Majeure.

**7. Provisions in the Proposed Documents that would allow a Joining Member municipality to terminate the agreements before the termination date and if there are none, whether there should be.**

If the Joining Municipality exercises its rights to Extension Terms, the full term of the Joinder Agreement is 40 years – a 15-year Initial Term plus five five-year Extension Terms, each requiring at least one year’s written notice of extension prior to termination. Section 2.1.

A Joining Municipality could terminate its Joinder Agreement prior to the 40-year maximum term by electing, after the 15-year Initial Term or after any Extension Term, not to extend the Joinder Agreement. Section 2.1. (MRC also may terminate the Joinder Agreement before the maximum 40-year term. Section 2.2 provides that MRC has the right at the end of the Initial Term and of any Extension Term to terminate the Joinder Agreement with nine months’ written notice of termination to all Joining Members, even if Joining Members have provided notice of exercise of Extension Term rights.) MRC would have to provide Fiberight with at least 9 months’ written notice of termination under the Master Waste Supply Agreement and Site Lease.

However, depending upon how many Joining Members decide not to extend their Joinder Agreements, a termination under the Joinder Agreement could cause problems for MRC and Fiberight and their ability to perform under the Master Waste Supply Agreement, and Site Lease.

A Joining Municipality has no other ability to terminate the Joinder Agreement before the termination of the Initial Term and any Extension Terms. If MRC fails to fulfill its obligations under the Joinder Agreement and does not cure the default within 30 days (or other appropriate cure period) of its receipt of written notice of default from the Joining Member, unless it is not possible to cure the default; or if MRC files or has filed against it a petition in bankruptcy or reorganization, or is adjudicated bankrupt or a receiver is appointed on its behalf, or MRC requests appointment of a receiver or MRC makes a general assignment for the benefit of creditors, or MRC has its bank accounts, property or receivables attached, and these proceedings are dismissed within 60 days, it is an event of default by MRC. MRC has revised the Joinder Agreement to authorize the Joining Member to terminate due to MRC’s default except in the context of an assignment of the agreement by MRC in violation of its terms.

Note that Fiberight may terminate after the Initial Term or any Extension Term on 18 months’ notice, under the Master Waste Supply Agreement and the Site Lease.

Section 10.3 provides that the Joinder Agreement shall terminate upon expiration of the Master Waste Supply Agreement. These dates should be coterminous if both agreements commence (as they should) on the same Commercial Operation Date, but what if the Joining

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Member sooner terminates under Section 2.1? In that case, MRC would have an obligation to try to contract with other municipalities for the lost MSW tonnage and its inability to do so could give rise to Delivery Sufficiency Payments owed to Fiberight.

Also, while MRC and Fiberight may terminate the Development Agreement if Fiberight fails to obtain adequate financing by January 1, 2017, or fails to achieve Commercial Operation by January 1, 2020, neither the Joinder Agreement nor the Master Waste Supply Agreement addresses these potential termination dates.

### **Site Lease**

While the Joining Members do not have any direct rights under the Lease, the MRC's rights as Landlord impact the municipalities.

The Lease does not require the Landlord to begin construction of the access road and electric, water, and sewer lines if (i) Joinder Agreements have not yet been executed with commitments for 150,000 tons of acceptable waste per year; (ii) any permit necessary for construction of the Facility has not yet been issued, or Tenant has determined that there is a provision in a permit that would preclude construction or operation of the Facility on commercially reasonable terms; (iii) an event of Force Majeure has occurred and is ongoing and would preclude construction or operation of the facility on commercially reasonable terms; or (iv) the Tenant has not obtained financing. The Lease does not state it expressly, but as written, if these conditions are never met the Landlord need not construct the access road and install the infrastructure; the project would be abandoned.

The Landlord may terminate the Lease in the event of a default by Tenant. The Lease requires the Landlord to provide the Tenant with written notice of default and a 60-day opportunity to cure for nonpayment defaults. This is an overly long cure period, and MRC has shortened it to 45 days. There is no notice requirement for payment defaults, but a payment default does not occur until 30 days after a payment is due. This period should be stated as well.

If the Landlord is unable to perform under the Lease due to an event of Force Majeure, the Landlord's obligations under the Lease are suspended during the occurrence of the event. The Landlord would need to provide to the Tenant a Force Majeure Plan that (i) addresses the impacts of the event on the performance of the Facility, (ii) measures required to address the Force Majeure event, and (iii) includes a proposal for costs to be passed through to the MRC and/or Joining Members, as discussed in response to item 6 above. If the parties are unable to agree on a Force Majeure Plan, the dispute is to be resolved by arbitration, and 90 days after receipt of the original Force Majeure Plan, either party may terminate the Lease. If the Landlord is the party terminating the Lease, it must provide the Tenant with offers to purchase the Building and to sell the Property to the Tenant for the prices set forth in Exhibit C to the Lease.

Once the Landlord has begun construction of the access road and the infrastructure, the Landlord has no ability to terminate the Lease until after the Initial Term, other than in the event of default or possibly as a result of a Force Majeure event. Whether the Tenant desires to renew the Lease at the end of the Initial Term or any Extension Term, the Landlord nonetheless has the right to

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terminate the Lease if Joining Members have provided termination notices to the MRC such that the sum of the Estimated Delivery Amounts (as defined in the Master Waste Supply Agreement) of the Joining Members that have not provided notices would be less than 150,000 tons. In that case, the Landlord must provide the Tenant with an offer to purchase the building together with and an offer to sell the property to the Tenant, both at the prices set forth in Exhibit C. The worst-case scenario for the Landlord would be if the Landlord desires to terminate the Lease (presumably because the Facility is inoperative), and the Tenant accepts the Landlord's offer to purchase the building. In that case, the Landlord would be forced to pay for the building but would not have an operating Facility.

**8. Provisions in the Proposed Documents that would allow a joining or member municipality to increase or decrease the tonnage of MSW it is required to provide if the municipality deems it necessary to do so, and if there are none, whether there should be?**

The provisions of concern are those in the Joinder Agreement, and these contemplate adjustments that likely are reductions in MSW tonnage delivered to the Facility. It may be helpful to address increases, to ensure sufficient capacity for the Joining Members' MSW.

Under Section 3.3(b) of the Joinder Agreement, a Joining Member is required to state its Estimated Delivery Amount – the number of tons of Acceptable Waste it agrees to provide per Contract Year – after consulting with MRC and consistent with MRC's guidelines. This Estimated Delivery Amount will not include any MSW the Joining Member is recycling on its own or through the single stream Recycling Program Fiberight will offer.

This provision directs the Joining Member and MRC “to review this commitment” at either party's written request, made no more frequently than every five years, or “for good cause shown” on request made at least 60 days before the end of the current calendar year.

In addition to being able to request an adjustment in the Estimated Delivery Amount up to every five years or for good cause shown, the Joining Member may alter its responsibility to deliver MSW, presumably to decrease the tonnage of MSW it will deliver to support reduction, recycling or reuse of MSW under Section 3.4. Section 3.4(a) requires a Joining Member to provide at least 60 days' notice to MRC of the proposed change of MSW amounts and to consult with MRC before its implementation, which will advise the Joining Member and all other Joining Members of any “contract compliance impacts” from that change. Section 3.4(b) requires not only the 60 days' notice and consultation with MRC as in Section 3.4(a), but also requires the prior consent of Fiberight if the Joining Member proposes new or significant or material expansion of existing programs to divert organic portions of MSW through facilities or programs other than the Facility. Section 3.4(b) of the Joinder Agreement does permit a Joining Member to institute “Pay As You Throw” programs, which do result in MSW reduction without MRC's prior approval so long as all other MSW generated within its borders and under its control is delivered to the Facility. MRC has revised the Joinder Agreement to clarify these exceptions to the delivery commitment

**Table A**

**Perkins Thompson Joinder Agreement Summary and Comments  
(December 4, 2015 Draft and December 30, 2015 Revisions)**

Capitalized terms have the meanings ascribed to them in the Joinder Agreement or the Master Water Supply Agreement.

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
Parties	Signed by the Municipality (“Joining Member”) and MRC	
2.0 Term	<p>2.1 Initial Term of 15 years, begins on Effective Date and continues until later of April 1, 2033 or 15th anniversary of Commercial Operation Date, and may be extended for up to five consecutive five-year periods at Joining Member’s discretion; with at least 12 months’ written notice to MRC to exercise the right of extension. Agreement then is automatically extended unless Joining Member is in default.</p> <p>2.2 However, even if Joining Member gives timely written notice to extend to MRC, MRC has right to terminate by written notice to Joining Member at least 9 months before expiration of that term, but MRC must simultaneously provide written notice of termination to all Joining Members for termination to be valid.</p>	<p>Joining Member’s ability to terminate at end of Initial Term or extension is constrained, since there are four agreements to consider, and if too much MSW tonnage departs, the Project could fail. Section 10.3 provides that the Joinder Agreement terminates when the Master Waste Supply Agreement expires, the Site Lease allows for termination at end of Initial Term or extension if MRC also offers to purchase building or sell Site, and there are waste delivery obligations referenced in the Crossroads Landfill Agreement, which have a different term.</p> <p>MRC can terminate for any reason – no restriction on basis for termination.</p>
3.0 Delivery of Waste	3.1. Delivery. Joining Member agrees to deliver or cause to be delivered to Fibright “all Acceptable Waste generated within its borders the collection and disposition of which is under its control.” Obligation begins on the Commercial Operation Date (defined under the Master Waste Agreement as being the later of (i) the date on which the Performance Test was completed and accepted; and (ii) April 1, 2018). Obligation is exclusive – Joining Member must deliver or have delivered the Acceptable	<p>Contains the most critical municipal obligations under the Joinder Agreement.</p> <p>Fibright obligated under Section 4.1 of Master Waste Supply Agreement to operate Facility and accept all deliveries of Acceptable Waste beginning on Commercial Operation Date. “Control” has been defined as suggested by us.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>Waste exclusively to Fiberight, and to no other solid waste disposal facility.</p> <p>3.2. Diversion of Waste. Joining Member agrees violation of Section 3.1 delivery requirements could have material adverse effect on Fiberight facility’s (“Facility”) financial performance and on Joining Members. Joining Member is not required to institute flow control. Also recognizes Joining Member’s right, at its sole option, “to establish, continue, expand or discontinue” existing or future MSW reduction, reuse or recycling programs, subject to Section 3.4, without being deemed a violation of the Section 3.1 delivery requirements.</p> <p>Second paragraph of Section 3.2 obligates Joining Member to pay a Delivery Diversion Charge “if it diverts Acceptable Waste under its control to facilities other than the Facility” for reasons other than the allowed ones – establish, continue, expand or discontinue existing or future MSW reduction, reuse or recycling programs. Delivery Diversion Charge is in two parts – one calculated as the product of the number of tons of waste diverted and the applicable tipping fee, and other being the Joining Member’s share of any penalty billed by Fiberight to MRC as a result of the diversion (also called a “Delivery Diversion Charge” under Section 3.3(d)(i)).</p> <p>3.3 Aggregate Delivery Requirements. Under Section 3.3(a) and (b), Joining Member acknowledges MRC is obligated under Master Waste Supply Agreement to cause at least 150,000 TPY of Acceptable Waste per Contract Year to be delivered to the Facility by or on behalf of the Joining Member or may be liable for Delivery Sufficiency Payments if MRC minimum delivery requirement is not met. Each Joining Member agrees to an estimated amount of its annual</p>	<p>A solid waste flow control ordinance may be an unconstitutional method to control solid waste anyway under these circumstances as explained in the Memorandum. As a result, a Joining Municipality will only be able to control what it collects curbside or transfer station and delivers, itself or by its contractor, to the Facility or Backup Facility.</p> <p>Similarly, Bridge Waste and Bypass also must be delivered exclusively to Crossroads Landfill during term of Waste management Agreement if Fiberight is unavailable.</p> <p>Delivery Diversion Charges are deposited in Delivery Assessment Reserve Fund that is used to pay any Delivery Sufficiency Payment assessed by Fiberight against MRC under the Master Waste Agreement. Calculated on the basis of share of tons delivered for Contract Year in question.</p> <p>No charge for permitted recycling added as requested</p> <p>Master Waste Supply Agreement defines “Contract Year” to be from the Commercial Operation Date to end of calendar year, and then each calendar year thereafter; therefore, first year’s and last year’s obligations should be prorated, since MRC and Fiberight project an April 1, 2018 Commercial Operation Date. This was done in in Master Waste Supply Agreement but not Site Lease, and was</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>contribution of Acceptable Waste. This “Estimated Delivery Amount” does not include recyclables, whether recycled under any Single Stream Recycling Program under Section 5.2 of the Master Waste Supply Agreement, or separately recycled.</p> <p>Although, Section 3.3(b) of the Joinder Agreement sets out the Joining Member’s agreement that the stated Estimated Delivery Amount is a reasonable “estimate.” This Section also states Joining Member and MRC “shall review this commitment” at specified times for appropriate adjustment.</p> <p>Section 3.3(c) MRC sets aside funds in a Delivery Assessment Reserve Fund in event Delivery Commitment is not met in any year.</p> <p>Section 3.3(d). If Fiberight assesses Delivery Sufficiency Payment on MRC because one or more Joining Members have not delivered all MSW under their control required to be delivered, each such Joining Member is assessed a Delivery Diversion Charge, which is its “ratable share” of the Delivery Sufficiency Payment “as determined by the MRC on the basis of tons of Acceptable Waste delivered,” and amount assessed is applied against Delivery Sufficiency Payment. (A Delivery Diversion Charge also can be assessed separately under Section 3.2 for unpermitted diversion of MSW to another facility.)</p> <p>If the Delivery Sufficiency Payment remains unsatisfied:</p> <ol style="list-style-type: none"> <li>1. The portion allocable to Charter Members (should be “Municipalities”) is paid from Delivery Assessment Reserve Fund;</li> <li>2. Non-Charter Members (should be “Non-Charter</li> </ol>	<p>changed as we suggested.</p> <p>The Master Waste Supply Agreement at Article 3 consistently uses “commitment” to refer to MSW delivery obligations of Joining Members. Therefore, a Joining Member should be careful to review its historical MSW deliveries and its historical recycling, to take into account future waste reduction, reuse and recycling programs and governmental requirements and to consider what MSW actually is under its control, since solid waste flow control ordinances cannot be used here, before agreeing to an Estimated Delivery Amount. A consultant with a background in MSW management and knowledge of industry trends may be helpful to Joining Members. While the Estimated Delivery Amount may not be a “Guaranteed Annual Tonnage” as under the PERC arrangement, it nonetheless is a “commitment,” and failure to meet it can result in penalties, such as a Delivery Diversion Charge for MSW diversion without permission, and/or a portion of Delivery Sufficiency Payments if assessed by Fiberight against MRC. Language will be added to ensure that if the Charge or payment is made or MRC meets its Delivery Commitment, a Joining Member’s failure to meet its Estimated Delivery amount is not a violation the Joinder Agreement.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>Municipality” to be consistent with the definitions) are required to pay an assessment in an amount equal to its allocable share of the amount paid from the Delivery Assessment Reserve Fund to Charter Municipalities multiplied by the percentage deliveries by Non-Charter Municipalities bears to all deliveries by all Joining Members during the appropriate time period;</p> <p>3. In addition, each Joining Member may be assessed special assessment on the basis of its ratable share of the remaining Delivery Sufficiency Payment amount after all other payment sources are applied – however, the actual formula for calculating this assessment is not stated.</p> <p>When Joinder Agreement terminates, remaining balance in Delivery Assessment Reserve Fund, after expenses, is returned to Joining Member as in Exhibit B.</p> <p>3.4. Change in Waste Delivery Pattern. Joining Member proposing to alter the scope of its responsibility for “collection, transfer and transportation” (should state “delivery” as used in the rest of the Joinder Agreement) of MSW, as in an increase in reduction, reuse or recycling must provide MRC with at least 60 days’ notice of proposed change and consult with MRC prior to any implementation of change. MRC will advise Joining Member of any contract compliance impacts of the change(s) on the Joining Member and on all Joining Members. If proposed change involves new programs or significant and material expansion in existing programs to divert organic waste from MSW from the Facility, Fiberight must provide its prior consent to the change.</p> <p>Section 3.4(b) allows “existing [organic waste diversion] programs substantially as operated as of the Effective Date” to</p>	<p>The Joinder Agreement says failure to meet the Estimated Delivery Amount alone will not justify a Delivery Diversion Charge, but an unpermitted diversion to another facility, or failure to deliver all MSW under its control required to be delivered where MRC owes a delivery Sufficiency Payment to Fiberight under the Master Waste Supply Agreement, will result in such a charge.</p> <p>Need to be sure all waste from Joining Member’s borders, even if delivered by a private hauler, is credited to Joining Member.</p> <p>It appeared, but was not explicitly stated in the Joinder Agreement, that: changes in the MSW waste stream discussed with MRC under Section 3.4(a), changes in the organic waste stream made with Fiberight’s consent under Section 3.4(b) and MSW reduction by Pay as You Throw programs under Section 3.4(b) all are permitted diversions of</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>continue.</p> <p>Under 3.4(b), Joining Member may institute “Pay as you Throw” or other waste reduction programs without MRC’s prior approval “so long as all MSW generated within its borders and under its control continues to be delivered to the Facility.”</p> <p>3.5 Unacceptable Waste. Joining Member shall not deliver Unacceptable Waste shall the Facility and to use reasonable efforts to offer local options for household hazardous waste disposal. Joining Member shall pay its full cost for and indemnify and hold harmless MRC and Fiberight for liability, claims or damage arising from its delivery of Unacceptable Waste to the Facility.</p> <p>3.6 Requires Joining Member to be responsible for ensuring its independent haulers comply with delivery requirements.</p>	<p>MSW that will not result in a Delivery Diversion Charge under Section 3.2 for diversion or under Section 3.3(d) for partial payment of any Delivery Sufficiency Payment; MRC has made a revision to plainly state this.</p> <p>(Couldn’t household hazardous waste disposal be a MRC service?) This indemnity could constitute a waiver of the Joining Member’s Maine Tort Claims Act immunities, limits and defenses (MRC has made changes to Section 8.8 to strengthen the municipalities’ defenses). This “pay full cost, indemnify and hold harmless” language is more than the obligation under the existing PERC Agreement to remove such waste from the facility or to reimburse PERC’s costs incurred in the required clean-up of that waste. Also, under Section 4.3 of Master Waste Supply Agreement, Fiberight claims right to seek handling and disposal expenses and environmental clean-up and remediation costs against Joining Member, or ultimately MRC, if hauler fails to pay or is unidentified. May want Fiberight to take greater role in managing Unacceptable Waste, MRC to take greater advocacy role on behalf of Joining Member and language to be made consistent with current obligations under the PERC Agreements.</p> <p>The Town cannot control third-party haulers. Another solution would be to have Fiberight</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
		require each hauler to enter into an access agreement with Fiberight naming MRC and its members as third party beneficiaries. In any case, the Town should ensure that its agreements with its haulers contain strong indemnification and insurance provisions. Towns also can enact waste hauler licensing ordinances.
4.0 Tipping Fees and Rebates	<p>Joining Member agrees to pay tipping fees for Acceptable Waste “and other wastes” (undefined) delivered and credited to its account. MRC reviews and accepts or disputes Fiberight’s tipping fee calculations. Joining Member will receive an invoice directly from Fiberight on a weekly basis within five calendar days of the end of each calendar week and payments will be due to Fiberight within 30 days of receipt unless MRC challenges the calculation of the tipping fee. If Joining Member fails to make timely payment of tipping fees, it may be precluded from delivering Acceptable Waste to the Facility or Back-up Facility.</p> <p>Amendment to the Tipping Fee proposed by Fiberight requires Joining Members to authorize MRC to amend it in the Master Waste Supply Agreement by amending the Joinder Agreement; Joining Member agrees to consider in good faith a proposal for amendment that MRC agrees is reasonable and necessary for Fiberight to continue sustainable operation of Facility.)</p> <p>Joining Member authorizes MRC to manage rebates from Fiberight on its behalf, which MRC may direct to be spent in best interest of all Joining Members, and may offset rebates against specific charges.</p> <p>Fiberight to make quarterly rebate calculations acceptable to all</p>	<p>Latest draft sets out the \$70 per ton plus CPI increase Tipping Fee as stated in Section 5.1 of the Master Waste Supply Agreement).</p> <p>Section 4.3(b) and (c) set out Fiberight’s obligation to calculate rebates and to pay rebates to MRC, but Fiberight is not a party to this Agreement, and so is not bound by these “obligations.”</p> <p>Unless MRC Board decides otherwise for good</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>Joining Members, and MRC to review and accept or dispute calculations. MRC to pay rebates based on actual Acceptable Waste delivered to Facility and Exhibit F of Master Waste Supply Agreement.</p> <p>MRC to review and dispute tipping fee calculations made by Fiberight.</p>	<p>cause shown, Non-Charter Municipalities and readmitted Departing Municipalities are not entitled to rebates during the 15-year Initial Term.</p> <p>Language has been added that MRC shall review and consider in good faith any dispute of a calculation brought forward by Joining Members.</p>
5.0 Authorization to Act for Joining Member	<p>Joining Member acknowledges it is a member of a group of entities for which MRC administers the relationship with Fiberight; agrees to be a Joining Member, to ratify the Joinder Agreement and to be a Member of MRC; and authorizes MRC to work on behalf of it and all Joining Members to administer all agreements and Site Lease and to manage MSW disposal, including ensuring Fiberight complies with its obligations.</p>	<p>MRC's discretion to act should be qualified by Joining Members' rights under MRC's articles of incorporation and bylaws, and MRC's board's duties under Maine corporate law; MRC has added this language.</p>
6.0 Transportation, Bypass and Disposition of Unacceptable Waste	<p>Joining Member and MRC each agrees to hear the other's proposals for collective transportation of MSW to the Facility and/or for use of MSW-produced transportation fuel from the Facility.</p> <p>Joining Member acknowledges MRC has entered into agreement for disposal at Back-up Facility (Crossroads Landfill) for: Bridge Capacity Waste and Bypass Waste, and agrees to pay the tipping fees for Bypass Waste as if it were Acceptable Waste delivered to the Facility and for Bridge Capacity Waste as MRC directs.</p> <p>Joining Member agrees to comply with Back-up Facility's delivery procedures and transporter rules for Acceptable Waste delivery.</p>	<p>MRC has entered into separate agreement with Waste Management for disposal of residuals from Fiberight and for MSW disposal at Crossroads Landfill for 10-year term with two 5-year extensions at set tipping fee; Joining Member must deliver or have delivered its Acceptable Waste exclusively to Crossroads Landfill in event of Bridge Capacity or Bypass.</p> <p>Article 6 heading has been changed as suggested – Unacceptable Waste is in Section 3.5.</p>
7.0 Disposition	MRC manages disposition of assets held by MRC for Joining	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
of Assets Administered by MRC	Members that are Charter Municipalities, including Departing Municipalities, after MRC commitments expire, in accordance with Exhibit B (outlined below).	
8.0 Indemnification	<p>Reciprocal indemnifications. Joining Member agrees to defend, indemnify and hold harmless MRC, each other Joining Member and their members, directors, elected officials, officers, agents and employees against claims resulting directly from any failure by Joining Member to perform fully in any respect, its obligations under the Joinder Agreement.</p> <p>MRC agrees to defend, indemnify and hold harmless Joining Member and its elected officials, of heir, agents and employees from claims resulting directly from MRC’s willful or negligent act or omission and its failure to perform fully, in any respect, its obligations under the Joinder Agreement.</p> <p>If Joining Member asserts right of indemnification against MRC, must provide MRC with written notice of commencement of legal action or other circumstances giving rise to claim for indemnification within 10 days and 30 days, respectively. Also, indemnified party obligated to provide indemnifying party access to all records and information relating to claim, facts and circumstances, except privileged matters.</p> <p>Section 8.5 requires the parties to resolve disputes under Section 14.5 (should be Section 11.8), which provides for good faith informal resolution during 14 days following written notice of dispute, followed by submittal of the dispute to binding arbitration under the American Arbitration Association’s commercial arbitration rules before a single arbitrator, unless they cannot agree, in which case there will be a panel of three arbitrators.</p>	<p>Concern as to limit on such liability -- the provision does not recognize the Joining Member’s Maine Tort Claims Act immunities, limitations and cap on liability, and by so agreeing, Joining Member may be waiving its Maine Tort Claims Act protections. MRC has amended Section 8.8 and 11.7 as requested to address concerns.</p> <p>Raised concerns that MRC indemnity also should run to Joining Member’s appointed officials. Consider whether an indemnity for claims arising “to the extent of” MRC’s willful or negligent acts is more appropriate than one for claims “arising directly” from MRC’s willful or negligent acts; MRC has added language to address these concerns.</p> <p>“Other circumstances giving rise to a claim for indemnification” is simply a catch-all.</p> <p>MRC has added language to reflect that there is no exception to requirement to provide access to records and information for attorney work-product, or materials made confidential by statute or by the Freedom of Access Act.</p> <p>Section 8.8 “No Waiver of Immunities” language has been added as requested.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	Section 8.7 contains a limitation of liability provision that bars a party's recovery of indirect and consequential damages.	Carve-out for third party claims for fraud has been added.
9.0 Assignment.	Assignment by either party is prohibited without the other party's prior written consent, but MRC may, after prior notice to Joining Members and hearing and subject to MRC Bylaws member approval rights, assign Joinder Agreement to a successor entity.	
10.0 Events of Default; Termination.	<p>If either party fails to fulfill its obligations, and the failure is not cured within 30 days of receipt of written notice or other cure period, it is an event of default, as is bankruptcy or receivership. Termination is not a remedy listed under Section 10.4. Section 10.4 entitles MRC to seek specific performance against a Joining Member.</p> <p>The Joinder Agreement "shall terminate upon expiration of the Master Waste Supply Agreement" and the Joining Member remains liable for its pre-termination obligations.</p>	<p>Consider whether a Joining Member's expulsion from MRC or breach of its obligations as a member should specifically be called out as an event of default (see Section 3.3 of the Restated Bylaws); MRC has added this.</p> <p>Termination has been added, and for second breach of Agreement within two years, there is no cure period. Statute of limitations for claims extended from 1 year to 2, and claim arises when discovered or reasonably should have been discovered.</p> <p>Section 10.3 does not mention or coordinate expiration of this Joinder Agreement with termination under other agreements or with Joining Member decision not to extend beyond Initial Term. Development Agreement may be terminated and Master Waste Supply Agreement automatically terminates on January 1, 2020 if Commercial Operation Date, as extended, has not occurred. Master Waste Supply Agreement can be terminated for Force Majeure.</p>
11.16	The parties are obligated to sign any reasonable papers and documents necessary to effectuate the Joinder Agreement.	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
11.19	Although Fiberight is not a party to the Joinder Agreement, this section makes it a third-party beneficiary entitled to directly enforce the Joining Member's obligations.	Consider whether other Joining Members should also be third party beneficiaries of each Joinder Agreement.
Exhibit A	Executed Master Waste Supply Agreement.	
Exhibit B	<p>Management and Disposition of Existing Municipal Assets and Project Assets. Sets out how MRC is to manage Equity Charter Municipalities and other assets held by MRC.</p> <p>A. List of assets held by or for MRC:</p> <ol style="list-style-type: none"> <li>1. Two reserve accounts under PERC Agreement with combined balance of \$26.6 million at end of 2015: <ol style="list-style-type: none"> <li>a. Custody Account – working capital account consisting of PERC Partnership payments and proceeds from sale of Bangor Hydro warrants and used to pay distributions to Charter Municipalities; and</li> <li>b. Tip Fee Stabilization fund – consists of Performance Credit Funds, proceeds of sales of Bangor Hydro warrants, net cash flow distributed by PERC Partnership and fund balance earnings that exceed what is needed for distribution to Charter Municipalities.</li> </ol> </li> <li>2. The Operating Accounts managed by PERC Contracts in names of Equity Charter Municipalities, with combined balance less than \$1 million. <ol style="list-style-type: none"> <li>a. Operating Account funded by dues to pay MRC administrative costs; and</li> <li>b. Operating Budget Stabilization Fund – funds from release of reserve fund on PERC financing and one-time payment by</li> </ol> </li> </ol>	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>PERC Partnership to Equity Charter Municipalities.</p> <p>3. Debt Service Reserve Fund – reserve account with approximately \$1.33 million held in support of PERC Partnership finance during term of obligation by lender, to be paid to MRC in early 2018.</p> <p>4. PERC Partnership limited partnership shares. Equity Charter Municipalities own 25.5214 percent of limited partner share in PERC Partnership, managed by MRC; PERC Partnership will be dissolved by end of 2018.</p> <p>B. MRC would allocate assets as follows:</p> <p>1. Projected \$25 to \$28 million in reserve accounts, Custody Account and Tip Fee Stabilization Fund, to be distributed as follows:</p> <p>a. Site acquisition and infrastructure costs (“Site Capital Costs”), up to \$5 million;</p> <p>2. Departing Municipalities that are Equity Charter Municipalities receive a share of both reserve accounts, which will be exclusive of site capital cost-expenditures (which will be allocated to Joining Charter Municipalities) but will be less the administrative costs of payment and the holding of reserves for Departing Municipalities’ share of PERC Partnership dissolution liabilities and costs. “Payments shall be made timely,” after PERC Partnership dissolution and after MRC Board establishes sufficient reserve from Joining Members’ accounts, to Departing Municipalities that have executed Termination Agreements.</p>	<p>Not really a debt service fund but a form of security for financing.</p> <p>Unless sooner dissolved, PERC Partnership continues until Dec. 31, 2018.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>3. Funds allocable to Equity Charter Municipalities that are Charter Members will be used to establish several reserve funds:</p> <p>a. Building Reserve – up to \$7 million to fund a reserve in event of termination, with amounts released each year under Site Lease and distributed to Equity Charter Municipalities pro rata on basis of contributions as of April 1, 2018.</p> <p>b. Delivery Sufficiency Reserve Fund. \$3 million to be used to make Delivery Sufficiency Payments assessed against MRC for all Charter Municipalities that are Joining Members. Unused funds will be allocated among Joining Members that are Equity Charter Municipalities pro rata at end of Joinder Agreement term.</p> <p>c. Reserve Fund - \$1.167 million reserve for liabilities and costs related to PERC Partnership dissolution and PERC facility closure. Need for Fund to be assessed by end of 2018 and when/if released, Fund to be allocated among Equity Charter Municipalities that are Joining Members.</p> <p>d. Bridge Waste Transportation Fund – up to \$1 million to offset Bridge Waste transportation.</p> <p>e. Target Value Reserve Fund – remaining amounts are to be deposited into Fund for distribution to the Charter Municipalities that become Joining Members. Would be used to supplement Fiberright rebates to Joining Members for 36 months after Commercial Operation Date. Equity Charter Municipalities would receive \$5 per ton delivered to the Facility and New Charter Municipalities would receive \$3 per ton delivered, to extent funds are available and are needed to</p>	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>achieve net disposal cost after rebates of \$65 per ton and \$67 per ton, respectively. Afterwards, MRC Board will distribute Fund at its discretion.</p> <p>4. Operating Accounts – On Expiration of PERC contract, MRC to pay allowable share of Operating Budget Stabilization Fund to Departing Municipalities, and to retain remainder in both Operating Accounts to support ongoing MRC administrative costs.</p> <p>5. Debt Service Reserve Fund. Will be used to pay costs for Fund release; to pay Equity Charter Municipalities’ and MRC’s costs of PERC Partnership dissolution; and to distribute remainder, after any reserve is retained, among Equity Charter Municipalities on basis of waste delivered during term of relevant financing. MRC will make payments of this last amount, if at all, promptly after a review by the end of 2018 of amounts used to pay the first two categories of costs, of amounts held in reserve for anticipated costs and of amounts available for Equity Charter Municipality payments.</p> <p>6. PERC Partnership Limited Partnership Interest. MRC will administer Equity Charter Municipality Interest until Partnership is dissolved or until Municipality divests itself of limited partners shares. Municipality affirms authorization to MRC to manage shares, determine share value, approve share disposition and determining allocation of share distributions.</p> <p>7. Non-Charter Municipalities – will pay additional \$2.21 per ton over 15-year Initial Term to be placed in Target Value Reserve Fund for Charter Municipalities. Returning Departing Municipalities must repay amounts received from reserve and operating accounts if rejoin; and are treated as Non-Charter</p>	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	Members for purposes of this provision.	
Exhibit C	<p>Components of Ratification To ratify the Joinder Agreement and participation, Joining Member must:</p> <ul style="list-style-type: none"> <li>• Execute Joinder Agreement, provide signed original and contact information; show authorization by legislative body (council, town meeting) and provide legal opinion on Agreement's enforceability.</li> <li>• Provide baseline information – value of estimated annual minimum deliveries of MSW in tons per year and geographic area to which value applies; identification of MSW sources if from separate entities, such as school administrative units; description of MSW collection and delivery method; and list of MSW diversion (including organics) and recycling programs by Joining Member as of Effective Date.</li> <li>• State preferences regarding: Regional approach to MSW transfer or hauling to facility; Preferred Bypass transportation – to Facility or Back-up Facility; Delivery of source-separate recyclables, clean wood or brush; Technical assistance with recycling programs; and Regional approach to management of tires, Unacceptable Waste, textiles and Residual Wastes.</li> </ul>	

**Table B**

**Perkins Thompson Site Lease Agreement Summary and Comments  
(December 4, 2015 Draft and December 30, 2015 Revisions)**

Capitalized terms have the meanings ascribed to them in the Site Lease draft dated December 4, 2015.

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
First Whereas Clause	States that Landlord owns or will own the Property on or before the Effective Date.	Landlord should not sign the Lease until it owns the Property.
First Whereas Clause		Exhibit A should include a legal description of the Property, or a reference to a recorded deed.
Parties	To be signed by the MRC (“Landlord”) and Fiberight, LLC (“Tenant”).	
1.0 Definitions	Key terms include “Change in Law” and “Force Majeure.” Comments on these definitions appear in the section of this Summary discussing the section of the Lease in which the terms are used.	
2.0 Demise; Description of Leased Premises; Permitted Uses	<p>The Leased Premises: Exhibit A, which has not yet been prepared, is to show the Property and the Project Site. The Project Site is on a portion, but not all, of the Property to be purchased by MRC pursuant to the Option Agreement (which we do not have).</p> <p>The “Leased Premises” are defined as the Project Site together with the appurtenant rights of access, stormwater drainage, and utility access. The Tenant will own the Facility.</p>	<p>Leased Property is only a portion of the Property MRC is acquiring in order to provide substantial buffer around Facility. Section 4 allows Tenant to make reasonable use on the Property outside of the Leased Premises upon prior approval by Landlord.</p> <p>The first line of Section 2.0 has been clarified to state the portion of the Property being leased is depicted on Exhibit A as the “Project Site.”</p> <p>Should add book and page reference to recorded</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
		deed to Property.
3.0 Term	<p>Initial term begins on the Effective Date (the date the Lease is signed) and runs through the later of April 1, 2033 or the 15<sup>th</sup> anniversary of the Commercial Operation Date (the date the facility begins operation). Tenant can extend the Agreement five times for five years each, upon 18 months' notice before the end of any term (maximum total term is 40 years).</p> <p>If Tenant elects not to renew at the end of the initial Term or any Extension Term, the Tenant has six months after the end of such term to remove its equipment and personal property, and title to the building passes to the Landlord.</p> <p>Even if Tenant has provided Landlord with 18 months' notice of renewal, Landlord may terminate with eight months' notice prior to the end of the then existing term, if too many Joining Members have terminated, provided that Landlord accompanies its notice of termination with <u>both</u> (a) an offer to purchase the building, and (b) an offer to sell the Property (not just the project site) to Tenant, each for the pre-determined price set forth in Exhibit C.</p> <p>If Tenant does not accept either offer, then Tenant is deemed to have abandoned the building.</p>	<p>(Drafting needs to be clarified here but this seems to be the intent). Landlord has to provide Tenant with offers to purchase building and to sell Site in order to exercise ability to terminate Site Lease after Initial Term or any Extension Term. The worst-case scenario for Landlord is that after the Initial Term, Landlord desires to terminate because the Facility does not operate and Tenant accepts the Landlord's offer to purchase the building, in which case Landlord owns the property and the building and does not have an operating facility.</p>
4.0 Rent, Access and Services	<p>Tenant pays Rent per Exhibit D.</p> <p>Landlord constructs access road and extends access to electricity, water supply and sewer service.</p> <p>Landlord is responsible for all maintenance of the access road until the road is accepted by the Town of Hampden.</p> <p>Tenant may make reasonable temporary use of the Property outside the Leased Premises upon prior</p>	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>approval of Landlord, not to be unreasonably withheld.            Tenant connects to those enumerated services on the site and arranges all other utilities and services.</p>	
<p>5.0 Quiet Possession; Landlord Right of Entry; Tenant Right of Access</p>	<p>Tenant has right of quiet enjoyment.            Tenant will keep tax incentives and environmental attributes that it creates.            Tenant accepts the Leased Premises in the condition they are in on the Effective Date and assumes all risks; Landlord makes no representations and warranties, including as to environmental conditions. This section should more strongly state that Tenant has had the opportunity to conduct due diligence and is relying on its own judgment and not any representations by Landlord. Tenant acknowledges that operation of the Facility is subject to laws and regulations and Tenant covenants that it will operate the Facility in accordance with the applicable permits. The Landlord has the right to ensure that the Facility is operated in compliance with applicable permits.            Tenant is only required to use “reasonable efforts” to minimize adverse environmental and nuisance impacts on residents of the surrounding areas. Tenant must provide a means for the public to report nuisances and will respond promptly and act diligently to address and make efforts to mitigate impacts that are reasonable under the circumstances.            Landlord may enter the Leased Premises upon at least 24 hours’ prior notice to inspect and enforce the obligations under the Lease or under applicable law.            The Tenant has 24/7 access rights.            The Tenant will coordinate with first responders regarding emergencies.</p>	<p>Section 8 specifically states that Tenant shall comply with all applicable laws, rules and regulations. This section should be consistent.</p> <p>Section 23, which requires Tenant to comply with all environmental laws, rules, and regulations, has been amended to state environmental conditions more strongly.</p> <p>Site Lease has been amended by MRC to more strongly state that it has conducted its own due diligence and is relying on its own judgment and assessment of the Leased Premises.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
6.0 Development of the Facility	<p>Tenant is responsible for causing the Construction Date to occur by 1/1/17, including design, permits and approvals, and financing.</p> <p>Landlord responsible for development, permitting, construction, and maintenance of access road and related electrical, water, and wastewater infrastructure.</p> <p>The Tenant will allow the Landlord to provide non-binding comment on permit applications and designs.</p> <p>The Tenant will provide the Landlord with monthly progress reports.</p> <p>Construction Date occurs when Tenant has obtained all permits and financing, and has authorized construction to begin. Tenant to provide notice to Landlord of each "milestone."</p>	
7.0 Facility Construction	<p>Tenant must only use "reasonable efforts" to cause the Commercial Operation Date to occur by April 1, 2018, subject to stated reasons for delay. Tenant is excused from performance if a permit contains a term that would preclude construction or operation on "commercially reasonable terms." Tenant is also excused if an "Uncontrollable Circumstance" or "Change in Law" occurs that would preclude construction or operation on "commercially reasonable terms."</p> <p>Tenant may also be excused from performance if it has not obtained financing; Tenant need only use "diligent efforts" to obtain financing.</p> <p>Any delays in the Commercial Operation Date for any reason "not under the control of Tenant" constitute "Excused Delay Periods" under the Master Waste Supply Agreement.</p> <p>The Landlord must construct the access road and</p>	<p>Arguably allows Tenant to decide in its discretion that a permit condition proves too costly to Tenant and to abandon the project; Landlord is left with the Property. However, MRC and members want to control Facility to obtain another operator.</p> <p>Uncontrollable Circumstance replaced by Force Majeure. Change in Law is broadly defined to include any change that is "inconsistent with and more stringent than" previously existing law. This provides Tenant with a broad ability to excuse its performance.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>electric, water, and sewer lines. Landlord must use “reasonable efforts” to cause the Construction Access Date and the Infrastructure Completion Date to occur as quickly as feasible. Stated reasons for delay can justify delays in the Commercial Operation Date, including lack of permits or Tenant’s determination that a permit contains a condition that would preclude construction or operation of the Facility on commercially reasonable terms, a Force Majeure event, or Tenant’s lack of financing. Delays for reasons not under control of Tenant allow for Excused Delay Periods under the Master Waste Supply Agreement.</p> <p>The Tenant and Landlord will keep an updated construction schedule to monitor delays and impacts on the Commercial Operation Date.</p> <p>The Tenant will conduct a Performance Test to demonstrate to the Landlord that it has achieved the Commercial Operation Date. Only requires “substantial compliance” with all permits. Tenant and Landlord to work together to establish protocols for Performance Test.</p>	<p>This is inconsistent with Section 8.2 and has been amended to require operation in compliance with permits.</p>
8.0 Facility operation	<p>The Tenant will operate and maintain the Facility. §8.1 requires Tenant to use <b>reasonable efforts</b> to ensure that the Facility meets safety requirements and complies with all permits and laws.</p> <p>§8.2 states that the Tenant <b>shall</b> comply with all applicable federal state and local laws.</p> <p>§8.2 also states that Tenant shall work with Landlord to ensure compliance with all directives of governmental authorities related to the Facility and the Leased Premises. It is unclear what the intent of this statement is if it’s Tenant’s obligation to comply. May create and implication that it’s Landlord’s obligation as well, and</p>	<p>MRC has amended to consistently state that Tenant is required to cause the Facility to comply with all permits and all applicable laws, rules, and regulations.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>should be clarified.</p> <p>The Tenant will send residual materials to the landfill per the Residuals Agreement.</p> <p>Both parties to keep and maintain records required for purposes of property administration of the Lease. Both parties have audit rights. Tenant to use reasonable efforts to cooperate with Landlord to maintain good community relations.</p> <p>The Landlord to keep the access road and related utility, sewer, and water lines in good order and repair.</p>	
9.0 Capital Improvements	<p>The Tenant may make Capital Improvements to the Facility subject to conditions. Second sentence of §9.1 does not make sense as written.</p> <p>The Landlord can review and make non-binding comments on the Capital Improvements.</p> <p>Tenant will update Exhibits to Lease as necessary.</p>	
10.0 Assignments; Transfers; Bankruptcy	<p>The Tenant may not assign the Site Lease without consent of the Landlord in Landlord's sole discretion. However, transfer of ownership of Tenant may occur with prior notice to and approval of Landlord, which approval may not be unreasonably withheld. Certain conditions must be met in the event of a transfer of ownership, and Fiberight will continue to have day to day control of the Facility.</p> <p>Tenant may assign the Lease to an Affiliate controlled by Fiberight or to an investor who will own/operate the Facility in connection with financing. <i>See Section 19.</i></p> <p>Bankruptcy is a breach of the Lease (this is also addressed in §18).</p>	<p>If ownership of Fiberight has transferred to another, nonaffiliated party, Fiberight to remain in day-to-day operation to assure operational continuity unless/until MRC otherwise agrees.</p>

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
11.0 Notices	Provides for notice.	
12.0 Taxes and Assessments	Tenant responsible for taxes on the Leased Premises and improvements.	
13.0 Liens	Tenant keeps Leased Premises free of liens.	
14.0 Indemnification	Tenant indemnifies Landlord against damages arising from Tenant's acts/omissions on or about the Leased Premises or breach of Lease (except for Landlord's gross negligence or willful misconduct).	MRC has made our requested changes to strengthen this by also including damage claims arising out of Tenant's possession, use, or occupation of the Leased Premises or occurring while on or about the Premises. Should also add that indemnity is without regard to any workers' compensation immunity, and by adding environmental indemnity to Section 23.
15.0 Insurance	States that insurance in adequate amounts must be maintained by Tenant.	MRC has added requirement for Tenant to maintain umbrella policy.
16.0 Right of First Offer	If the Landlord wants to sell, Tenant has first right to buy. Gives Tenant 30 days to respond to Landlord's notice.	Closing must occur now required within 45 days from Tenant's acceptance of offer.
17.0 Force Majeure	Requires the parties to notify one another as soon as a party has knowledge of an action of the government that could lead to condemnation or a Change in Law. MRC and Tenant will work together to monitor Changes in Law and condemnation and avoid adverse actions. Obligations can be suspended for an event of Force Majeure if outside the reasonable control of either party per the definition. The affected party will develop a Force Majeure Plan regarding impacts on obligations and costs for approval by the other. States that such plan will include a proposal for costs to be passed through to the MRC	The definition of Force Majeure is extremely broad; includes any unforeseeable act, event, or condition that has a material adverse effect on the rights or obligations of a party, the Facility, the Property or Infrastructure if the act, event, or condition is beyond the reasonable control of the party. In most ground leases, Force Majeure is limited to delays caused acts of God, war, civil unrest, fire/casualty, labor difficulties, and so forth, and only allows for delays in performance, not termination. This definition is overly favorable to Tenant. An obligation to pay money should be carved out as an

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	<p>and/or Joining Municipalities as part of the response to address Force majeure.</p> <p>If the Plan is (ultimately) accepted, it goes into effect. If rejected, and agreement cannot be reached, then either party can terminate.</p> <p>If MRC terminates, then MRC must either (a) buy the building from tenant; or (b) sell the property to Tenant, in either case at the price set forth in Exhibit C.</p> <p>If Tenant terminates, it must leave and vacate the premises within 90 days.</p>	<p>item that is not impacted by a claim of Force Majeure. However, MRC explains that this language has been reviewed by MRC’s consultant and is standard in the industry.</p> <p>MRC has made language more clear that if there are costs proposed to be passed through to MRC, these will be stated.</p> <p>This is favorable to the Tenant and prejudicial to the Landlord; but is the business transaction agreed upon by the parties..</p>
18.0 Default and Termination	<p>Landlord may terminate if Tenant is in default: Tenant fails to meet deadlines for Construction Date or Commercial operation Date; Tenant breaches Master Waste Supply Agreement is a default; and other enumerated events of default. Allows Tenant a 60-day cure period for defaults (other than payment defaults).</p> <p>Prior to Construction Date, allows Tenant to terminate with 90 days’ prior notice if Tenant reasonably determines that construction or operation of the Facility is uneconomic or practically infeasible. <i>This provision should be eliminated; makes it too easy for Tenant to terminate if Tenant doesn’t like the economics of the deal after Landlord has purchased the Property and constructed the access road and infrastructure.</i></p>	This is an extremely long cure period; should be 30 days; MRC has reduced this to 45 days..
19.0 Investor Rights	During an event of default (should add “by Tenant”), any Investor has the right to step in and act for Tenant or to succeed to Tenant’s interest in the Lease, with notice to Landlord. To do so, Investor must provide satisfactory evidence to landlord and Maine DEP that it	

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
	has financial capacity and technical ability to operate the Facility, and must accept the Terms of the Lease and cure Tenant's defaults.	
20.0 Reserved	The parties each waive subrogation.	
21.0 Waiver of Subrogation		
22.0 Memorandum of Lease		
23.0 Environmental	Tenant covenants not to unlawfully release Hazardous Materials, and shall remediate in the event of such a release.	MRC has added the stronger environmental indemnification provision we suggested.
24.0 Waiver		
25.0 Dispute resolution	Dispute resolution by binding arbitration. Claims are barred after one year from the date the claim arose.	This is a very short time within which to bring a claim; does not define "arose;" is it date of discovery? MRC has changed this to extend the statute of limitations from 1 year to 2 and to make claims begin when discovered or reasonably should have been discovered.
26.0 Miscellaneous	Standard provisions	
Signatures	MRC and Fiberight	

Exhibit A	Property, Leased Premises, and Project Site
Exhibit B	Description of Facility and Description of Tenant's Work
Exhibit C	Building and Property Value over the Operating Term
Exhibit D	Lease Consideration
Exhibit E	Reporting Requirements
Exhibit F	Form of Memorandum of Lease

<i>Section</i>	<i>Description</i>	<i>PT Comments</i>
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**SITE LEASE TIMELINE**

	<b>Action</b>	<b>Target Date</b>	<b>Explanation</b>	<b>Issues</b>
1.	Effective Date (Introductory paragraph)	early 2015	Date signed by the parties  After Effective Date, Tenant designs the facility, obtains permits, and obtains financing, and Landlord develops access road and utility infrastructure	Landlord must exercise the option prior to entering into the Lease, which exposes Landlord to the risk of holding the property and Tenant not going forward with the project for reasons allowable under the Lease.
2.	Construction Access Date (§7.2)	9/1/16	Date by which Landlord has made sufficient progress in the construction of the access road such that Tenant can have access to Project Site for construction vehicles and equipment	Landlord need not begin construction activities if (i) there are not enough joinder agreements, (ii) a necessary Facility permit has not been issued, or a permit contains a provision that would preclude construction or operation of the Facility on commercially reasonable terms, as determined by Tenant, (iii) Force Majeure, or (iv) Tenant has not yet obtained financing.
3.	Construction Date (§6.5)	1/1/17	Date by which Tenant has (a) acquired all final permits necessary for construction and related access services, and utilities; (b) “closed and/or arranged final terms of access granting to Fiberight construction financing sufficient to authorize commencement of construction;” and (c) authorized commencement of construction activities at the Leased Premises on a continuous basis as evidenced by the Tenant’s issuance ( <i>to whom?</i> ) of a notice to proceed to start construction or equivalent.	Tenant need not begin construction if: (i) there is a permit condition that construction and operation of the Facility can’t occur on “commercially reasonable terms” despite Tenant’s diligent efforts; commercially reasonable is a vague standard which leaves great discretion on Tenant’s part; (ii) an “Uncontrollable Circumstance” or “Change in Law has occurred (issues with these definitions are discussed in Section 7 of the Lease Summary); or (iii) Tenant has not yet obtained financing despite “diligent” efforts – this is not a high standard and should be strengthened. There could be objective measures of what constitutes adequate financing, e.g., a loan of at least x% of project costs, at y% interest, for z years.
4.	Infrastructure Completion Date	7/31/17	Date by which Landlord has completed installation of the Infrastructure such that its availability does not delay Tenant’s completion of construction and	

<i>Section</i>	<i>Description</i>		<i>PT Comments</i>
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	(§7.2)		commencement of operation of the Facility.	
5.	Commercial Operation Date (§7.4(c))	4/1/18	Later of date by which Performance Test has been completed or 4/1/18	Tenant must use "reasonable efforts" to cause this date to occur by 4/1/18.

**Table C**

Timeline

Date	Event
December 1, 2015	MRC and Fiberight to agree to Master Waste Supply Agreement
May 1, 2016	Date for MRC to procure Delivery Commitments for at least 150,000 TPY Acceptable Waste
Sept. 1, 2016	Construction Access Date
January 1, 2017	Either MRC or Fiberight may terminate Development Agreement if Fiberight has not put adequate financing in place; Construction Date
July 31, 2017	Infrastructure Completion Date
March 31, 2018	Expiration of PERC Second Amended and Restated Agreements
April 1, 2018	Presumed Commercial Operation Date
December 31, 2018	Expiration of PERC Partnership
January 1, 2020	Either MRC or Fiberight may terminate Development Agreement if Commercial Operation has not been achieved; Master Waste Supply Agreement eventually terminates
March 31, 2028	Initial Term expires if MRC-Waste Management Agreement expires without Extension Terms
April 1, 2033	Expiration of Joinder Agreement, Site Lease and Master Waste Supply Agreement Initial Term; potential notices of termination and provision of offers to purchase Facility or sell Site
April 1, 2058	Expiration of Joinder Agreement, Site Lease and Master Waste Supply Agreement Extension Terms

## WASTE DISPOSAL AGREEMENT

THIS WASTE DISPOSAL AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between PENOBSCOT ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP, a Maine limited partnership, and \_\_\_\_\_, a \_\_\_\_\_.

### RECITALS:

WHEREAS, the Municipality needs a comprehensive, environmentally sound, reliable, long-term management strategy for handling the present and projected volumes of non-hazardous Solid Waste generated within the Municipality;

WHEREAS, it is the policy of the State of Maine, as directed through the State of Maine's adoption of the Solid Waste Hierarchy, to reduce the volume of Solid Waste going into landfills, to recycle Solid Waste whenever possible, and to maximize resource recovery;

WHEREAS, improved waste management within the region of which the Municipality is a part will serve the goals of (1) recovering energy from waste; (2) reducing the indiscriminate disposal of waste; (3) coordinating Solid Waste management among political subdivisions; and (4) developing and maintaining financially secure waste facilities;

WHEREAS, the State of Maine requires that each municipality provide for the disposal of domestic and commercial non-hazardous Solid Waste generated within such municipality;

WHEREAS, Solid Waste issues present communities with serious long-term financial, management, governmental and technical problems in the disposal of Solid Waste;

WHEREAS, the effective management of Solid Waste is crucial to the continued financial well-being of the Municipality and the region of which it is a part;

WHEREAS, PERC owns and operates the PERC Facility that recovers certain recyclable materials and otherwise converts Solid Waste into energy in the Town of Orrington, Penobscot County, Maine;

WHEREAS, the Municipality is willing to commit to delivering to PERC and the PERC Facility the Solid Waste generated within the Municipality so as to assure the ongoing supply of Solid Waste to the PERC Facility for a fixed period of time as defined below; and

WHEREAS, this Agreement will only become effective upon the satisfaction of certain requirements as provided in Section 5 below.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises of the parties hereto, and the mutual benefits to be gained by the performance hereof, the parties hereto agree as follows:

1.) Definitions. The terms defined in this Section 1 (except as may be otherwise expressly provided in this Agreement or unless the context otherwise requires) shall, for all purposes of this Agreement, have the following respective meanings:

(a) Acceptable Waste. The term "Acceptable Waste" shall mean all combustible Solid Waste that the Municipality shall deliver, or cause to be delivered, to the PERC Facility for disposal as may be limited by federal, state, and local laws, ordinances, permits, regulations, approvals and restrictions as they may apply to the receiving facility except for the following:

- (1) demolition or construction debris from building and roadway projects or locations;
- (2) liquid wastes or sludges;
- (3) abandoned or junk vehicles;
- (4) Unacceptable Waste;
- (5) dead animals or portions thereof or other pathological wastes;
- (6) water treatment facility residues;
- (7) tree stumps;
- (8) tannery sludge;
- (9) waste oil;
- (10) discarded white goods such as freezers, refrigerators, washing machines, etc.;
- (11) electronic waste including, without limitation, television sets, computers, computer monitors, and computer accessories) all as determined by PERC from time-to-time;
- (12) Acceptable Waste that, in the reasonable judgment of PERC and based solely upon a visual inspection of the Acceptable Waste, has a BTU content of less than four thousand (4,000) BTUs per pound unless the Acceptable Waste fails to meet the aforementioned BTU minimum requirement solely because of the moisture content of such Acceptable Waste and such moisture content is due primarily to abnormally wet weather conditions; or

(13) Waste which, in the reasonable judgment of PERC and based upon a visual inspection at the time of deliver, could, if processed, result in (a) damage to the PERC Facility, (b) the interruption of normal operations of the PERC Facility, or (c) PERC incurring extraordinary processing or maintenance costs.

(b) Municipality. The term "Municipality" shall mean \_\_\_\_\_.

(c) PERC. The term "PERC" shall mean Penobscot Energy Recovery Company, Limited Partnership, a Maine limited partnership.

(d) PERC Facility. The term "PERC Facility" shall mean that certain waste-to-energy facility owned by PERC and located on Industrial Way in Orrington, Maine.

(e) Solid Waste. The term "Solid Waste" shall mean non-hazardous solid materials with insufficient liquid content to be free-flowing which are of no value to the immediate source from which they emanate as evidenced by their disposal, discard, or abandonment without consideration in return including, but not limited to, ordinary household, municipal, institutional, and commercial wastes, all as may be defined or limited by applicable federal, state and local laws, ordinances, permits, regulations, licenses, approvals, and restrictions.

(f) Solid Waste Hierarchy. The term "Solid Waste Hierarchy" shall mean the enunciated state government priorities with respect to the generation and disposal of solid waste within the State of Maine as set forth in 38 M.R.S. §1302 or any successor thereto.

(g) Term. The term "Term" shall have the meaning specified in Section 6.

(h) Tipping Fee. The term "Tipping Fee" shall have the meaning specified in Section 3(c) below.

(i) Transportation Vehicles. The term "Transportation Vehicles" shall mean motorized vehicles necessary for the Municipality to transport (or cause to be transported) the Acceptable Waste to the PERC Facility including, without limitation, tractors, trailers, and "packer" trucks (front load and rear load), all of which must be self-unloading.

(j) Unacceptable Waste. The term "Unacceptable Waste" shall mean all Solid Waste that is not Acceptable Waste including, without limitation, (a) any material that by reason of its composition, characteristics or quantity is ineligible for disposal at the facility in question pursuant to any applicable federal, state or local laws, rules, regulations, or permits; (b) hazardous, toxic, radioactive, hospital or laboratory wastes or substances; or (c) any other material that the receiving party reasonably concludes would require special handling outside the normal course or presents an endangerment to its facility, the public health or safety, or the environment.

2.) Representations and Warranties. Each party hereto represents and warrants to the others that:

- (a) it is duly organized, validly existing, and qualified to do business and is in good standing in every jurisdiction in which this Agreement requires its performance;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action by such party;
- (d) the execution and delivery of this Agreement by such party and the performance of the terms, covenants and conditions contained herein will not violate the articles of incorporation or by-laws (or other constituent documents) of such party, or any order of a court or arbitrator, and will not conflict with and will not constitute a material breach of, or default under, the provisions of any material contract by which such party is bound;
- (e) it and any subcontractors have all necessary permits, licenses and other forms of documentation, and its personnel have received all necessary training including, but not limited to, health and safety training, required to perform its respective obligations hereunder; and
- (f) These warranties shall survive the expiration or earlier termination of this Agreement.

3.) Municipality Delivery Obligations. During the Term, the Municipality agrees to the following:

- (a) The Municipality shall deliver all Acceptable Waste that is generated within the Municipality to the PERC Facility. The Municipality further agrees that it will not deliver Acceptable Waste collected by the Municipality to any landfill, or other solid waste disposal facility, except in instances where it first obtains prior written consent from PERC to do so. Furthermore, in the event that the Municipality uses a transfer station (or any other type of unloading, loading or transloading facility), Municipality acknowledges that Municipality is obligated to ensure that any Solid Waste delivered to such transfer station shall be delivered to the PERC Facility. The Municipality agrees to use its best efforts to avoid delivering any Unacceptable Waste to the PERC Facility and shall not knowingly mix any Unacceptable Waste with Acceptable Waste.
- (b) The Municipality acknowledges and agrees that the Municipality (or a hauler or other designated representative hired by the Municipality) may be denied entrance to the PERC Facility (or to a transfer station serving the PERC Facility) by PERC if Solid Waste is delivered at any time other than the PERC Facility's (or transfer station's) standard receiving hours or if the Municipality has not paid the Tipping Fee, or if PERC has a reasonable basis to believe that a vehicle contains Unacceptable Waste.
- (c) The Municipality shall (1) deliver to the PERC Facility the estimated tonnage of Solid Waste; and (2) pay to PERC the tipping fee (the "Tipping Fee") for each ton of

Solid Waste delivered by the Municipality to the PERC Facility as described on Schedule A which is attached hereto and incorporated herein by reference.

4.) PERC's Obligations. During the Term, PERC agrees to the following:

(a) PERC will accept all of the Acceptable Waste delivered by the Municipality to the PERC Facility.

(b) That PERC currently has, and shall have throughout the Term, the ability and capacity to accept the Acceptable Waste.

(c) Deliveries by the Municipality to the PERC Facility of the Acceptable Waste shall be recorded separately. Unless otherwise agreed to by the parties hereto, each incoming Transportation Vehicle shall be labeled with a unique vehicle number and hauler code. Each incoming Transportation Vehicle shall be individually weighed at the time of arrival at the PERC Facility to determine the incoming Transportation Vehicle's gross truck weight. After being unloaded, but prior to departing from the PERC Facility, the incoming Transportation Vehicle shall be weighed empty at the PERC Facility to determine its tare weight (to the nearest hundredth of a ton).

(d) A multi-part weigh ticket shall be produced for each such incoming Transportation Vehicle which weigh ticket shall show (1) the incoming Transportation Vehicle's tare and gross truck weights, (2) the number of tons of Acceptable Waste being delivered to the PERC Facility by the incoming Transportation Vehicle (to the nearest hundredth of a ton), (3) the time of the delivery, and (4) the incoming Transportation Vehicle's vehicle identification number. The weigh ticket shall be signed by PERC's scale house operator and the driver of the incoming Transportation Vehicle. PERC and the driver shall each receive a copy of the weigh ticket.

(e) PERC shall retain all weigh tickets for a period of not less than three (3) years. The weight record shall be used by PERC as the basis for invoicing the Municipality. The Municipality shall have the right to inspect PERC's weight records of Acceptable Waste deliveries upon reasonable written request. Such inspections shall be conducted during business hours in such a manner as to not unreasonably interfere with PERC's business operations.

(f) PERC shall submit a weekly invoice to the Municipality indicating (i) the number of tons of Acceptable Waste disposed of at the PERC Facility during the prior month; and (ii) the fees due therefor pursuant to Section 3. All such invoices shall be due and payable by the Municipality within thirty (30) days from the date of the invoice.

5.) Necessity of Delivery Obligations. Both the Municipality and PERC acknowledge and agree that this Agreement is being signed so that (a) the Municipality can be assured of continuing the Municipality's comprehensive and environmentally sound disposal of its non-hazardous Solid Waste generated within the Municipality; and (b) PERC can be assured of a steady supply of Solid Waste from the Municipality to the PERC Facility for a fixed period.

After signing this Agreement, both the Municipality and PERC acknowledge and agree that PERC needs to receive commitments for the delivery and receipt of Acceptable Solid Waste from other municipalities and private businesses so as to assure the continued operation of the PERC Facility.

6.) Term. The Term of this Agreement shall begin on April 1, 2018 and shall expire on the date specified in Schedule A (including any renewals thereof as provided in Schedule A) unless earlier terminated as provided herein (the "Term").

7.) Termination. The parties hereto acknowledge and agree that this Agreement shall terminate as follows:

(a) Except as provide in Schedule A (relating to the automatic renewal of the Agreement), upon the expiration of the Term; or

(b) Upon mutual written agreement of the Municipality and PERC; or

(c) By either party by providing written notice to the other party if the other party commits a material breach of this Agreement, and the breach is not cured within sixty (60) days after receipt of written notice from the party not in breach, stating the nature of the breach; or

(d) In the event of a "Deemed Termination" by the Municipality as that term is defined in Schedule A; or

(e) By either party, in the event that PERC does not receive written commitments for the delivery of Solid Waste as provided in Section 5 above; or

(f) By either party by providing written notice to the other party in the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the other party, or the appointment with or without such other party's consent of an assignee for the benefit of creditors or of a receiver for such other party, or the going into liquidation voluntarily or otherwise for the making of a composition with creditors of such other party.

8.) Indemnification. PERC agrees to indemnify, defend and hold harmless the Municipality and its managers, employees and agents, and the Municipality agrees to indemnify, defend and hold harmless PERC and its directors, officers, owners, managers, employees and agents, from and against all loss, liability, damage and expense (including attorneys' fees and expenses incurred in enforcing this indemnification), arising out of or relating to (i) any breach by an indemnifying party of this Agreement, (ii) any negligent or willful act or omission of an indemnifying party, or (iii) any violation by an indemnifying party of applicable laws, regulations, permits or licenses. The indemnifying party shall be entitled to control (at its sole expense) the defense of any claim, action, suit or proceeding giving rise to an obligation of such indemnifying party to provide indemnification under this Section 8; provided, however, that no settlement thereof may be entered into without the written consent of the indemnifying party and the indemnified party, which consent shall not be unreasonably withheld, delayed or conditioned.

9.) Miscellaneous.

(a) Notices. All notices to be given under this Agreement shall be in writing and delivered personally, or shall be mailed by U.S. Express, registered or certified mail, return receipt requested or an overnight service with receipt as follows:

PERC                      Penobscot Energy Recovery Company, Limited Partnership  
                                 29 Industrial Way  
                                 Orrington, Maine 04474  
                                 Attn: John Noer

The Municipality \_\_\_\_\_  
                                 \_\_\_\_\_  
                                 \_\_\_\_\_  
                                 \_\_\_\_\_

(b) Governing Law. This Agreement and any issues arising hereunder or relating hereto shall be governed by and construed in accordance with the laws of the State of Maine except for conflicts of laws provisions that would apply the substantive law of another state.

(c) Venue. The parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated only in the state and federal courts having jurisdiction over the parties hereto.

(d) Limitation of Liability. Neither party shall be liable to the other for special, incidental, exemplary, punitive or consequential damages including without limitation loss of use, loss of profits or revenues, or cost of substitute or re-performed services, suffered, asserted or alleged by either party or any third party arising from or relating to this Agreement, regardless of whether those damages are claimed under contract, warranty, indemnity, tort or any other theory at law or in equity.

(e) Disclaimer of Joint Venture, Partnership, and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other party.

(f) Force Majeure.

(1) "Force Majeure" shall mean any act, event or condition materially and adversely affecting the ability of a party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the nonperforming party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the party relying thereon,

and the nonperforming party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (iii) a strike, work slowdown, or similar industrial or labor action; (iv) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction, permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a party's obligations as contemplated by this Agreement; or (v) adoption or change (including a change in interpretation or enforcement) of any federal, state or local law after the Execution Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

- (2) Neither party shall be liable to the other for damages without limitation (including liquidated damages) if and to the extent such party's performance is delayed or prevented due to an event of Force Majeure. In such event, the affected party shall promptly notify the other of the event of Force Majeure and its likely duration. During the continuation of the Force Majeure Event, the nonperforming party shall (i) exercise commercially reasonable efforts to mitigate or limit damages to the performing party; (ii) exercise commercially reasonable due diligence to overcome the Force Majeure event; (iii) to the extent it is able, continue to perform its obligations under this Agreement; and (iv) cause the suspension of performance to be of no greater scope and no longer duration than the Force Majeure event requires.
- (3) In the event of a delay in either party's performance of its obligation hereunder for more than sixty (60) days due to a Force Majeure, the other party may, at any time thereafter during the continuation of delayed performance, terminate this Agreement.

(g) Entire Agreement. It is understood and agreed that all understandings and agreements heretofore had among the parties hereto related to the subject matter of this Agreement are merged in this Agreement, which alone fully and completely expresses their agreement and contains all of the terms agreed upon among the parties hereto with respect to the subject matter of this Agreement, and that this Agreement is entered into after full investigation, no party relying upon any statement or representation, not embodied in this Agreement, made by any other. All exhibits, schedules and other attachments are a part of this Agreement and the contents thereof are incorporated herein by reference.

(h) Amendment. This Agreement cannot be amended, modified or supplemented, nor can any term or condition be waived in whole or in part, except in writing and signed by all of the parties hereto.

(i) Non-Waiver. No waiver by any party to this Agreement of any failure or refusal by the other party to comply with its obligations shall be deemed a waiver of any other or subsequent failure or refusal to so comply. No waiver by any party hereto of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by such party giving such waiver. No waiver by any party hereto with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

(j) Severability; Modification Required By Law. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions thereof or hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreement of the parties herein set forth.

(k) Headings. The headings of sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(l) Successors and Assigns. This Agreement and all of the provisions thereof and hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

(m) Assignment. Neither this Agreement nor any of the rights, interests, obligations, and remedies hereunder shall be assigned by any party, including by operation of law, without the prior written consent of the other parties, such consent to not be unreasonably withheld, conditioned or delayed, except (a) to its parents, subsidiaries and affiliates provided that the assigning party shall remain liable for all of the obligations hereunder, (b) at its expense to a person, firm, or corporation acquiring all or substantially all of the business and assets of the assigning party provided that the assignee assumes the obligations of the assigning party arising hereunder from and after the date of acquisition, and (c) as security to entities providing financing for the assigning party or for any of its affiliates or for construction, reconstruction, modification, replacement or operation of any of the facilities of the assigning party or its parents, subsidiaries or affiliates.

(n) Construction. This Agreement and its exhibits and schedules are the result of negotiations between the parties and have been reviewed by all parties. Accordingly, this

Agreement will be deemed to be the product of the parties thereto and no ambiguity will be construed in favor of or against any party.

(o) No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

(p) No Brokers. The parties agree that they have entered into this Agreement without the benefit or assistance of any brokers, and each party agrees to indemnify, defend and hold the other harmless from any and all costs, expenses, losses or liabilities arising out of any claim by any person or entity that such person or entity acted as or was retained by the indemnifying party as a finder or broker with respect to the sale of the assets described herein.

(q) Further Acts. Each party agrees to perform any further acts and to execute, acknowledge, and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

(r) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which together will constitute one and the same instrument.

PERC:  
THE PENOBSCOT ENERGY RECOVERY  
COMPANY, LIMITED PARTNERSHIP

By: USA Energy Group, LLC  
Its: General Partner

By:   
Its: President

MUNICIPALITY:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Municipality: \_\_\_\_\_

**SCHEDULE A  
TO THAT CERTAIN WASTE DISPOSAL AGREEMENT  
DATED AS OF THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_**

1.) Statement of Intent. The parties hereto acknowledge and agree that it is the policy of the State of Maine, as directed through the State of Maine's adoption of the Solid Waste Hierarchy, to reduce the volume of Solid Waste going into landfills, to recycle Solid Waste whenever possible, and to maximize resource recovery from the Solid Waste. The parties hereto also understand that the effective management of Solid Waste is crucial to the continued financial well-being of the Municipality. Because of this, the Municipality is seeking a comprehensive, environmentally sound, reliable, long-term strategy for managing the present and projected volumes of non-hazardous Solid Waste generated within the Municipality. PERC owns and operates the PERC Facility that has effectively and efficiently, for many decades, accepted Solid Waste, recovered certain recyclable materials, and otherwise converted Solid Waste into energy. Both the Municipality and PERC seek to have the PERC Facility to continue operating and the delivery of a predictable stream of Solid Waste to the PERC Facility is essential for the continued operation of the PERC Facility. Based on the foregoing, the purpose of the parties entering into this Agreement is to allow (a) the Municipality to effectively manage its Solid Waste within the Solid Waste Hierarchy; and (b) PERC to continue to serve the communities in reducing and reusing its Solid Waste. Therefore, in accordance with the terms of the Solid Waste Hierarchy, the Municipality is willing to commit to delivering to PERC and the PERC Facility the Solid Waste generated within the Municipality so as to assure the ongoing supply of Solid Waste to the PERC Facility for a fixed-period of time as defined below.

2.) Term of Agreement and Tipping Fee.

Authorization Signature	Term of Delivery Commitment	Tipping Fee (per ton)
_____	_____, 2018 through _____, 2033	\$84.36
_____	_____, 2018 through _____, 2028	\$89.57

The parties hereto agree that any Agreement signed for a either a fifteen (15) year or ten (10) year term shall automatically renew on the same basis unless otherwise terminated, in writing, by either the Municipality or PERC with at least twelve (12) months prior written notice. Also, any contract term that is less than ten (10) years shall be priced on a case-by-case basis and will be based on the then current market pricing. The pricing listed above is guaranteed through June 30, 2016.

3.) Estimated Delivery Amount.

(a) Based on the amount of Solid Waste generated by the Municipality in prior years, the estimated annual tonnage to be delivered by the Municipality shall be approximately \_\_\_\_\_ tons (the "Estimated Tonnage"). Both PERC and the Municipality acknowledge and agree that the Estimated Tonnage described above does not guarantee that the Municipality will deliver a minimum amount of tonnage to the PERC Facility on an annual basis. Rather, the Estimated Tonnage described above is a good faith estimate of the annual tonnage that the Municipality believes will be generated within the Municipality and that such Estimated Tonnage is subject to change which is a direct result of the Municipality engaging in increased recycling, repurposing or composting (or other materials management process adopted into, and ranked higher by, the Solid Waste Hierarchy) in accordance with the Solid Waste Hierarchy. Notwithstanding the fact that the Estimated Tonnage described above is not a commitment by the Municipality to deliver a minimum amount of Solid Waste to the PERC Facility, the Municipality acknowledges and agrees that the Waste Disposal Agreement (including this Schedule A) is being signed in good faith by both PERC and the Municipality and that PERC is relying upon the Municipality's commitment to deliver to the PERC Facility the Solid Waste generated within the Municipality.

(b) Both the Municipality and PERC believe that the amount of Estimated Tonnage as described above is unlikely to change materially over time. However, if there is a material change in the amount of the Estimated Tonnage, the Municipality will provide written notice to PERC that there has been a material change in the amount of the Estimated Tonnage that will be delivered to the PERC Facility and that such material change is the direct result of a change in the market conditions as to the amount of Acceptable Solid Waste generated within the Municipality.

(c) In the event that PERC becomes aware that the Municipality is not delivering all of its Solid Waste to the PERC Facility as agreed to by the Municipality pursuant to the terms of this Agreement, PERC may give written notice to the Municipality of such delivery failure and both the Municipality and PERC shall meet at the PERC Facility so as to resolve the issue. Such meeting shall occur at such time reasonably agreeable to both PERC and the Municipality but, in no event, more than thirty (30) after delivery of the written notice to the Municipality by PERC. In the event that the Municipality and PERC are unable to resolve such dispute during this meeting, then PERC shall have the right (but no obligation) to declare that this Agreement has been deemed terminated by the Municipality due to the Municipality taking actions that are inconsistent with the terms of this agreement and that have the purpose or effect of interfering with the Municipality's performance of this Agreement (a "Deemed Termination").

4.) Changes to the Tipping Fee – Adjustment for CPI. The Tipping Fee shall be increased on a quarterly basis by a percentage equal to the percentage change in "CPI" for the most recently released 12-month period preceding the one-year anniversary date of this Agreement. The term "CPI" shall mean the Consumer Price Index-All Urban Consumers (U.S. cities average, all items) as published by the U.S. Bureau of Labor Statistics. If this index ceases to be published, a comparable index shall be designated, in writing by the parties hereto.

5.) Early Termination. Notwithstanding the provisions of Section 7 of the Agreement, both PERC and the Municipality acknowledge and agree that this Agreement may be terminated as follows:

- (a) Upon ninety (90) days prior written notice by the Municipality to PERC (the "Municipality Termination"); or
- (b) Upon PERC's determination that a Deemed Termination has occurred.

Within thirty (30) days after a Municipality Termination or a Deemed Termination, the Municipality shall pay to PERC an amount equal to the product of (i) the average annual amount paid (or required to be paid) by the Municipality to PERC for the immediately preceding two (2) years (and taking into account any amounts paid to PERC prior to the beginning of the Term of this Agreement); multiplied by (ii) three (3). In addition to this amount, the Municipality shall pay to PERC all reasonable legal fees and costs incurred by PERC in obtaining this payment.

## ***MEMORANDUM***

TO: Greg Louder, MRC  
Karen Fussell, MRC Board/Communications Committee  
FROM: George Aronson, Principal, CRMC  
RE: Tip Fee Escalation Clauses and Other Contract Language  
DATE: 11 January 2016

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### **Tip fee escalation clauses**

The best way to compare how tip fees escalate with inflation under various contracts is to examine the contract language directly.

For example, in the Joinder Agreement that the MRC is providing to municipalities for participation in the Fiberright project starting in 2018, the language on tip fee escalation reads as follows:

“Joining Member agrees to pay tipping fees for Acceptable Waste and other wastes delivered and credited to its account in the amount of \$70.00 per ton, subject to annual increase equal to the amount of annual increase in the CPI.” Joinder Agreement, Section 4.1.

In the Waste Disposal Agreements that the MRC had negotiated with PERC on behalf of the Charter Municipalities in 1991, and renegotiated in 1998 (the Existing PERC Agreement), the language on tip fee escalation reads as follows:

“The Base Rate shall be adjusted (up or down) on the first day of each January commencing with January 1, 1992 by a percentage equal to the annual percentage change in the CPI-U.” The Existing PERC Agreement, Article VI, Section C.

In both cases, the language of the contract makes clear that the tipping fee is escalated only once per year in the amount of the annual percentage change of the CPI.

In the Waste Disposal Agreement recently released by the owners of PERC to the Charter Municipalities (the PERC Extension Agreement), the language on tipping fee escalation reads as follows:

“The Tipping Fee shall be increased on a quarterly basis by a percentage equal to the percentage change in “CPI” for the most recently released 12-month period preceding the one-year Anniversary date of the agreement.” (emphasis added) PERC Extension Agreement, Schedule A, Section 4.

This language escalates the tipping fee in a very different way than in the examples cited above. In particular, the language of the PERC Extension Agreement clearly states that the Tipping Fee shall be increased “... on a quarterly basis” – that is, four times per year – whereas the language of the Joinder Agreement and the Existing PERC Agreement provides for tipping fees to be increased only once per

year. By way of illustration, if the annual rate of increase in the CPI is two percent per year, then, after the full first full contract year:

- The tipping fee in the Joinder Agreement would increase by two percent over the year.
- The tipping fee in the Existing PERC Agreement would increase by two percent over the year.
- The tipping fee in the PERC Extension Agreement would increase by two percent quarterly over the first year, which would be equivalent to an increase of 8.24 percent over the year. The increase is more than eight percent, because each quarterly increase compounds the prior quarterly increase.

On this basis, the 15-year tip fee in the PERC Extension Agreement of \$84.36 per ton in the first year would escalate to

- \$91.31 per ton in year two;
- \$115.81 in year five;
- \$172.08 per ton in year ten; and
- \$255.71 per ton in year 15.

Similarly, the 10-year tip fee in the PERC Extension Agreement of \$89.57 per ton in the first year would increase to

- \$96.95 per ton in year two;
- \$122.96 in year five; and
- \$182.71 per ton in year ten.

By contrast, the initial 15-year tip fee of \$70.00 per ton in the Joinder Agreement would escalate to

- \$71.40 per ton in year two;
- \$75.77 per ton in year five;
- \$83.66 per ton in year ten; and
- \$92.36 per ton in year 15.

The differences are substantial and significant. Contract language is important.

In this context, the MRC notes that USA Energy, in its memorandum of January 8, 2016, states that

“... the application of the Consumer Price Index (CPI) in the new agreement is exactly the same method approved by the MRC that PERC uses in the current waste disposal agreement...”

The differences in contract language here are very clear and speak for themselves. We leave it to the reader to evaluate how to interpret USA Energy’s words in light of the clear differences.

### **Other Contract Language**

The case of tip fee escalation is not the only example for which the contract language of the PERC Extension Agreement does not match the description of the contracts in memoranda from USA Energy.

For example:

- Section 3(c) of the PERC Extension Agreement requires that the Municipality “(1) deliver to the PERC Facility the estimated tonnage of Solid Waste; and (2) pay to PERC the tipping fee (the “Tipping Fee”) for each ton of Solid Waste delivered....” From a legal standpoint, this language constitutes a classic example of a “put-and-pay” clause that can be categorized as a Guaranteed Annual Tonnage, or GAT. This would seem to contradict the statement from USA Energy that “there is no guaranteed annual tonnage (GAT) or delivery diversion charge in our new agreement.
- Section 3(a) of the PERC Extension Agreement requires that the Municipality “deliver all Acceptable Waste that is generated within the Municipality to the PERC Facility” with no acknowledgement that that the Municipality may have no practical ability to enforce this obligation regarding either individual large waste generators that make their own arrangements for waste collection or disposal, or private haulers with active collection operations within its boundaries. Yet, under the contract language, a failure for a Municipality to do what it may have no practical ability to do could give USA Energy the option to declare a breach of contract or pursue a claim for damages.

There are other examples of similar inconsistencies between the way the PERC Extension Agreement has been represented to the public and the plain meaning of the underlying contract language. It follows that the MRC advises any municipality that would consider entering into the PERC Extension Agreements to engage an independent attorney to represent its interests in order to understand the obligations that would be binding under the language of the contract.

PERC & Agri\_Energy/MRC Comparison  
 Estimated Net Cost/Year

Tonnage Assumption 5056  
 Organic Processing Assumption 30%

MSW Processing				
	MRC	Cost	PERC	Cost
Tip Fee	\$ 70	\$ 353,920	\$ 84	\$ 298,567
Hauling	\$ 20	\$ 101,120	\$ 20	\$ 70,784
Organics Processing				
Tip Fee	\$ -	\$ -	\$ 40	\$ 60,672
Hauling	\$ -	\$ -	\$ 20	\$ 30,336
Rebates	\$ 5	\$ 25,280	\$ -	\$ -
<b>Net Cost</b>		<b>\$ 429,760</b>		<b>\$ 460,359</b>