

# **MEMORANDUM OF UNDERSTANDING AMONG THE TOWNS OF CONWAY, ALBANY and EATON**

WHEREAS NH RSA Ch 149-M requires submission of Solid Waste District Plan to the State of New Hampshire prior to October 1, 1988, and

WHEREAS, the Towns of Conway, Albany and Eaton have jointly disposed of the municipal solid waste in a cooperative manner prior and since the original Memorandum Of Understanding agreed upon in 1988 and

WHEREAS, the Boards of Selectmen for the Towns of Conway, Albany and Eaton have determined that it is in their respective interests to establish a meaningful solid waste disposal plan having an expected life of at least twenty (20) years and to continue the aggressive solid waste recycling program and to establish local, secure solid waste landfill, with potential long term utilization as a residue landfill for future projects, encompassing geographical areas within and/or without the Towns of Conway, Albany and Eaton and

WHEREAS, the Boards of Selectmen of the Towns of Conway, Albany and Eaton have each voted to continue the Lower Mount Washington Valley Solid Waste District (the "District") (also known as LMWVSWD) pursuant to the requirements of NH RSA Ch 149-M.

NOW THEREFORE, be it resolved and agreed that:

1. Said member towns shall establish a District comprised of a Board of Representatives to be appointed by the member towns in accordance with By-Laws and duties to be performed thereunder as established and attached hereto as Appendix A which are incorporated hereunder. The District and member Towns shall act in an advisory capacity to the operation of the District.
2. The powers, duties and responsibilities of the District shall be vested in and exercised by the Board of Representatives. Each town joining this agreement shall be represented as provided under the By-Laws for the District provided that any town subsequently petitioning to join the District shall have Representatives as may be negotiated and agreed between the petitioning town and the District with approval by the Boards of Selectmen of all then member towns of the District.
3. The annual cost of operating the District and/or preparing a District Plan shall be incorporated in the annual solid waste disposal budget for the Town of Conway with the cost thereof to be apportioned among the member towns in the manner provided under said By-Laws for purposes of determining the percentage of assessment to each town.



## **APPENDIX A**

# **LOWER MOUNT WASHINGTON VALLEY SOLID WASTE DISTRICT - BY-LAWS**

### **ARTICLE I - LEGAL BASIS FOR SOLID WASTE DISTRICT**

1.1 The Lower Mount Washington Valley Solid Waste District, herein the "DISTRICT", is established with the-powers, authority and responsibilities vested in such Districts pursuant to the provisions of NH RSA Ch 149-M.

### **ARTICLE II - NAME**

2.1 The District shall be called the "LOWER MOUNT WASHINGTON VALLEY SOLID WASTE DISTRICT" (the "District) or referred to as "LMWVSWD".

### **ARTICLE III - BOUNDARIES**

#### **3.1 General Boundaries:**

The District shall include initially the following towns: Conway, Albany and Eaton.

#### **3.2 Exceptions:**

The boundaries of the District are flexible. A town may petition to join the District which is now outside the District boundaries, or a Town then within the District may petition to leave the District. However, no town shall be allowed to either join or leave the District without the unanimous approval of all then member towns acting by majority vote of their respective Boards of Selectmen. All exceptions granted shall be consistent with NH RSA Ch 149-H and the rules adopted by the District pursuant thereto.

### **ARTICLE IV - MEETINGS**

#### **4.1 Frequency:**

The District Board of Representatives shall meet periodically as they may determine appropriate. Two meetings per year may be called by the Chairman of the Board of Representatives or in his/her absence, by the Vice-Chairman, or notice in writing by at least two (2) Representatives. Additional meetings shall be at the call of the Chairman.

#### **4.2 Quorum:**

A majority (3/5)of the Board of Representatives including voting Alternate Representatives in place of an appointed Representative at a meeting duly noticed and called shall constitute a quorum for the transaction of business.

**4.3 Voting:**

All issues and matters of the District shall be determined by the act of a majority vote of the voting Representatives at meetings duly assembled at which a quorum is present.

**ARTICLE V - REPRESENTATION**

**5.1 Number of Representatives:**

The Board of Representatives shall consist of five (5) Representatives to be appointed by the following member towns:

Conway - 3 Representatives

Albany – 1 Representative

Eaton – 1 Representative

**5.2 Appointment of Representatives:**

Representatives for a member town shall be appointed by the Board of Selectmen of such town respectively.

**5.3 Appointment of Alternate Representatives:**

The Board of Selectmen of each member town may appoint one (1) Alternate Representatives who in the absence of a regular Representative, may vote in his/her stead. All Alternate Representatives are to be encouraged to attend and participate in all Board of Representative meetings but without vote. Conway shall appoint three (3) Representatives and one (1) Alternate; Albany and Eaton shall appoint one (1) Representative and one (1) Alternate.

**5.4 Representative and Alternates:**

Either the Representative or the Alternate Representative from each member town shall be a Selectman from that town.

**5.5 Notification of Official Representation:**

Member towns shall certify the appointment of their respective Representatives including Alternate Representatives, by a letter of appointment delivered to the District signed by the Board of Selectmen of the appointing town and/or include a copy of the meeting minutes of the appointment(s).

**5.6 Terms of Representatives:**

Each Representative and Alternate Representative shall serve for a three (3) year term.

**5.7** Should a vacancy be declared by the District for any Representative or Alternate Representative of a member town, the District shall notify the appointing town and such town shall appoint a person to complete the unexpired term for the vacancy then occurring.

**ARTICLE VI - OFFICERS**

**6.1 Positions:**

The Board of Representatives annually shall elect a Chairman, Vice-Chairman and such other officers as it may deem proper from among the Board of Representatives. It shall also appoint the Town of Conway Recording Secretary and the Town of Conway Town Treasurer.

**6.2 Term:**

The term of office of all officers shall be one (1) year and until their respective successors are elected and qualified, but any officer may be removed from office, either with or without cause, at any time by the affirmative vote of a majority of the authorized number of the Board of Representatives. A vacancy in any office arising from any cause may be filled for the unexpired portion of the term by the Board of Representatives.

**6.3 Chairman:**

The Chairman shall be responsible for conducting the meetings and generally overseeing and/or supervising of the Board of Representatives and the affairs of the District. The Chairman shall be in consultation with the Town of Conway Public Works Director at all times.

**6.4 Vice-Chairman:**

The Vice-Chairman shall preside and act in all matters for the Chairman in the absence of the Chairman.

**6.5 Treasurer / Town of Conway Treasurer Town Treasurer:**

The Town Treasurer shall be the authorized signatory on all financial accounts on behalf of the District, and review and supervise on behalf of the Board of Representatives the budgetary expenditures and matters of the District.

**6.6 Secretary / Town of Conway Recording Secretary:**

The Recording Secretary shall record all votes and proceedings of the Board of Representatives and make a record of all instruments and papers required to be recorded in his/her office.

#### 6.7 General Duties:

Each officer of the District shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be conferred by the Board of Representatives, keeping in mind that the District and member Towns shall act in an advisory capacity to the operation of the District.

### **ARTICLE VII - MEMBERSHIP**

#### Establishment:

1. Membership shall be established through a Memorandum of Understanding signed by the governing officials / Board of Selectman of the member towns.

#### 2. Additional Towns:

Any town not a member of the District on or prior to January 1, 1989, may be accepted for membership provided the procedure established hereunder is completed and an initiation fee is assessed by the District and is paid by the new member town to the benefit of the District as contributions against capital costs and other expenses previously borne by then member towns in the District.

### **ARTICLE VIII - ADMINISTRATION**

#### 8.1 Powers:

The powers, duties and responsibilities of the District shall be vested in and exercised by said Board of Representatives in an advisory capacity in consultation with the Town of Conway Public Works Director.

#### 8.2 Financial Support:

The District shall be supported from, but not limited to, the following sources:

- assessments payable by member towns;
- gifts;
- grants.

#### 8.3 Apportionment of Costs to Member Towns:

The main financial support of the District shall be by annual apportionments to each member Town in the District using the following formula. Each member town shall pay a percentage of the total assessed cost determined by the following fraction:

**Annual calculation of Solid Waste cost distribution percentage per member Town:**

Annual percentage calculations are based on the previous year's MS-1 listing each member municipality valuations without utilities and equalization ratios provided by the NH DRA for each of the three (3) member Towns to determine each member town's percentage share of the operations annual costs/expenditures.

Equalized value is determined by using the Town value divided by the median ratio found on the State MS-1 form. Each member Town's share of the cost for Solid Waste is calculated as a percentage of the sum of all the Towns' values. That percentage is then divided into the total cost of operating the Solid Waste Department. Each member Town pays their calculated portion of the total cost of operating the Solid Waste Department.

8.4      Fiscal Year: January 1 to December 31.

8.5      Budget:

**Annual calculation of Solid Waste total operations expenditures to determine each member Town percentage:**

Calculation of the District's annual operations cost/expenditure shares are based on the previous years completed end of year total expended costs/expenditures to operate the LMWVSWD to include but not limited to the Conway General Fund Actual Expended Budget, contributions to the Capital Reserve Funds for Landfill Expansion & Solid Waste Equipment, plus any approved future related contributions to respective Capital Improvement and/or Capital Reserve Fund accounts pertaining to solid waste operation, equipment and landfill expansions, and the expended Solid Waste Revolving funds for year; less General Fund Revenue, Solid Waste Revolving Revenue and any grants, Federal or State government subsidies, revenues, and surpluses at years end. Each member Town's apportioned share of the total cost will be their percentage as calculated from the equalized values cost distribution percentage established above. (See example in APPENDIX B)

The District will annually receive the proposed budget costs by November 1 from the Conway Public Works Director. The District will review and vote to support or not support the prepared budget submitted to them by the Conway Public Works Director and/or make

any recommendations and concerns before the budget is presented to the Conway Board of Selectmen and Conway Budget Committee.

**8.6 Local Acceptance of Budget:**

Annual District funding requests from individual member towns must be presented by the District Representatives to their respective towns for funding on or before December 31 of each year. Member towns shall be required to fund their respective portions of the District budget at their respective Annual Town Meetings.

**8.7 Enforcement:**

The District shall be entitled to enforce this provision against any recalcitrant or delinquent member town by reason of these By-Laws and the Memorandum of Understanding among the three (3) towns.

**ARTICLE IX - DISTRICT RESPONSIBILITIES**

**9.1 Purpose:**

The purpose of the District is to carry out regional solid waste management planning in a manner that is economically and environmentally appropriate pursuant to and in fulfillment of the responsibilities provided under NH RSA Ch 149 - M and the NH State Plan therefor.

**9.2 Duties of the District:**

- (a) To establish By-Laws and working procedures for a District.
- (b) To prepare a District Solid Waste Management Plan to include the following:
  - Identify types and amount of solid waste, including septage;
  - Project annual tonnage for a 10 to 15 year time frame;
  - Identify the capacity of existing sites;
  - Prepare alternatives for future solid waste disposal;
  - Establish an implementation program;
  - Consider environmental, economic and/or area impact.
- (c) To meet plan submission requirements as provided under NH RSA Chapter 149-M: 17, M:18, h,
- (d) To hold periodic meetings and keep records of such meetings.
- (e) To establish sub-committees as necessary.
- (f) To keep member towns informed including public officials and the general public.
- (g) To fairly apportion any costs that may be incurred in plan preparation pursuant to formula established herein.

- (h) To correspond with the New Hampshire Solid Waste Management Council and testify before the same, when necessary.
- (i) To use combined legal action to support the plan as appropriate.
- (j) To prepare and/or obtain educational programs for all ages on related subjects.
- (k) To prepare model ordinances to submit to member towns.

### 9.3 Recycling:

The LMWSWD is a mandatory recycling facility. Currently the following items are diverted from the waste stream: Plastics 1,2,3,5,7, Aluminum cans, Cardboard, Tin cans, Glass, Mixed paper, Books and Magazines, Light Bulbs, Batteries, Waste oil, Scrap metal, Compost, Tires, Construction materials, Mattresses, Clothing, Electronics, Propane tanks, and Railroad ties. In addition to the duties outlined in section 9.2, the District should work to improve recycling and promote new items that can be diverted from the waste stream and reused or recycled. Any items that can be diverted from the waste stream reduces the demand on the limited space in the Landfill operated by the District.

## ARTICLE X - AMENDMENTS

### 10.1 Amendments:

Any amendment to these By-laws must be subject to at least one (1) Public Hearing called at a convenient place within the District boundaries. At least a seven (7) days' notice of the time, place, and subject of the hearing and shall be published in a newspaper or newspapers of general circulation within said District and posted in a public place for each member town and on each member town's WebSite. After the hearing, the Board of Representatives may adopt the amendment and certify it to the Board of Selectmen of each member town. The adoption of any amendment hereto shall further require the approval of all of the Boards of Selectmen of the then member towns. Once this procedure and all approvals are satisfied, the amendment shall forthwith become effective.

### 10.2 Recording with Town Clerks:

The original approved versions of the MOU, Appendix A By-Laws, and any future amended or modified versions of the MOU and Appendix A By-Laws shall be recorded with each member town's Town Clerks within 30 days of approval.

## APPENDIX B

### EXAMPLES OF CALCULATION OF THE SOLID WASTE DISTRIBUTION OF COSTS FROM 2025 AND 2026:

<u>2025 Calculation of the Lower Mount Washington Solid Waste District Cost Share amongst Conway, Albany and Eaton</u>					
<u>Itemization</u>					
General Fund Expended Budget (2023)		844,103			
Capital Reserve (2023)					
Landfill Expansion		100,000			
Solid Waste Equipment		225,000			
Solid Waste Revolving Spent (1/23 to 12/23)		118,490			
Subtotal of Expenditures		1,287,593			
General Fund Revenue (1/23-12/23)		-185,245			
Solid Waste Revolving Revenue (1/23 to 12/23)		<u>-210,742</u>			
Net TOTAL		891,606			
2023 values w/o utilities	2023 median ratio	2023 equalized values		<u>2025 amount owed</u>	
133,633,688	0.634	210,778,688	5.94%	\$ 52,972	Albany
144,067,077	0.808	178,300,838	5.03%	\$ 44,810	Eaton
3,108,147,290	0.984	<u>3,158,686,270</u>	89.03%	\$ 793,825	Conway
		3,547,765,796			
Equalized Values for 2023 from DRA (MS-1)					

<u>2026 Calculation of the Lower Mount Washington Solid Waste District Cost Share amongst Conway, Albany and Eaton</u>					
<u>Itemization</u>					
General Fund Expended Budget (2024)		1,017,515			
Capital Reserve (2024)					
Landfill Expansion		200,000			
Solid Waste Equipment		225,000			
Solid Waste Revolving Spent (1/24 to 12/24)		151,552			
Subtotal of Expenditures		1,594,067			
General Fund Revenue (1/24-12/24)		-260,513			
Solid Waste Revolving Revenue (1/24 to 12/24)		<u>-245,447</u>			
Net TOTAL		1,088,107			
2024 values w/o utilities	2024 median ratio	2024 equalized values		<u>2026 amount owed</u>	
135,988,249	0.606	224,403,051	5.72%	\$ 62,232	Albany
145,683,311	0.689	211,441,671	5.39%	\$ 58,638	Eaton
3,152,941,706	0.904	<u>3,487,767,374</u>	88.89%	\$ 967,237	Conway
		3,923,612,096			
Equalized Values for 2024 from DRA (MS-1)					

DATED: February 24, 2026

A True Copy Attested:

Town of Conway, NH

By its Selectmen:

\_\_\_\_\_ Print Name: Mary Carey Seavey

Chairman

\_\_\_\_\_ Print Name: John Colbath

Selectman

\_\_\_\_\_ Print Name: Steven Porter

Selectman

\_\_\_\_\_ Print Name: Ryan Shepard

Selectman

\_\_\_\_\_ Print Name: Peter Donohoe

Selectman

Town of Albany, NH

By its Selectmen:

\_\_\_\_\_ Print Name: Kelly Robitaille

Chairman

\_\_\_\_\_ Print Name: Jim Drouin

Selectman

\_\_\_\_\_ Print Name: Rick Hiland

Selectman

Town of Eaton, NH

By its Selectmen:

\_\_\_\_\_ Print Name: Greg Grinnell

Chairman

\_\_\_\_\_ Print Name: Richard Fortin

Selectman

\_\_\_\_\_ Print Name: John Schmerfeld

Selectman

Original MOU and ByLaws; Approved and Signed - November 1988

Amended MOU and Appendix A ByLaws & B Examples

Approved and Signed – February 24, 2026

**2025-26 Members of the Lower Mount Washington Valley Solid Waste District Board:**

Rick Hiland      Albany Representative      Chairman

Cathy Ryan      Albany Alternate Representative

John Colbath Conway Representative      Vice Chairman

Greg Grinnell      Eaton Representative

Dick Fortin      Eaton Alternate Representative

Also:

Krista Day      Recording Secretary

Andrew Smith      Public Works Director