

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS

This Settlement Agreement and Mutual Release of All Claims (“Agreement”), dated as of November 22, 2011, is made between the Town of Bethlehem (the “Town”) and North Country Environmental Services, Inc. (“NCES”) (together with the Town, the “Parties”).

Recitals

- A. NCES owns and operates a municipal solid waste (“MSW”) landfill on Trudeau Road within the Town’s boundaries (the “Landfill”).
- B. NCES and the Town are parties to the consolidated cases entitled *North Country Environmental Services, Inc. v. Town of Bethlehem, Bethlehem Planning Board, and Bethlehem Zoning Board of Adjustment*, Docket No. 215-2001-EQ-00177, and *Town of Bethlehem v. North Country Environmental Services, Inc.*, Docket No. 215-20090EQ-00025, in the Grafton Superior Court (the “Litigation”).
- C. On October 17, 2011, the Parties mediated their dispute pursuant to N.H. Superior Court Rule 170 (as amended effective July 1, 2011) and reached an agreement on the essential terms of a settlement.
- D. On October 21, 2011, the Parties’ counsel executed a Memorandum of Understanding (“MOU”) memorializing the essential terms upon which the Parties had agreed at the mediation; a copy of the MOU is attached as Attachment 1.
- E. The MOU expressly contemplated the drafting and execution of an agreement setting out the detailed provisions of the settlement.
- F. This Agreement constitutes the agreement contemplated by the MOU.

Terms and Conditions

NOW, THEREFORE, in consideration of the mutual covenants set forth below and of other consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Residential MSW Pickup and Disposal.** Commencing with approval of this Agreement and the Zoning Amendments (as that term is defined in paragraph 4 below) by the voters of the Town at a special town meeting (the “Ratification and Approval Vote”) and continuing until all the Landfill’s current and future disposal capacity as approved by the New Hampshire Department of Environmental Services (“NHDES”) has been exhausted (this period, the “Post-Settlement Life of the Facility”), NCES shall provide to all residences within the Town curbside pickup and disposal of MSW and curbside pickup of commingled recyclables at no charge to the Town or its residents. The frequency with which NCES will provide pickup services will be agreed upon from time to time with the Town, but NCES shall provide such services weekly unless the Town agrees to less

frequent pickups after consultation with NCES. For purposes of this paragraph, NCES' capacity shall be exhausted when it can no longer receive MSW for disposal at the Landfill under its NHDES permits. To the extent that the Bethlehem Village District has independent authority over management of solid waste generated within its borders, it may elect whether to accept the pickup and disposal services provided by NCES under this paragraph. Nothing in this Agreement shall affect the obligation of commercial or industrial enterprises within the town to provide, at their own cost, for the pickup and disposal of the wastes they generate. During the Post-Settlement Life of the Facility, the Landfill will be available for disposal of wastes generated by commercial and industrial enterprises within the Town pursuant to the terms of such agreements as may be negotiated from time to time between any such enterprise and NCES.

2. **Trudeau Road Transfer Station.** During the Post-Settlement Life of the Facility, NCES will, at no charge to the Town or its residents, accept at its transfer station on Trudeau Road for processing or disposal all wastes that are generated by residents of the Town and that NCES is then permitted by NHDES to accept at the transfer station; provided, however, that NCES shall not accept MSW, construction and demolition debris, or any waste generated by any commercial or industrial enterprise at the transfer station. NCES shall operate its transfer station with its own employees for twenty-five hours each week, including 8:00 a.m. to 12:00 noon on Saturdays.
3. **Host Community Payment.** During the Post-Settlement Life of the Facility, NCES will pay the Town a host community payment at the rate of \$0.25 (twenty-five cents) for each ton of waste NCES accepts for disposal in the Landfill through December 31, 2017, and at the rate of \$0.75 (seventy-five cents) for each ton of waste NCES accepts for disposal in the Landfill commencing on January 1, 2018. The host community payment shall not be paid in connection with the placement of daily cover or material approved as alternative daily cover by NHDES. NCES shall make host community payments for each calendar quarter within thirty days of the end of such quarter. For each calendar year, NCES shall, within thirty days of the end of such year, provide the Town with an annual report of all waste disposed of in the Landfill for that year. Such report shall be generated by the "PC Scales" software or any equivalent replacement software used by NCES to track the number of tons of waste accepted for disposal in the Landfill. Within thirty days of its receipt of each report the Town shall be entitled to notify NCES in writing of its appointment of a qualified representative to audit the tonnages of waste accepted by NCES for that year. NCES shall provide such representative access to all records of its waste acceptance as may be reasonably necessary to enable the representative to verify the tonnages included in the report. Under no circumstances shall NCES be required to provide the Town access to records containing financial or any other proprietary business information, including, without limitation, fees charged for waste disposal.
4. **Enlargement of and Exemption Within District V.** Consistent with Paragraph 6 of this Agreement, the Town will place before a special town meeting, in accordance with all applicable statutory provisions but as promptly as reasonably possible, amendments to the Town's zoning ordinance in the form of Attachment 2 to this Agreement to enlarge

the area of Zoning District V from 51 acres to 61 acres as depicted on the plan in Attachment 3 to this Agreement (“District V”) and to exempt from the Town’s “Aquifer Ordinance” the development and operation of a solid waste landfill within District V (together, the “Zoning Amendments”). The Town agrees that the intent and effect of the Ratification and Approval Vote will be to create a vested right in NCES to landfill throughout District V except to the extent expressly stated in Paragraph 5e of this Agreement. The Town agrees that any amendment to its zoning ordinance taking effect after the Ratification and Approval Vote shall not be applicable within District V if application of any such amendment would have the effect of prohibiting or restricting in any way NCES’s use of District V for landfilling as provided for in this Agreement.

5. **Restrictions on Development.** Upon, and only upon, the Ratification and Approval Vote, NCES agrees on behalf of itself and its affiliates, successors, and assigns to the following restrictions upon the expansion of the Landfill and the development of future landfill capacity:
 - a. NCES shall not expand the landfill or develop or operate any other landfill capacity within the Town’s boundaries and outside of District V.
 - b. NCES shall not acquire any real property within the Town’s boundaries for the purpose of developing or operating a landfill on such property.
 - c. NCES shall not seek or acquire any federal, state, or local permits to develop or operate a landfill within the Town’s boundaries and outside of District V.
 - d. The final closed and capped elevation of the Landfill shall not exceed 1,483 (one thousand, four hundred and eighty-three) feet above the North American Vertical Datum of 1988 (NAVD88) at any location on NCES’s property. NCES shall be entitled to deposit waste within those areas of the Landfill site where subsidence has taken place during ongoing landfilling activities. NCES shall not substantially discontinue ongoing landfilling operations for the purpose of allowing subsidence of the waste mass at the Landfill or remove the final cap placed over any landfill cell for the purpose of disposing of waste within airspace created by subsidence of the waste mass. Nothing in this Agreement shall prevent NCES from removing the cap in place at the time of the execution of this Agreement for the purpose of placement of an overliner and construction of airspace for Stage IV Capacity as approved by NHDES by permit modification of August 27, 2010, a copy of which is attached as Attachment 4 to this Agreement.
 - e. NCES shall not expand the Landfill into the two cross-hatched portions of its property as depicted on Attachment 5 to this Agreement, such areas being comprised of (1) the 7.16-acre area of land abutting Trudeau Road and formerly owned by Castello and Vaughn and (2) the approximately 4.33-acre area of land in the northeast corner of the 48.28-acre parcel as shown on a subdivision plan approved by the Town planning board in 1985 and recorded in the Grafton County Registry of Deeds as Plan #2598 (together, the “Infrastructure-Only

Areas”). Within the Infrastructure-Only Areas, NCES shall be permitted to maintain, construct, or replace any infrastructure that is accessory to the land use of landfilling. A metes and bounds description of Infrastructure-Only Areas is set out in Attachment 6 to this Agreement.

- f. NCES shall grant a conservation easement by deed in the form of Attachment 7 on the approximately thirty-seven acres of NCES’s property lying generally to the north of District V and described more particularly by metes and bounds within Attachment 7. Within thirty days after the Ratification and Approval Vote the Town shall notify NCES in writing whether the conservation easement is to be granted to the Town or to an entity that is unaffiliated with the Town, is organized, in whole or in part, for the purpose of administering and enforcing conservation easements, and has reasonable experience in the administration and enforcement of such easements. NCES shall, within fourteen days of receiving such written notice from the Town, execute and deliver to the Town a deed in the form of Attachment 7 naming as the grantee either the Town or the entity identified in such notice.
 - g. Once the 2,050,000 cubic yards of disposal capacity approved by NHDES Standard Permit No. DES-SW-SP-03-002 (“Stage IV Capacity”) is exhausted, NCES shall not use mechanically stabilized earthen (“MSE”) berms or any equivalent structure along the perimeter of any Landfill cell so as to enable it to dispose of additional waste on established sideslopes. NCES shall not use MSE berms in connection with the construction of any Landfill cell to accommodate Stage IV Capacity. Without modifying the foregoing provisions of this paragraph 5g, and for the avoidance of doubt, nothing in this Agreement shall prevent NCES from using conventional berming methods, including, without limitation, compacted earthen materials, riprap, and erosion matting, in the construction of any Landfill cell if such methods constitute reasonable and appropriate elements of the design of any such cell based on such factors as the terrain, sound construction techniques, cost, and landfill stability.
6. **Special Town Meeting.** The Town will convene a special town meeting as promptly as reasonably possible to seek the Ratification and Approval Vote.
 7. **Board of Selectmen Support.** The Town’s board of selectmen agrees to support publicly the approval of this Agreement and the Zoning Amendments by the Town’s voters.
 8. **Property Taxes.** During the Post-Settlement Life of the Facility the Town will continue to use the methodology prescribed by the New Hampshire Board of Tax and Land Appeals (“BTLA”) in Docket Nos. 19709-02PT / 20384-03PT / 21064-04PT to determine the value of the parcels of real property owned by NCES and on which the Landfill and any landfill infrastructure are sited for purposes of assessing ad valorem real property taxes. NCES agrees that it will not seek the introduction of legislation amending New Hampshire law, including N.H. RSA 72:12-a, so that the Landfill will be

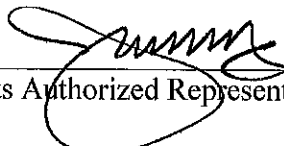
exempt from ad valorem real property taxes. For the tax year commencing April 1, 2011, NCES will pay the Town property taxes on such parcels in an amount of the greater of \$200,000 or the tax payable under the BTLA methodology described in this paragraph.

9. **Dismissal.** Within seven days after the Ratification and Approval Vote, counsel for the Town and for NCES shall execute and file with the Grafton Superior Court the form of docket markings in Attachment 8 to this Agreement. The Parties agree that the dismissal of the Litigation pursuant to such filing shall not vacate any court orders entered in the Litigation and that neither of them shall appeal any such order to the New Hampshire Supreme Court.
10. **No Exactions Claim.** The Parties agree that nothing in this Agreement constitutes an unlawful exaction, and NCES agrees that it shall not seek a judicial declaration or any other form of relief premised upon a claim that any provision of this Agreement is an unlawful exaction.
11. **Mutual Releases.** Upon, and only upon, the Ratification and Approval Vote, each of the Parties (on behalf of themselves and their respective agents, representatives, parents, affiliates, subsidiaries, shareholders, directors, officers, employees, agents, representatives, successors, and assigns, as the case may be) (each, a “Releasing Party”) releases and forever discharges the other Party (and their respective agents, representatives, parents, affiliates, subsidiaries, shareholders, directors, officers, employees, agents, representatives, successors, and assigns, as the case may be) (each, a “Released Party”) of all claims that the Releasing Party made or could have made in the Litigation, including, without limitation, all manner of action or actions, cause or causes of action, suits, debts, damages, claims, demands, judgments, or executions whatsoever, whether known or unknown, whether under statute or in contract, tort, or otherwise, and whether in law or in equity, that the Releasing Party ever had, has now, or may ever have against any Released Party arising from the subject matter of the Litigation.
12. **Miscellaneous.**
 - 12.1 **No Admission.** This Agreement is not to be construed as an admission of liability on the part of any Party, and each Party expressly denies such liability.
 - 12.2 **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect unless such invalidity or unenforceability frustrates the purpose of the Agreement. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and full effect to the extent not held invalid or unenforceable, unless such invalidity or unenforceability frustrates the purpose of the Agreement.
 - 12.3 **Multiple Counterparts.** This Agreement may be executed in identical counterparts, which shall constitute one agreement when signed by all of the Parties.

- 12.4 **Additional Documents and Acts.** Each Party agrees to execute and deliver, from time to time, such additional documents and instruments and to perform such additional acts as may be reasonably necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereby.
- 12.5 **Governing Law/Forum Selection.** This Agreement shall be governed, construed, and interpreted by, and in accordance with, New Hampshire law without regard to its conflicts of law rules or rulings. The Parties agree that any litigation concerning the subject matter of this Agreement shall take place exclusively in the Grafton Superior Court. Each of the Parties agrees to submit to such jurisdiction for all purposes hereunder.
- 12.6 **Representations.** Each Party to this Agreement represents that the Party is duly authorized to execute this Agreement and to enter into the settlement described herein. The Parties agree that one of the purposes of this Agreement is to “buy peace” and that this paragraph 12.6 is a substantial inducement for each of the Parties’ entering into this Agreement.
- 12.7 **Fully Integrated Agreement.** The Parties agree that this Agreement sets forth their entire agreement, superseding all prior negotiations and agreements, whether written or oral, including the MOU. There are no collateral or outside agreements of any kind between the Parties other than those expressly reflected herein.
13. **Understanding of Agreement.** THE PARTIES WARRANT THAT THEY HAVE READ THIS SETTLEMENT AGREEMENT WITH MUTUAL RELEASES, HAVE HAD AN OPPORTUNITY TO DISCUSS IT WITH COUNSEL, UNDERSTAND ITS TERMS, AND ARE EXECUTING IT VOLUNTARILY AND OF THEIR OWN FREE WILL.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

Date: North Country Environmental Services, Inc.,

By: 
Its Authorized Representative

Date: TOWN OF BETHLEHEM,

By: _____
David Lovejoy, Chairman,
Bethlehem Selectboard

Date: By: _____
Gerard Blanchard
Bethlehem Selectboard

Date: By: _____
Michael Culver
Bethlehem Selectboard

Date: By: _____
Cassandra Laleme
Bethlehem Selectboard


Date: By: _____
Alecia Loveless
Bethlehem Selectboard

CORPORATE GUARANTY OF PERFORMANCE

Casella Waste Systems, Inc. of 25 Greens Hill Lane, Rutland, VT 05701-0325, as the ultimate parent of North Country Environmental Services, Inc. ("NCES"), for the purpose of inducing the Town of Bethlehem (the "Town") to enter into that certain Settlement Agreement and Mutual Release of all Claims, dated as of November 22, 2011, between NCES and the Town (the "Settlement Agreement") and for other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby guaranty the full and complete performance of the obligations of NCES contained in paragraphs 1, 2, 3, 5f, and 8 of the Settlement Agreement. This guaranty shall be enforceable only by the Town and only (1) to the extent that the Town has sought and obtained a judgment against NCES and is not able to collect upon or otherwise enforce that judgment or (2) if the Town is unable, by action of law such as an automatic stay in bankruptcy, to commence or maintain an action against NCES for breach of such obligations.

CASELLA WASTE SYSTEMS, INC.

Date: 11/22/2011




Duly authorized

STATE OF Vermont
COUNTY OF Rutland

On this the 22nd day of November, 2011, before me, the undersigned officer, personally appeared John W. Casella, who acknowledged him/herself to be the Chairman & CEO of Casella Waste Systems, Inc., a Delaware Corporation, and that he/she, as such Chairman & CEO, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by him/herself as Chairman & CEO.

In witness whereof I hereunto set my hand and official seal



Notary Public/Justice of the Peace *my comm. expires 10/15*

SHELLEY S. ROGERS NOTARY PUBLIC STATE OF VERMONT
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