

HOST COMMUNITY AGREEMENT

This Host Community Agreement (“Agreement”), dated as of _____, 2020, is made between the Town of Dalton, New Hampshire (the “Town”) and Granite State Landfill, LLC (“GSL”) (together with the Town, the “Parties”).

Recitals

- A. GSL has an option to purchase land accessed by Douglas Drive (the “Option”) within the Town’s boundaries (the “GSL Parcels”). The GSL Parcels lie within an aggregation of approximately 1,976 acres of partially developed land owned by J.W. Chipping Corp. and Douglas Ingerson comprised of eight parcels located within the Town and two additional parcels, one each located in Whitefield and Bethlehem, New Hampshire.
- B. GSL was formed for the purpose of developing, and has begun state permitting for, a landfill with an estimated total footprint of approximately 136 acres (the “Landfill”) and related infrastructure on the GSL Parcels.
- C. GSL recognizes that municipalities that host regional waste disposal facilities have limited regulatory oversight of such facilities and can experience greater impacts than the other municipalities whose waste is disposed of at the facility.
- D. State and federal law impose strict requirements on landfills to prevent pollution of groundwater, surface water, and air and to mitigate noise, odor, visual impacts, and wildlife access; host municipalities nonetheless experience impacts such as increased truck traffic to and from the facility.
- E. GSL’s affiliated companies regularly enter into host community agreements with those municipalities in which their waste disposal facilities are located to provide financial benefits out of the facility’s revenue to offset any adverse impacts on the residents of those municipalities, to enhance predictability and mutual communication, and to give the host community contractual control over some aspects of the facility’s development and operation that they do not otherwise have under state law.
- F. For these reasons and to create a framework for a long-term relationship with the Town and its citizens, to minimize confusion, misunderstandings, and miscommunications, and for other good and sufficient reasons, the Parties have elected to enter into this Agreement.

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:

1.0 Definitions. As used in this Agreement, the following words have the meaning assigned to them in this Section 1.0:

(a) “Administrator” has the meaning set forth in Section 4.1.3 of this Agreement.

(b) “Commencement of Operation” means the date on which NHDES issues operating approval for the first cell of the Landfill.

(c) “CPI” means the Consumer Price Index for all urban consumers (CPI-U), Boston-Brockton-Nashua, MA-NH-ME-CT, as published by the United States Department of Labor, Bureau of Labor Statistics.

(d) “Exhaustion of Capacity” means exhaustion of all of the waste disposal capacity, measured in cubic yards, approved by NHDES on the GSL Parcels.

(e) “Force Majeure Event” means any act, event, or condition materially and adversely affecting the rights and obligations of GSL under this Agreement or GSL’s performance of or compliance with any material obligation, duty, or covenant under this Agreement, if such act, event, or condition is beyond the reasonable control of GSL, was not substantially caused by the willful or negligent act or omission of GSL (provided, however, that GSL’s decision to modify or cease operations in response to any such act, event, or condition shall not constitute such a willful or negligent act or omission), and GSL has been unable to avoid or overcome the act, event, or condition by the exercise of reasonably diligent efforts, and includes, without limitation: (i) an act of God, epidemic, pandemic, landslide, lightning, earthquake, fire, explosion, storm, flood, or similar occurrence; (ii) an act of public enemy, war, blockade, insurrection, criminality, 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, embargo, or similar industrial or labor action; (iv) a significant change in economic conditions; (v) an order, decree, judgment, or award (including, without limitation, a temporary restraining order, preliminary injunction, permanent injunction, declaratory judgment, or cease and desist order), enforcement action, or other act of any arbitrator or federal, state, county or local court, legislature, board, commission, administrative agency, or other governmental office or body; or (vi) adoption or change (including a change in interpretation or enforcement) of any federal, state, or local statute, rule, or ordinance or any common-law standard, rule, proposition, or principle, after the date of this Agreement.

(f) “GSL Tax Liability” means the amount paid by GSL to the Town in Property Tax (as calculated in accordance with Section 8.0 of this Agreement) in any calendar year.

(g) “Guaranteed Base Host Fee” means the amount of two million dollars (\$2,000,000.00) as modified, if applicable, under Section 4.3.1 of this Agreement and as adjusted annually in accordance with Section 4.3.2 of this Agreement.

(h) “Life of the Facility” has the meaning set forth in Section 2.1 of this Agreement.

- (i) "MSW" means ordinary, non-hazardous solid wastes generated within residences and Small Businesses in the Town. Without expanding the foregoing definition by implication, and for the avoidance of doubt, "MSW" does not include construction and demolition debris as defined by RSA 149-M:4, IV-a, manure as defined by RSA 149-M:4, XI, or any waste that NCES or GSL is prohibited from accepting by statute, rule, permit condition, or operating plan approved by NHDES.
- (j) "Net Host Community Benefit" means, for any calendar year, the Guaranteed Base Host Fee less the GSL Tax Liability in the previous calendar year.,
- (k) "NHDES" means the New Hampshire Department of Environmental Services.
- (l) "Permanent Shutdown" means a Shutdown that has resulted in the final closure and capping of the Landfill.
- (l) "Property Tax" means the ad valorem real property tax assessed by the Town on real property within its boundaries and includes town, county, and school district property tax.
- (m) "Residence" means a primary abode within the Town's boundaries inhabited by at least one Resident.
- (n) "Resident" means a natural person domiciled for the entirety of the Tax Year in the Town and at the same Residence.
- (o) "Shutdown" means any cessation of thirty or more consecutive days of acceptance of waste at the Landfill before the Exhaustion of Capacity as a result of a Force Majeure Event.
- (p) "Small Business" means a commercial enterprise or location requiring weekly pickup of no more than ten uncompacted cubic yards of MSW in totes or other container.
- (q) "Suspension Event" means a Shutdown or an event in which the Town or any of its land-use boards commences any challenge to GSL's right to operate or expand the Landfill on the GSL Parcels by cease and desist order, commencement of litigation, declaration of a Town board or enforcement officer, demand letter, appeal, or opposition to any permit or other approval sought by GSL. Such a challenge claiming only that GSL is in breach of this Agreement shall not be a Suspension Event.
- (r) "Tax Year" means the period beginning on April 1 of a calendar year and ending on March 31 of the following calendar year.
- (t) "Termination Date" means the date on which the Town receives written notice from GSL before Commencement of Operations that (i) it has terminated its option to purchase the GSL Parcels or (ii) it has permanently abandoned the permitting or development of the Landfill.

2.0 Free MSW and ZeroSort® Recyclables Pickup and Disposal.

2.1 Term; Curbside Pickup; Frequency. Beginning with the Commencement of Operation and, except for the duration of any Suspension Event, continuing until the earlier of the Exhaustion of Capacity or a Permanent Shutdown (such period, the “Life of the Facility”), GSL shall provide to all residents, non-industrial Small Businesses, and all Town-owned buildings within the Town curbside pickup and disposal of MSW and curbside pickup of commingled recyclables at no charge to the Town, non-industrial Small Businesses, or its residents. The frequency with which GSL will provide pickup services will be agreed upon from time to time with the Town, but GSL shall provide such services weekly unless the Town agrees to less frequent pickups after consultation with GSL. GSL shall, within 120 days of the Commencement of Operation and with their consent, undertake an audit of the wastes being generated by Small Businesses in the Town to determine the volume of wastes each Small Business generates and make recommendations for the future reduction, reuse, recycling, and other management of those wastes, including frequency of pickup.

2.2 Large Business and Industrial Generators. Nothing in this Agreement shall affect the obligation of commercial enterprises that are not Small Businesses or are industrial enterprises within the Town to provide, at their own cost, for the pickup and disposal of the wastes they generate. During the Life of the Facility, the Landfill will be available for disposal of acceptable wastes generated by such enterprises within the Town pursuant to the terms of such agreements as may be negotiated from time to time between any such enterprise and GSL.

3.0 Town Transfer Station.

3.1 Before Commencement of Operation. Beginning with the execution of this Agreement and, except for the duration of any Suspension Event, continuing until the Termination Date or Commencement of Operation, GSL will, through agreement with its affiliate North Country Environmental Services, Inc. (“NCES”) and at no charge to the Town or its residents or businesses, accept at the landfill operated by NCES in Bethlehem up to one thousand tons per year of MSW, construction and demolition debris, or a combination thereof, delivered by the Town and originating from the transfer station owned and operated by the Town for as long as the transfer station accepts MSW and construction and demolition debris only from town residents and businesses (such annual tonnage of such origination and subject to such conditions, the “Qualified Transfer Station Tonnage”).

3.2 After Commencement of Operation. Beginning with the Commencement of Operation and, except for the duration of any Suspension Event, continuing for the Life of the Facility, GSL will, at no charge to the Town or its residents or businesses, accept at the Landfill the Qualified Transfer Station Tonnage.

4.0 Host Community Compensation. The Town shall, within one year of the date of this Agreement, choose to receive financial compensation from GSL in the form of either a property tax reimbursement payment directly to its residents or a host community fee payment to the Town. The amount payable by GSL under this Section 4.0 together with the GSL Tax Liability shall not be less than the Guaranteed Base Host Fee.

4.1 Property Tax Reimbursement Option. If selected by the Town in accordance with Section 4.0 of this Agreement, GSL shall reimburse the Town's residents by check or direct deposit annually in arrears for the amount paid in Property Tax to the Town subject to and as specified in this Section 4.1 and its subsections. It shall be a condition precedent to the effectiveness of this Section 4.1 that legal counsel for the Town shall render a written legal opinion, reasonably acceptable to GSL and the Town, that this Section 4.1 is lawful and enforceable in accordance with its terms (the "Opinion"). If the Town's legal counsel cannot render the Opinion, GSL shall pay host community compensation in accordance with Section 4.2 of this Agreement until such time as the Town's legal counsel renders the Opinion and the Town notifies GSL in writing of its election to receive host community compensation in accordance with this Section 4.1.

4.1.1 Nature and Term of Reimbursement. Beginning with the Tax Year starting on the April 1 following the later of Commencement of Operation or GSL's receipt of the Opinion, and, except for the duration of any Suspension Event, continuing for each Tax Year during the Life of the Facility, GSL shall reimburse each Resident of the Town for the Property Tax paid to the Town on the Resident's primary Residence in that Tax Year; provided, however, that only one Resident per Residence shall be reimbursed by GSL for Property Tax paid in any Tax Year.

4.1.2 Rental Properties. Each Resident who rents his or her Residence shall be entitled to reimbursement of the Property Tax paid by the landlord on the Residence for the Tax Year as provided in Section 4.1.1. For any Resident whose Residence is one of two or more rental units on which the landlord pays Property Tax collectively, the Resident's reimbursement shall be the total Property Tax paid by the landlord on the multiple-unit property for the Tax Year divided by the number of units.

4.1.3 Appointment of Administrator. Within 90 days of the Commencement of Operation GSL shall designate one or more third parties reasonably acceptable to the Town selectboard to administer the reimbursements payable under this Section 4.1 (the "Administrator"). GSL shall enter into an agreement with the Administrator providing for reasonable compensation and reimbursement of reasonable expenses of administration. Upon designation of the Administrator, GSL's sole obligations under this Section 4.1 shall be to fund the reimbursements each year and to fill any vacancy in the position of Administrator with one or more third parties reasonably acceptable to the Town selectboard.

4.1.4 Reimbursement Procedure.

4.1.4.1 Documentation. To be eligible for reimbursement a Resident must present the Administrator with written proof of the amount and payment of the Property Tax on the Residence consisting of true copies of the December Property Tax bill and canceled checks, receipts, or other form of acknowledgment from the Town establishing payment of the Property Tax for the Tax Year. If the Resident rents his or her Residence, the Resident must certify in writing the number of rental units on the property for which the landlord paid Property Tax.

4.1.4.2 Application Window; Approval or Denial. To receive reimbursement pursuant to this Section 4.1 a Resident must submit an application on a form prescribed by the Administrator together with the documentation required by Section 4.1.4.1 at any time after payment of the December tax bill but no later than March 15 of the calendar year commencing January 1 of the Tax Year. Within 60 days of the Administrator's receipt of an application and required documentation the Administrator shall notify the Resident by email (or if no email address is provided, by U.S. Mail) whether the application has been approved or denied. An application may be denied only if the applicant fails to establish to the reasonable satisfaction of the Administrator that the applicant is a Resident and is otherwise qualified under this Section 4.1 for reimbursement or fails to provide the documentation required by Section 4.1.4.1. Review of a denial of an application shall be in accordance with Section 11.7 of this Agreement.

4.1.4.3 Processing of Reimbursements. No later than the July 15 following the March 15 deadline for reimbursement applications, the Administrator will provide GSL with a spreadsheet containing the name of each Resident whose application has been approved, the address of the Residence for which reimbursement has been sought, and the amount payable to the Resident under this Section 4.1, along with a total of the reimbursement due to all Residents for the preceding Tax Year (the "Total Reimbursement"). Within thirty days of GSL's receipt of the spreadsheet from the Administrator GSL shall wire the amount of the Total Reimbursement to the bank account of the Administrator, and the Administrator shall, within ten days, distribute payment to each Resident whose application was granted in accordance with Section 4.1.4.2.

4.1.5 Reimbursement Limit. GSL's obligation for reimbursement each calendar year under this Section 4.1 shall not exceed the Net Host Community Benefit. If the total of reimbursement claims approved by the Administrator for any Tax Year exceeds the Net Host Community Benefit, GSL shall pay the

amount of the Net Host Community Benefit to the Administrator as the Total Reimbursement for the Tax Year, and the Administrator shall distribute the proceeds to each eligible Resident pro rata in the proportion each Resident's approved reimbursement claim bears to the total of the reimbursement claims approved by the Administrator for the Tax Year.

4.2 Host Community Fee Option. If selected by the Town in accordance with Section 4.0 of this Agreement, beginning with the Commencement of Operation and, except for during a Suspension Event, continuing throughout the Life of the Facility, GSL will pay the Town a monthly host community fee in the amount of one-twelfth of the Net Host Community Benefit.

4.3 Adjustment of Guaranteed Base Host Fee.

4.3.1 Approved Capacity Adjustment. The Parties acknowledge and agree that the Guaranteed Base Host Fee is premised upon NHDES approval of the total and annual waste disposal capacities sought by GSL by application for a standard permit. If the amount of average annual disposal capacity approved by NHDES is less than the amount of average annual disposal capacity sought in GSL's permit application the Guaranteed Base Host Fee shall be reduced pro rata in the proportion that the average annual disposal capacity sought bears to the average annual disposal capacity approved by NHDES. The result of any such reduction under this Section 4.3.1 shall become the Guaranteed Base Host Fee for all purposes under this Agreement.

4.3.2 CPI Adjustment. The Guaranteed Base Host Fee shall be adjusted annually on each January 1st at the rate of increase of the CPI for November of the preceding calendar year, which is published in December of the previous calendar year but in no event will the Base Host Fee be increased more than three percent (3%) per year. If the Bureau of Labor Statistics should cease to publish such index in its present form or to calculate it on the present basis, then a comparable index or any index reflecting changes in prices determined in a similar manner shall be reasonably designated by the Parties as a replacement for the CPI.

4.4 Community Enhancement Projects.

4.4.1 Enhancement Fund. Beginning with the Commencement of Operation and, except for during a Suspension Event, continuing throughout the Life of the Facility, GSL shall provide funding of \$50,000 each year (the "Enhancement Fund") for projects approved at that year's town meeting that are designed to enhance the aesthetics of the Town or the health, safety, or welfare of the Town's residents. The Enhancement Fund shall be adjusted annually in the same manner as the Guaranteed Base Host Fee is adjusted under Section 4.3.2 of this Agreement. Any

portion of the Enhancement Fund not approved by the town meeting and paid by GSL in any year shall be carried forward and may be used in any subsequent year. The Enhancement Fund shall be separate from and in addition to the Guaranteed Base Host Fee.

4.4.2 Enhancement Fund Steering Committee. Within sixty days of the Commencement of Operation the Parties shall appoint a committee to identify projects that are eligible for funding from the Enhancement Fund each year and to make recommendations to the town meeting regarding which project or projects to fund (the "Steering Committee"). The Steering Committee shall be composed of one member selected by GSL and three members selected by the Town selectboard including one Resident, one owner of a business within the Town, and one representative from the Town's public safety departments. Any member of the Steering Committee appointed by the Town selectboard may be removed and replaced by the town meeting, provided that the replacement member must be qualified in the same manner set forth in this Section 4.4.2 as the member being replaced.

4.5 Property Value Protection Plan. At the written request of any Resident who, during the Life of the Facility, owns real property in the Town and is eligible because of the property's proximity to the GSL Parcels, GSL shall enter into an agreement to indemnify the Resident against any demonstrable diminution in the fair market value of such real property as a result of the presence or operation of the Landfill in the form of Attachment A to this Agreement.

4.6 Renewable Energy Income Sharing. If GSL develops any renewable energy project in association with the Landfill based on landfill gas production or thermal energy and receives an income stream in excess of its capital and operating costs for the project of at least twelve consecutive months from the project, GSL shall enter into an agreement with the Town pursuant to which GSL shall pay a percentage of that income to the Town on an annual basis and for as long as the income stream continues. GSL and the Town shall negotiate the terms of such agreement in good faith. The sharing provided for under this Section 4.6 shall survive the Exhaustion of Capacity but shall not survive a Permanent Shutdown.

5.0 Suspension of GSL's Obligations. GSL's obligations under this Agreement shall be suspended upon the occurrence of a Suspension Event and shall not resume until the Suspension Event is terminated. GSL's financial obligations under this Agreement shall be reduced pro rata in any calendar year by the ratio of the duration of a Suspension Event in days to the number of days in the calendar year. If GSL's financial obligations are suspended or reduced in accordance with this Section 5.0 for any reason other than a Shutdown and there is a final, unappealable court order holding that the Town's challenge on which the

Suspension Event was predicated is valid, GSL shall pay the Town the amount it withheld plus interest at the statutory rate.

- 6.0 Termination.** If at any time between the execution of this Agreement and the Commencement of Operation GSL shall, in its sole and absolute discretion, elect either to terminate its option on the GSL Parcels or to abandon the permitting or development of the Landfill permanently it shall notify the Town in writing. On the date on which the Town receives such notification from GSL (the “Termination Date”) the Parties’ rights and obligations under this Agreement shall terminate immediately.
- 7.0 Restrictions on Development.** GSL 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. GSL shall not expand the Landfill or develop or operate any other landfill capacity within the Town’s boundaries and outside of the GSL Parcels.
 - b. GSL shall not acquire any real property other than the GSL Parcels within the Town’s boundaries for the purpose of developing or operating a landfill on such property.
 - c. GSL 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 the GSL Parcels.
- 8.0 Valuation for Property Taxes.** The Town shall value the GSL Parcels, the Landfill, and any landfill infrastructure after the Ratification and Approval Vote in accordance with the methodology prescribed by the New Hampshire Board of Tax and Land Appeals in Docket Nos. 19709-02PT / 20384-03PT / 21064-04PT (the “BTLA Methodology”) for purposes of assessing Property Tax. The municipal portion of the GSL Tax Liability shall be paid by the Town to the Administrator each calendar year to the extent that the Net Host Community Benefit is less than the total of reimbursement claims approved by the Administrator for that year, and the Administrator shall distribute such proceeds to Residents pro rata as provided in Sections 4.1.4.3 and 4.1.5 of this Agreement.
- 9.0 Site Plan Review.** The Parties acknowledge that the Town has not adopted site plan regulations and agree that if the Town does adopt such regulations in the future they will apply prospectively and only to the extent the regulations are applicable to any use in the Town and do not conflict or interfere with NHDES regulation of the Landfill.
- 10.0 Waste Origination.** On average, measured over the Life of the Facility, at least fifty-one percent of the waste GSL accepts for disposal at the Landfill shall originate in New Hampshire.

11.0 Miscellaneous.

11.1 Invalidity; Severability. If the content or performance of any provision of this Agreement (a) is held invalid or unenforceable by any court of competent jurisdiction or (b) gives rise to any threat or commencement of a civil, administrative, regulatory, or criminal enforcement action, prosecution, or proceeding for the imposition of a fine, penalty, or other financial sanction by any duly constituted governmental authority against a Party, such provision shall be invalid and unenforceable, in which case 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.

11.2 Multiple Counterparts. This Agreement may be executed in identical counterparts, which shall constitute one agreement when signed by all of the Parties.

11.3 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.

11.4 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 Coos Superior Court. Each of the Parties agrees to submit to such jurisdiction for all purposes hereunder.

11.5 Representations. Each Party to this Agreement represents that the Party is duly authorized to execute this Agreement.

11.6 Fully Integrated Agreement. The Parties agree that this Agreement sets forth their entire agreement, superseding all prior negotiations and agreements, whether written or oral. There are no collateral or outside agreements of any kind between the Parties other than those expressly reflected herein.

11.7 No Third-Party Beneficiaries; Exception. This Agreement shall be enforceable by the Parties in accordance with its terms. Nothing in this Agreement shall be construed to create rights in any third party; provided, however, that any Resident shall have the right to challenge a denial of the Resident's application for Property Tax reimbursement before a retired justice of the New Hampshire Supreme or Superior Court acting as an arbitrator in

accordance with the provisions of GSL's agreement with the Administrator as provided in Section 4.1.4.2.

11.8 Headings. The use of headings for the sections and subsections of this Agreement are for convenience only, are not a substantive part of this Agreement, and are not indicative of the parties' intent or the meaning of the language of this Agreement.

12.0 Understanding of Agreement. THE PARTIES WARRANT THAT THEY HAVE READ THIS AGREEMENT, 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.

Granite State Landfill, LLC

Date:

By: _____
Its Authorized Representative

Town of Dalton

Date:

By: _____
Jo Beth Dudley, Chairman
Dalton Selectboard

Date:

By: _____
Carol Sheltry
Dalton Selectboard

Date:

By: _____
Tamela Swan
Dalton Selectboard

Approved as to Form:

Date:

By: _____
Walter L. Mitchell, Esq.
Attorney for the Town of Dalton