

**INTERLOCAL AGREEMENT BETWEEN  
CUMBERLAND COUNTY SOIL & WATER CONSERVATION DISTRICT  
AND  
TOWN OF BRUNSWICK**

This Interlocal Agreement (“Agreement”) is made this 19th day of April 2017, by and between the Cumberland County Soil & Water Conservation District, 35 Main Street, Suite 3, Windham, Maine 04062 (the “District”), an agency of the State of Maine, and the Town of Brunswick (the “Town”), a municipal corporation under the laws of the State of Maine, located in the County of Cumberland. The foregoing also are referred to herein collectively as the “Parties” or singly as “Party.”

**WHEREAS**, State law encourages the development of regional coalitions of local governments in order to establish efficient and effective delivery of municipal services, and the Town wishes to engage the District to provide supplemental engineering services and environmental services to assist and supplement the work of the Planning and Development Department staff.

**WHEREAS**, the District, under 12 M.R.S.A. §6 *et. seq.*, is an agency of the State and a public body corporate and politic, exercising public powers including, without limitation:

- “To carry out preventive and control measures and works of improvement for flood prevention, or the conservation, development, utilization and disposal of water within the District, including, but not limited to, engineering operations...changes in use of land... [and more].”
- “To cooperate, or entering into agreements with, and within the limits of appropriations or other funds duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the District, in the carrying on of erosion control and prevention operations and works of improvement for flood prevention and the conservation, development, utilization and disposal of water within the District.”

**WHEREAS**, Maine statute clearly states:

- 30-A M.R.S.A. §2201 *et. seq.* “It is the purpose of this chapter to permit public agencies of the State or any adjoining state, including but not limited to municipalities, counties and school administrative units, and federal agencies and Indian tribes and their political subdivisions to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby to provide services and facilities within the State in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of communities.”
- 30-A M.R.S.A. §2203 *et. seq.* “Any power or powers, privileges or authority exercised or capable of exercise by a party to an agreement under this chapter may be exercised and enjoyed jointly or cooperatively with any other party to the extent that federal laws, when applicable, permit the joint or cooperative exercise. When acting jointly or cooperatively with any party, any agency of State Government may exercise all of the powers, privileges and authority conferred by this chapter upon a public agency.”

**WHEREAS**, the District maintains professional staff with expertise in engineering and planning; water and natural resource management; regulatory assistance and permitting; watershed and stormwater management, including restoration and protection projects; science-based education & outreach and public involvement to assist and supplement the Town’s services. The District has entered into similar interlocal agreements for technical assistance with most of the municipalities within Cumberland County;

**WHEREAS**, the District has provided mutually beneficial services since 1946 and continues to recognize the need for close working relationships that allow joint “solutions of problems relating to the planning and development of the resources of the Town” as codified in our effective Memorandum of Understanding (“MOU” dated July 1972) between the District and the Town. This MOU is attached as **EXHIBIT A** and accurately outlines the parties’ mutual roles and responsibilities as follows::

- District provides services to:
  1. “Interpret soil surveys for urban and industrial development, recreation, agriculture and forestry uses of land within the Municipality.”



2. “Analyze water disposal, drainage, erosion, sediment, flood problems, and recommend remedial measures.”
  3. “Provide opinions on problems covered in Item #2 that may develop due to rapid urbanization and land use changes and recommend planned action.”
  4. “Review engineering survey data of soil and water conservation practices to insure adequacy for design purposes.”
  5. “Provide design criteria and make recommendations on installation of conservation project measures.”
  6. “Check adequacy of designs of soil and water conservation treatments.”
  7. “Assist in conducting inventories of resources.”
  8. “Provide planning and development services for the future long range development of greenbelts and park areas.”
  9. “Using soil suitability as a guide, identify alternate land areas for development project such as school sites, industrial parks, housing developments, solid waste disposal areas, sewage lagoons, septic sewage fields, and others.”
  10. “Identify land areas with severe limitations for housing developments.”
  11. “Counsel with planning boards and planning consultants on the Town’s objectives for long range development.”
  12. “Review proposed recreation, industrial or residential development plans and provide recommendations on water control and disposal, sediment control, waste disposal, beautification and other measures which insure proper land and water use.”
- The Town will:
    1. “Observe principles of sound soil and water conservation giving consideration to the need for water disposal and drainage, erosion control measures, stabilization of sediment producing areas, proper disposal of pollutants, and beautification.”
    2. “Consult with the District in the development of future plans concerning long range development of the Town and use the information and services made available by the District in preparing plans.”



3. “Refer to the District proposed future urban and rural development projects for review and technical opinion on the effect the projects may have on the land use, the soil and water problems that may develop and the measures that may be needed to alleviate them.”
4. “Be responsible for the adoption of those recommendations made by the District which is acceptable to the Town and in compliance with their ordinances.”
5. “Furnish field surveys, proposed layouts, design or additional field data needed for adequate checking of proposed developments.”

**WHEREAS**, it will be to the advantage of both Parties for the District to provide technical assistance and supplemental support to the Town, their applicants and other associated parties (e.g., partners, developers, etc.) to cost-effectively support the Town’s staff and municipal services offered.

**NOW THEREFORE**, in consideration of these covenants herein, the Parties do agree as follows:

1. This Agreement is an interlocal cooperation agreement pursuant to 30-A M.R.S.A. §2201-2203 *et. seq.* for the purpose of cooperation in the performance of erosion control and prevention operations and works of improvement for flood prevention, and the conservation, development, utilization and disposal of water on a fee-for-service basis on the terms and conditions set forth in this Agreement. The District and the Town will work collaboratively and cooperatively towards this end.
2. The specific terms and conditions of this Agreement are as follows (in accordance with the format provided in 30-A M.R.S.A. §2203 governing Interlocal Cooperation):

**A. *Its duration***

The term of this Agreement shall commence upon execution and shall continue for the duration of five years, and shall renew automatically for subsequent terms of five years unless a Party non renews or sooner terminates its participation under this Agreement as provided in Section 2.E below.

**B. *The precise organization, composition and nature of any separate entity created by the agreement***



No separate entity will be created by this agreement.

***C. Its purpose***

The purpose of this Agreement is to allow the Parties to cooperate in the delivery of efficient and effective services to assist and supplement the work of Town Planning and Development Department staff. The services to be provided by the District to the Town directly, or indirectly to their applicants and partners, may include (but not be limited to):

- Review of Site Plans and Subdivision Plans submitted to the Town to determine if plans meet applicable provisions of the Zoning Ordinance or other related codes as applicable. The District will summarize findings in written reports to Town staff, planning board, and others.
- Conduct assessments of natural resources, such as the Mare Brook stream corridor where numerous studies have already been completed. The District will synthesize the existing data and conduct supplemental studies to support the Town in updating ordinances.
- Provide proactive support with stormwater management in advance of the expansion of the Clean Water Act permit known as the Municipal Separate Storm Sewer System (MS4) permit that requires systematic mapping, inspection, and management of the Town’s stormwater infrastructure and conveyances.
- Preparation and other assistance with grant requests, bid specifications or contracts for municipal or regional improvements related to soil and water conservation.
- Provide other services that may:
  - Supplement the work of the Town’s Planning and Development Department staff, which may include support for a comprehensive review of ordinances to support water quality improvements Town-wide; and
  - Assist in the carrying on of erosion control and prevention and works of improvement for flood prevention and the conservation, development, utilization and disposal of water from both a restoration and protection perspective.

***D. The manner of financing and establishing/maintaining a budget***



- **COMPENSATION:** The Town shall compensate the District for time spent in the performance of services and for materials provided under this Interlocal Agreement in accordance with the District's rates as attached to this contract as **EXHIBIT B**. The District's rates shall be adjusted annually during the term of this contract; such change will be provided to the Town in May of each year and shall be effective July 1 of each year.
- **SCOPE:** Each scope of work shall be defined for each project undertaken by the District through TASK ORDERS prepared and issued to the District by the Town that shall be substantially in the form attached as **EXHIBIT C**. TASK ORDERS shall also establish a task budget; the District will provide a scope of work and estimated budget for each TASK ORDER. Adjustments to the TASK ORDER scope or budget shall be accomplished by the Town and the District agreeing in writing to amend the TASK ORDER. The District shall notify the Town when eighty percent (80%) of the TASK ORDER budget has been expended.
- **PAYMENT:** The District shall submit monthly invoices to the Town for each project. Payment shall be made to the District within thirty (30) days of the invoice date. The Parties agree to communicate proactively and amicably on any concerns or disputes, and participate in good faith negotiations to resolve any dispute.

***E. The method to terminate the Agreement and dispose of property upon termination***

As stated in Section 2.A above, any Party may nonrenew or terminate its participation under this Agreement upon sufficient advance written notice as provided herein. Said notice of nonrenewal termination shall be provided to each party as referenced above at least eighteen (18) months prior to the July 1 start of the fiscal year for which the termination will take effect.

Notwithstanding a Party's nonrenewal or termination, the nonrenewing or terminating Party shall continue to be liable for its share of all costs incurred hereunder prior to the effective date of the terminating Party's termination until such liabilities are paid in full.

No property is anticipated to be acquired under this Interlocal Agreement, therefore, disposal of property upon termination of this Agreement by all Parties is not anticipated at this time.

3. Because this Agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the following additional items apply:



***A. Administrator or joint board responsible for administering the joint or cooperative undertaking.***

The Town and the District shall each identify a representative to be the administrator of this agreement. Each representative will have the authority to enter into agreements on behalf of their respective organizations.

***B. Manner of acquiring, holding, disposing of real and personal property used in the joint or cooperative undertaking***

No property is anticipated to be acquired.

4. **Responsibility.** This Agreement does not relieve either Party of its obligation or responsibility imposed by law. However, this performance may be offered in satisfaction of the obligation or responsibility of each Party.
5. **Liability and Indemnification.** Each Party shall defend, indemnify and hold each and every other Party hereto harmless from any claim, cause of action, liability or expense, including without limitation, costs and reasonable attorney's fees, arising out of or resulting from the error, act or omission of the indemnifying Party's officers, agents or employees. This section shall not be interpreted to waive the monetary limits or substantive areas of immunity under the Maine Tort Claims (14 M.R.S.A. § 1801 et. seq.) or any other immunities or defenses under the Act or other applicable law.
6. **Insurance.** Each Party shall maintain insurance, or provide through self-insurance, comprehensive general liability and automobile insurance coverage in the minimum amount of Four Hundred Thousand Dollars (\$400,000) or such other amount as may be required under the Maine Tort Claims Act, and shall insure or self-insure its employees for workers compensation claims.
7. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties. If any clause, section or provision is held to be invalid or unenforceable, that shall not affect the validity of the remainder of the Agreement and the Parties agree to meet and negotiate a new clause, section or provision. Amendments to this Agreement shall be in writing and executed by both Parties. This Agreement shall be governed solely by the laws of the State of Maine.



**8. Authority.** By executing this Agreement, each Party warrants that the representative signing below has been duly authorized by all appropriate actions of that Party's governing body to enter into and execute this Agreement, and that this Agreement represents a legal, valid and binding obligation of each Party, enforceable upon it in accordance with its terms and by application of equitable principles if equitable remedies are sought, except as enforceability may be limited by applicable bankruptcy or similar laws.

**WITNESSETH,** that this Interlocal Agreement is made this 19<sup>th</sup> day of April 2017 by and between the Town and the District.

**Authorized Representative for Cumberland County Soil & Water Conservation District**

Signature: *Carol Anne Jordan*  
Representative: Carol Anne Jordan  
Title: Chair, Board of Supervisors  
Date: May 7, 2017

**Authorized Representative for the Town of Brunswick**

Signature: *John S Eldridge*  
Representative: JOHN S ELDRIDGE (print name of signatory)  
Title: TOWN MANAGER (print signatory's title)  
Date: 5/8/17



**EXHIBIT B - Compensation**  
**Cumberland County Soil & Water Conservation District**  
**FY17 FEE SCHEDULE**  
Last updated: 2/1/2017

**PERSONNEL**

Hourly rates for each member of our staff are presented below. Primary staff designated to work on each project will be indicated with an asterisk (\*) below or specified in our scope of work.

<b>Education &amp; Outreach Team</b>		
Education & Outreach Manager	Jami Fitch	\$85.65
Municipal Outreach Coordinator	Jodie Keene	\$71.37
Education & Outreach Coordinator	Kat Munson	\$50.81
Educator & Technical Specialist	Jenna Martyn-Fisher	\$44.15
<b>Technical Team</b>		
Stormwater Manager/ District Engineer	Aubrey Strause	\$108.59
Fluvial Geomorphologist/ District Engineer	Troy Barry	\$101.87
Assistant District Engineer	Adam Sellick	\$61.82
Project Manager	Heather True	\$75.44
Watershed Specialist	Scott Reynolds	\$71.37
Technical Specialist	Heather McNally	\$68.04
Watershed Analyst/Planner	Damon Yakovleff	\$59.68
Program Director	Robyn Saunders	\$126.55
<b>Finance &amp; Administration Team</b>		
District Manager	Betty McInnes	\$78.96
Project Administrator	Chris Brewer	\$75.76
Administrative Intern		\$32.36

**DIRECT EXPENSES**

At cost (no markup)

**TRAVEL/MILEAGE**

\$0.52/mile

**TERMS**

All accounts are net due and payable within 30 days of the invoice date. A service charge of 1.5 percent per month (18% APR) will be charged to all accounts over 30 days.

Make checks payable to:  
CCSWCD



**EXHIBIT C – Task Order**

Town of Brunswick  
 TASK ORDER # \_\_\_\_

**Issued Pursuant to the  
 INTERLOCAL AGREEMENT**

**Executed By and Between**  
 Town of Brunswick and Cumberland County Soil & Water Conservation District

This Task Order is issued pursuant to, and in accordance with, the terms of the Interlocal Agreement (the “IA”) entered into by and between the Town of Brunswick, a municipal corporation, with a mailing address of 28 Federal Street, Brunswick, ME 04011, (hereinafter called the "TOWN"), and Cumberland County Soil & Water Conservation District, a quasi-municipal corporation, with its principal office located at 35 Main Street, Suite 3, Windham ME 04062 (hereinafter called "DISTRICT").

<b>Task Name:</b>		<b>Estimated Budget:</b>	\$ _____
<b>Start Date:</b>		<b>Completion Date:</b>	
<b>Scope of Work:</b>			

Terms and Conditions: All the terms and provisions of the IA are incorporated herein by reference and made a part hereof this TASK ORDER.

CUMBERLAND COUNTY SOIL & WATER  
 CONSERVATION DISTRICT

TOWN OF BRUNSWICK

By: \_\_\_\_\_  
 Robyn Saunders, Program Director

By: \_\_\_\_\_  
 Anna M. Breinich, Director  
 Department of Planning & Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

