

INTERLOCAL COOPERATION AGREEMENT
FOR LAKE AUBURN WATERSHED PROTECTION

THIS AGREEMENT IS ENTERED INTO as of the 29th day of June, 1993, by and among the Trustees of the Auburn Water District ("Auburn Water District"), the City of Lewiston ("Lewiston"), and the Inhabitants of the Town of Turner ("Turner"), for the purpose of cooperating for the purpose of assuring the protection and control of the Watershed of Lake Auburn.

WITNESSETH THAT:

WHEREAS, Maine law permits municipalities to enter into interlocal cooperation agreements to make the most efficient use of their powers and to cooperate with other municipalities or political subdivisions on a basis of mutual advantage, in order to provide services and facilities 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 local communities; and

WHEREAS, Lake Auburn is a great pond located within the city limits of the City of Auburn which, by rights created under specific Legislative grant, serves as the public drinking water supply for the Cities of Lewiston and Auburn; and

WHEREAS, the Lake Auburn Watershed covers approximately 15.31 square miles, and portions of the Watershed are located in the City of Auburn, and in the Towns of Turner, Minot, Hebron, and Buckfield; and

WHEREAS, land uses and activities within any part of the Watershed could have an effect on the Watershed and on the purity of the water within Lake Auburn, with a corresponding effect on the drinking water supply of the Cities of Auburn and Lewiston; and

WHEREAS, the United States Environmental Protection Agency has published rules and regulations, pursuant to the Safe Drinking Water Act, requiring all public drinking water supplies from surface waters to be filtered, and the Auburn Water District and City of Lewiston each individually has filed for an exception to the filtration requirement to the State of Maine Division of Health Engineering, acting on behalf of the United States Environmental Protection Agency, under rules and provisions of the Safe Drinking Water Act; and

WHEREAS, land use control measures within the Watershed are essential to securing the exception and maintaining it, if it is granted, and also to protecting

and preserving the purity of the water of Lake Auburn whether or not an exemption is granted; and

WHEREAS, each of the Auburn Water District and the City of Lewiston owns and maintains land within the Lake Auburn Watershed; and

WHEREAS, the citizens and water consumers in Auburn and Lewiston could have to bear the cost of meeting filtration requirements (presently estimated at more than \$20,000,000 initially and \$1,500,000 to \$2,000,000 on an annual basis) if the exception to filtration cannot be obtained and maintained; and

WHEREAS, a professional study jointly undertaken by the Auburn Water District and the City of Lewiston has concluded that an exception to filtration can be granted and maintained under certain conditions and with certain watershed protection measures in place, including a recommendation from said study that an agency or entity be created to administer Lake Auburn Watershed protection; and

WHEREAS, the parties to this Agreement agree that it is in their mutual best interests that an appropriate entity be created to assist in the management and protection of the entire Watershed, in the best interests of the citizens of all of the affected political subdivisions, and in order to provide an effective mechanism for cooperation of the local governmental entities involved in order to avoid uneconomic dupli-

cation of effort and unilateral action by any political subdivision.

NOW, THEREFORE, pursuant to the authority granted by 30-A M.R.S.A., Chapter 115, and every other legal authority, and in consideration of their mutual undertakings set forth herein, the parties hereby agree as follows:

1. Creation of Lake Auburn Watershed Protection Commission. By entering into this Agreement, the parties hereto agree to create, and do hereby create, the entity to be known as the Lake Auburn Watershed Protection Commission ("Commission"), for the purposes set forth below:

- a. To maintain safe and healthful environmental conditions within the Lake Auburn Watershed;
- b. To prevent and control water pollution;
- c. To protect and maintain the present quality and volume of potable water supplied from the Lake Auburn Watershed;
- d. To review current and allowable land uses in the entire Watershed area and any existing regulations, ordinances, or policies with respect thereto
- e. To review proposed rules, ordinances, regulations, and policies to be developed in the future;
- f. To adopt and implement Watershed protection, management, and restoration projects, plans, and programs;
- g. To act on behalf of the parties to this Agreement in implementing ordinances, rules, regulations, programs and policies;

- h. To take and hold title to land within the Watershed solely for Watershed protection purposes; and
- i. To receive and administer funds from any source to carry out its purposes as aforesaid.
- j. To take, prosecute, and resolve legal actions to enforce the provisions of laws and regulations relating to watershed and drinking water protection.

In furtherance of these purposes, the Commission may do any other acts or provide any other services that the Commission may deem necessary or helpful in order to more fully accomplish its intended goals and purposes as set forth in this Agreement, subject to the limits of its legal authority and to the reservation by all of the parties to this Agreement, except as expressly provided herein, of their respective legal powers and authorities with respect to the Watershed.

2. Duration. This Agreement shall be of indefinite duration, provided that either Lewiston or the Auburn Water District may terminate this Agreement due to its material breach by the other not cured within ninety (90) days after written notice to the other party and the Department of Human Services addressed to the Program Manager, Drinking Water Program, Department of Human Services, State House Station 10, Augusta, Maine, 04333.

3. Organizational Matters. The Commission shall be administered by a nine-member Board composed of (a)

three members appointed by the Auburn Water District (one of whom, but only one, shall be a Trustee of the Auburn Water District), (b) three members appointed by the City of Lewiston (one of whom, but only one, shall be a Lewiston City Councilor), (c) one member appointed by the municipal officers of the Town of Turner to represent the Town of Turner, (d) one member appointed by the municipal officers of the Towns of Minot, Hebron and Buckfield to represent the Towns of Minot, Hebron, and Buckfield, and (e) one member designated by the Androscoggin Valley Council of Governments (AVCOG), who shall be its Executive Director or an employee of AVCOG designated by its Executive Director. The member representing the Towns of Minot, Hebron and Buckfield shall be appointed for a one-year term, on a rotating basis unless otherwise agreed by the municipal officers. The terms of the other members of the Board shall be three years, provided, however, that the Auburn Water District and the City of Lewiston shall appoint the initial three Board members subject to their appointment for staggered terms of one, two, and three years respectively so that each of the Auburn Water District and City of Lewiston shall be required to appoint only one Board member in each year. Members appointed to represent one or more Towns shall be elected or appointed officials thereof.

4. Finance. The annual operating costs and annual

operating budget for the Commission shall be developed by the Board and approved by the Auburn Water District and City of Lewiston. The costs of funding the budget (to the extent that revenues therefor are not provided by third-party sources) shall be borne by the Auburn Water District and by the City of Lewiston. The funds required to support the budget shall be assessed by the Board annually and apportioned equally between the Auburn Water District and the City of Lewiston. The annual budget shall be prepared and adopted by the Board of the Commission prior to December 1 of each calendar year and submitted to the Auburn Water District and the City of Lewiston for their review and approval. The fiscal year of the Commission shall be the calendar year. Its budget shall include all funds estimated to be necessary for land acquisition, water quality monitoring, watershed management and protection activities, inspection, and enforcement of watershed protection measures and regulations and associated administrative and professional costs.

5. Unexpected or Unanticipated Costs. In case of unexpected or unanticipated costs, the Board of the Commission may propose revisions or supplements to the budget for the review and approval of the Auburn Water District and the City of Lewiston.

6. Exercise of Powers. The Board shall administer the Watershed protection measures entrusted to the

Commission or adopted by it. A majority of the Board shall constitute a quorum for the transaction of business, and a majority vote of such quorum shall be sufficient for valid action by the board. The Board shall annually appoint a chairman, vice chairman, and secretary, and such other officers or committees as the Board shall deem expedient to the efficient conduct of its affairs. Without limiting the generality of the purposes set forth herein, the Board shall have the power to enter into contracts and agreements for the provision of consulting and other services and to acquire, hold, manage, and dispose of real and personal property as it sees fit in order to carry out the purposes of the Commission, subject to the approval of its budget and the other limitations set forth herein.

7. Limitations. Notwithstanding any other provision of this Agreement to the contrary, no essential Legislative powers, taxing authority, or eminent domain power is or may be construed as having hereby been delegated to the Commission by any of the parties to this Agreement. The Auburn Water District pledges, covenants, and agrees, however, to consider recommendations from the Commission and also to exercise its regulatory authority over the Lake and the watershed pursuant to its Charter and law and to enact, amend, or repeal those lawful by-laws, regulations, orders, or ordinances in such manner and to such extent as is

required or advisable to control and protect the watershed or waters of Lake Auburn in order for both parties to maintain their exemptions from filtration requirements under the surface water treatment rules adopted under the Safe Drinking Water Act in accordance with the compliance agreement and order between each party and the Maine Department of Human Services and the United States Environmental Protection Agency, provided that it is indemnified by the Commission from and against all expense connected therewith whenever acting in accordance with the request of the Commission. Except as expressly provided in this Agreement, the District reserves unto itself the sole and exclusive right to exercise its own legal powers, responsibilities, and prerogatives, and to enact ordinances, rules, regulations, and by-laws with respect to the protection and management of the Watershed of Lake Auburn.

8. Effectiveness of Agreement. This Agreement shall not be effective until approved by all of the parties hereto and filed with the Clerk of each municipality, the Superintendent of the Auburn Water District, the Maine Secretary of State, and the Androscoggin and Oxford County Registries of Deeds.

9. Dissolution of Commission. Upon the termination of this Agreement pursuant to paragraph 2 above, , or upon the vote of both the Auburn Water

District Board of Trustees and the Lewiston City Council, the Commission shall be terminated and dissolved by operation of law. On the date of such termination and effective as of said date, all real and personal property owned by the Commission shall, to the extent acquired by the Commission from a party to this Agreement, revert to the party to this Agreement from whom it was originally acquired, and if acquired by the Commission from a third party shall be transferred to the City of Lewiston and the Auburn Water District as tenants in common each holding an undivided one-half interest in common, subject in every case to the restriction that all said real property is to be held solely for the purpose of protecting the watershed and the purity of Lake Auburn.

10. Transfer of Property. Upon the effective date of this Agreement, the Auburn Water District and the City of Lewiston shall transfer to the Commission all real property within the Lake Auburn Watershed owned by them in common or owned solely by either party by a validly executed, acknowledged, and delivered deed in recordable form, but solely for the purpose of protecting the watershed and the purity of Lake Auburn. Each party shall reserve the right to continue and maintain its separate water pumping and distribution facilities located within the watershed on lands conveyed to the other party or to the watershed

protection commission, including without limitation pump stations, water distribution lines, the residence at the pump station, and chemical treatment facilities. In case of dissolution of the watershed protection commission, any conveyance back to the parties of lands acquired from them or from others by the commission shall be subject to the restrictions set forth in paragraph 9 of this Agreement.

11. Powers. Without limiting the generality of the foregoing, but consistent with the limitations expressed herein, the Commission shall have the following powers:

- a. To employ counsel and to initiate appropriate legal action, including petitioning for intervenor status in appropriate matters;
- b. To make contracts and to require that any contracting party give adequate security to assure performance of the contract, and to pay all damages which may arise from inadequate performance;
- c. To apply for grants and to accept gifts or donations;
- d. To acquire, hold or dispose of real and personal property by purchase, lease, devise or otherwise;
- e. To disburse money;
- f. To assist in the enforcement of existing local and state land use laws and ordinances for Watershed protection purposes;
- g. To adopt such rules and regulations, after due notice and public hearing, governing its procedures as it deems necessary or expedient to carry out the purposes of this Agreement, including but not limited

to, the conduct of meetings, the issuance of decisions, the adoption, amendment, and interpretation of Watershed boundaries, review of development applications, plans, and engineering analyses, the adoption and amendment of a schedule of fees, the adoption and amendment of procedures, and other policies in furtherance of its Watershed protection responsibilities;

- h. To adopt and implement Watershed protection, management, and restoration projects, plans, and programs;
- i. To act on behalf of the parties to this Agreement in implementing ordinances, rules, regulations, programs and policies.
- j. To receive and administer funds from any source to carry out its purposes as aforesaid.
- k. To take, prosecute, and resolve legal actions to enforce the provisions of laws and regulations relating to watershed and drinking water protection.
- l. To do such other acts as may be necessary or expedient to carry out the purposes and objectives set forth in this Agreement.

By entering into this Agreement, the Auburn Water District does hereby delegate to the Commission concurrent authority to enforce any provision of state or local law, regulation, by-law, or ordinance relating to the watershed and the purity of the waters of Lake Auburn.

12. Conflicts of Interest. No member of the Board of the Commission may be employed for compensation or in any other capacity by the Commission.

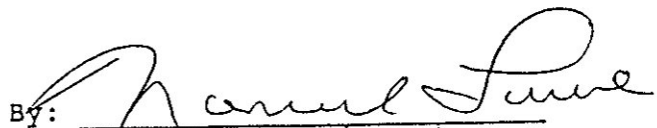
13. Binding Effect. This Agreement is binding on the parties and their respective successors and assigns.

14. Amendment. This Agreement may not be amended except by a written instrument validly entered into and executed as provided herein for the execution of this Agreement initially and approved by the Maine Department of Human Services.

15. Severability and Enforcement. It is intended that this Agreement be enforced fully and in accordance with its terms. If and to the extent that any term or provision of this Agreement is found to be void or unenforceable by a court of competent jurisdiction, then it is the intent of the parties that the Agreement be reformed if possible in order to carry out its purposes and that any other provisions remain in full force and effect as severed from the void or unenforceable provisions hereof. This Agreement shall be interpreted and construed so as to achieve its purposes.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives pursuant to due legal authorization and authority as of the day and year first above written.

AUBURN WATER DISTRICT

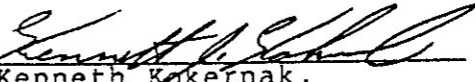
By: 

Normand R. Lamie, Its
Superintendent and
General Manager

CITY OF LEWISTON

By: 
Robert J. Mulready,
City Administrator

TOWN OF TURNER

By: 
Kenneth Kokernak,
Town Manager

BMD/pmc:Aubwater(.A18)
Draft 06-18-93