



Memorandum

DATE: January 9, 2025
TO: Chairman and Members of the Board
FROM: Kevin H. Roche, CEO/General Manager
SUBJECT: **Agenda for the Board of Directors Meeting**

There is an **ecomaine** Board of Directors Meeting scheduled for **Thursday, January 16, 2025 @ 4PM**. The meeting will be held at **ecomaine**. The agenda for this meeting is as follows:

1. Approval of the Minutes (*Attachment A*)
2. Outreach & Recycling Committee Report – Caleb Hemphill, Chair
3. Finance & Audit Committee Report – Michael Foley, Chair
4. **Environmental Presentation** – Anne Hewes, Environmental Manager
5. New Member Communities – Draft Agreements
 - Joinder Agreement (*Attachment B1*)
 - Addendum to Interlocal Agreement (*Attachment B2*)
 - Waste Handling and Recycling Agreement (*Attachment B3*)
6. Manager's Report:
 - Update – New Materials Recycling Facility (MRF)
 - Update – Recycling Markets (*Attachment C*)
 - Update – Extending the Leachate Transport Agreement with Kimberly – Clark Corp.

Finance Report – FY 25 – (Year to Date): (Provided under separate cover)

- Financial Summary
- Tonnage Summary
- Statistical Data
- Statement of Revenue & Expenses
- Statement of Cash Balances
- Summary Analysis of All Tons
- Electrical Generation

7. Other Business:

Future Committee Meetings:

Outreach & Recycling Committee	02-13-2025 @ 3pm
Executive Committee	02-13-2025 @ 4pm
Full Board of Directors	03-20-2025 @ 4pm
Finance & Audit Budget Review	03-27-2024 @ 4pm
Outreach & Recycling Committee	04-10-2025 @ 4pm
Full Board of Directors	04-17-2025 @ 4pm
Finance & Audit Committee	05-15-2025 @ 3pm
Executive Committee	05-15-2025 @ 4pm
Outreach & Recycling Committee	05-22-2025 @ 4pm

Annual Board of Directors Meeting 06-18-2025 @ 11:00am

The Full Board or the Executive Committee may wish to go into Executive Session for any of the above items under Section 405 of Title 1 of the Maine Revised Statutes ([per the following legislative website: http://janus.state.me.us/legis/statutes/1/title1ch13sec0.html](http://janus.state.me.us/legis/statutes/1/title1ch13sec0.html)) 1/10/2025



Memorandum

DATE: December 26, 2024
TO: Chairman and Members of the Board
FROM: Kevin H. Roche, CEO/General Manager
SUBJECT: **Full Board of Directors Meeting – Minutes**

(Attachment A)

There was an **ecomaine** Board of Directors Meeting held on December 19, 2024. The meeting was called to order by Erik Street, Chair.

Item 1: **Approval of Minutes:**

Troy Moon motioned to approve the minutes from October 17, 2024, Board Meeting. The motion was seconded by Tony Ward. All in favor.

Item 2: **Executive Session Pursuant to 1 M.R.S.A. Sec. 405(6)(E):** for consultation between the Board and its attorney concerning potential litigation, where premature general knowledge would clearly place ecomaine at a substantial disadvantage within the contemplated litigation. (Motion to go into Executive Session indicating precise nature of the business of the Executive Session required).

Troy Moon motioned to Enter Executive Session for consultation. Matthew Frank seconded the motion. All in favor.

Anne Bilodeau motioned to Exit Executive Session. Mike Murray seconded the motion. All in favor.

Item 5: **Executive Session Pursuant to 1 M.R.S.A. Sec. 405(6)(C):** Approval of Resolution Authorizing Project Cost Increases for the new MRF (Recycling Facility) and Landfill (**Attachment B**) – Discussion or consideration of the condition, acquisition or the use of real or person property permanently attached to property or interest therein or disposition of publicly held property or economic development only if premature disclosure of information would prejudice the competitive or bargaining position of the body or agency.

Bob Burns motioned to Enter Executive Session on Approval of the Resolution Authorizing Project Cost Increases. Linda Cohen seconded the motion. All in favor.

Troy Moon motioned to Exit Executive Session on Approval of the Resolution Authorizing Project Cost Increases. Caleb Hemphill seconded the motion. All in favor.

Rod Regier motioned to support the resolution authorizing the additional project costs as reflected in the Resolution (**Attachment B**). Steve Kelly seconded the motion. All in favor.

Item 6: **City of Sanford – Discussion on Ownership into ecomaine**

Kevin Roche (Staff) provided an update on York County Communities looking at ownership opportunities. He noted that 12 communities are looking at membership with ecomaine. The City of Sanford, The Town of the North Berwick have notified ecomaine of their interest in moving forward to become an owner community.

Kevin identified the necessary steps which includes drafting of three agreements, an Interlocal Agreement, a Waste Handling Agreement and a Joinder Agreement, the by-laws will also need to be amended. He reviewed what bringing on the communities would look like and provided information on what makes these communities different. There would be no requirement for commercial tons, the tonnage would be residential waste and recycling only. There was a lengthy discussion.

Troy Moon motioned to proceed with drafting agreements and authorized the executive director to proceed with negotiations with communities interested in coming to ecomaine. Terry Deering seconded the motion. All in favor.

Item 7: **Managers Report**

Kevin Roche briefed the board on the extension on the proposed changes on MACT rules until December 22, 2025. There was a brief discussion.

Due to time constraints, no other agenda items were discussed.

Adjourn: Linda Boudreau motioned to adjourn. Troy Moon seconded the motion. All in favor.

Present: Dennis Abbott, Lisa Belanger, Anne Bilodeau, Linda Boudreau, Bob Burns, Carrye Castleman-Ross, Linda Cohen, Terry Deering, Dave Durrell, Matthew Frank, Jim Gailey, Caleb Hemphill, Steve Kelley, Troy Moon, Mike Murray, Rod Regier, Heidi Roberts, Erik Street, Matthew Sturgis, Tim Thompson & Tony Ward

Guest: Erica Johanson, Attorney – Jensen Baird

Staff: Mark Dolloff, Jamie Garvin, Wei Huang, Greg L’Heureux, Zoe Malia, Denise Mungen, Kevin Roche, Julian Sellers & Kevin Trytek

JOINDER AGREEMENT

THIS AGREEMENT made as of the ___ day of _____ 2025, by and between **ECOMAINE**, a Maine non-capital stock, nonprofit, quasi-municipal corporation (“**ecomaine**”) and the **CITY/TOWN OF _____**, a municipality and body corporate existing under the laws of the State of Maine (the “Municipality”).

WHEREAS, **ecomaine** is organized as a public waste disposal corporation under 38 M.R.S. § 1304-B, which allows two or more municipalities to organize pursuant to an interlocal agreement and form a nonprofit corporation for the purpose of owning and/or operating one or more waste facilities; and

WHEREAS, in accordance with Title 30-A, chapter 115, twenty-one (21) cities and towns in the State of Maine (the “Participating Municipalities”) became parties to the Regional Waste Systems, Inc. (“RWS”) Interlocal Solid Waste Agreement, dated November 14, 1984, as amended; and

WHEREAS, RWS merged into and became known as **ecomaine**, effective July 1, 2006, and to that end, the Participating Municipalities of **ecomaine** entered into the **ecomaine** Interlocal Solid Waste Agreement, dated as of December 1, 2005 (the “Interlocal Agreement”); and

WHEREAS, **ecomaine** owns and operates a waste-to-energy plant, a landfill/ashfill site, a baling facility, a recycling facility, a food waste recovery system, where it handles and processes solid waste and recyclable materials from its Participating Municipalities, and also offers outreach and education for Participating Municipalities; and

WHEREAS, Section 10 of the Interlocal Agreement provides for the joinder of additional municipalities as parties to the Interlocal Agreement, upon a 3/4 vote of the **ecomaine** Board of Directors; and

WHEREAS, the [City/Town] desires to join as a Participating Municipality of **ecomaine** and is willing to sign an Addendum to the Interlocal Agreement; and

WHEREAS, in accordance with the terms of the Addendum to the Interlocal Agreement, the [City/Town] will be bound by all of the terms and conditions of the Interlocal Agreement and to pay its respective obligations as a Participating Municipality of **ecomaine** under that agreement; and

WHEREAS, the City/Town is willing to enter into a Waste Handling Agreement with **ecomaine** (“WHA”); and

WHEREAS, on _____, 2025, the **ecomaine** Board of Directors authorized, by a vote of at least 3/4 of its membership, the CEO/General Manager to sign this Agreement and take any other steps necessary to have the [City/Town] join as a Participating Municipality; and

WHEREAS, on _____, 2025, the [City/Town's] governing body voted to authorize the [City/Town Manager] to take any necessary steps to join **ecomaine** as a Participating Municipality under the Interlocal Agreement, to enter into the WHA, and to negotiate and execute this Agreement; and

NOW, THEREFORE, the [City/Town] and **ecomaine** hereby agree as follows:

1. Representations and Warranties of the [City/Town]. The [City/Town] warrants and represents to **ecomaine** each of the following:

1.1 The [City/Town] is a municipal corporation duly organized and validly existing under the laws of the State of Maine and authorized to do business under the laws of the State of Maine.

1.2 The execution and delivery of this Agreement, and all associative documents, has been duly authorized by all appropriate actions of the [City/Town] legislative body, executed and delivered by an authorized officer of the [City/Town], and constitutes the legal, valid and binding obligation of the Town enforceable upon it in accordance with its terms.

1.3 The execution, delivery and performance by the [City/Town] under this Agreement does not (i) require any further authorization, approval or consent by any governmental or public regulatory authority of the State of Maine or any subdivision or municipality thereof; or (ii) conflict with or result in the violation of the [City/Town] charter (if applicable), ordinance or any law or regulation of the State of Maine or any subdivision or municipality thereof.

2. Representations and Warranties of ecomaine. **ecomaine** warrants and represents to the [City/Town] each of the following:

2.1 **ecomaine** is a non-capital stock, non-profit corporation duly organized and validly existing under the laws of the State of Maine in good standing, and authorized to do business under the laws of the State of Maine, and has full power and authority to execute and enter into this Agreement and is qualified to perform this Agreement in accordance with its terms.

2.2 The execution and delivery of this Agreement has been duly authorized by all appropriate actions of **ecomaine** and its Board of Directors, and this Agreement constitutes the legal, valid and binding obligation of **ecomaine** enforceable in accordance with its terms.

2.3 The execution, delivery and performance of this Agreement will not violate any provision of law, any order of any court or other agency of government, **ecomaine's** by-laws or recording certificate, or any indenture, material agreement or other instrument to which **ecomaine** is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or

imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of **ecomaine**.

3. Joinder.

3.1 The effective date of the [City/Town's] joinder under the Interlocal Agreement shall be midnight on June 30, 2025 (the "Joinder Date"), at which time the [City/Town] will become a Participating Municipality of **ecomaine**.

3.2 The term of the WHA shall commence as of the Joinder Date. As of that date, the [City/Town] shall deliver to **ecomaine** all waste generated in the [City/Town] and under its control, as required by the terms of the WHA, and will pay **ecomaine's** invoice for the same within 7 days of the date of the invoice.

4. Purchase of Interest in Corporate Assets.

4.1 As a condition of its joinder as a Participating Municipality of **ecomaine** under the Interlocal Agreement, and subject to the other terms and conditions of this Agreement, the [City/Town] agrees to purchase, and **ecomaine** agrees to sell, a buy-in amount equal to \$ _____ (the "Buy-In Amount"). The Buy-In Amount shall represent a capital contribution to the corporation.

4.2 Payment of the [City/Town's] Buy-In Amount shall be in accordance with the promissory note included as Exhibit A of this Agreement, which the [City/Town] shall sign as a condition of closing. The thirty (30) installment payments of the Buy-In Amount are non-refundable in the event that the [City/Town] withdraws from **ecomaine** prior to the satisfaction of the promissory note, and payments shall still be due in the event that the [City/Town] withdraws from **ecomaine**. In addition, any default by the [City/Town] under the promissory note may result in [City/Town's] loss of status as a Participating Municipality until such default is cured; provided, however, that loss of status as a Participating Municipality shall not relieve the [City/Town] of any liabilities under Section 5 or 6 of this Agreement or under the Interlocal Agreement.

4.4 In the event that **ecomaine** dissolves under Section 12 of the Interlocal Agreement prior to the [City/Town's] full payment of the Buy-In Amount, any distribution due to the [City/Town] under that section shall be offset by the balance due with respect to the Buy-In Amount.

4.5 The [City/Town's] proportionate share for purposes of the Interlocal Agreement and for purposes of setting the [City/Town's] voting interest under the **ecomaine** By-Laws, shall be set initially at _____% as of the Joinder Date, and the proportionate shares of all other Participating Municipalities shall be adjusted accordingly, as shown on Exhibit B of this Agreement. Following the Joinder Date, the [City/Town's] proportionate share shall be recalculated at the end of each fiscal year based on a five-year rolling average of municipal solid waste delivered to the facility by the [City/Town] divided by the total municipal solid waste

delivered to the facility. For the avoidance of doubt, the [City/Town's] Buy-In Amount is a fixed amount and shall not be adjusted up or down during the 30-year term of repayment.

5. Current/Long-Term Indebtedness. As of the Joinder Date, the [City/Town] will become liable for its proportionate share of any outstanding current and/or long-term indebtedness of **ecomaine** incurred in FY2-24-25, and any future indebtedness of **ecomaine** incurred after the Joinder Date, with such proportionate share to be determined and allocated on the basis of the percentage of solid waste processed by **ecomaine** from [City/Town], which will be initially set as of July 1, 2025, and then adjusted over time in accordance with waste deliveries, all in accordance with the terms and conditions of the Interlocal Agreement.

6. Continuing Liabilities of the [City/Town].

6.1 Following joinder of the [City/Town], the [City/Town] shall be liable under the Interlocal Agreement for its proportionate share of liabilities incurred by **ecomaine** during the term of the [City/Town's] membership in said corporation beginning July 1, 2025 (the "Membership Period"). The liabilities for which the [City/Town] has ongoing liability include, but are not limited to: (1) closure and post-closure costs for the solid waste disposal facilities owned and operated by **ecomaine**, including the landfill, ashfill, and waste-to-energy facility; and (2) unknown costs resulting from liabilities incurred by **ecomaine** during the Membership Period including, but not limited to, liabilities related to the solid waste disposal facilities incurred prior to closure. The proportionate share to be contributed by the [City/Town] shall be determined and allocated on the basis set forth in Section 8 of the Interlocal Agreement.

6.2 In addition to the foregoing, the [City/Town] shall contribute to **ecomaine** its proportionate share toward the payment of any claims and resulting damages, at the time said damages are paid by **ecomaine** as part of a settlement reasonably consented to or judgment against **ecomaine**, that may arise during the Membership Period caused by the ownership, operation or maintenance of any **ecomaine** solid waste disposal facility, and which are not covered by insurance or other funded reserve. The proportionate share to be contributed by the [City/Town] shall be determined and allocated on the basis set forth in Section 8 of the Interlocal Agreement.

7. Closing.

7.1 Time and Place. The closing of the transaction contemplated by this Agreement shall take place remotely via exchange of documents or at such other place and time as the parties may mutually agree, but in no event later 90 days prior to June 30, 2025 (the "Closing Date").

7.2 Joint Obligations. On the Closing Date, the [City/Town] and **ecomaine** shall execute counterpart signature pages for this Agreement, the Addendum to the Interlocal Agreement, the WHA, and any other documents that may be necessary to effectuate the joinder of the [City/Town] as a Participating Municipality of **ecomaine**.

7.3 [City/Town] Obligations. On the Closing Date, the [City/Town] shall execute and deliver the Promissory Note in the form of Exhibit A attached hereto.

8. Post-Closing Obligations.

8.1 Following the closing of this transaction and on or after the Joinder Date, **ecomaine** agrees to (i) amend its Articles of Incorporation, if necessary; (ii) amend certain provisions of the **ecomaine** By-Laws that are implicated by the [City/Town's] joinder as a Participating Municipality, including without limitation Art. II, Sec. 3 and Art. V, Sec. 1(c).

9. Miscellaneous.

9.1 In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by a final judgment of a court of competent jurisdiction, or by any other tribunal, board or other entity, the decision of which is binding upon the parties and which becomes final, the invalidity or unenforceability thereof shall in no way affect any of the other covenants, conditions or provisions hereof, provided that such remaining covenants, conditions and provisions can thereafter be applicable and effective without materially changing the obligations of either party.

9.2 This Agreement shall bind and inure to the benefit of the successors and assigns of the parties hereto.

9.3 This Agreement has been delivered and is intended to be performed in the State of Maine and shall be construed and enforced in accordance with the laws of the State of Maine.

9.4 The paragraph headings or captions set forth herein are for convenience only and shall not be held to explain, modify, amplify or aid in the interpretation, construction or meaning of this Agreement.

9.5 The [City/Town's] obligation to make the payments as described herein is unconditional and absolute, without right of setoff or abatement.

9.6 Each party promises and agrees to execute and deliver any instruments and to perform any acts which may be necessary or reasonably required in order to give full effect hereto.

9.7 This Agreement may be executed in more than one counterpart, each of which shall be deemed an original and all of which together shall constitute the same document.

IN WITNESS WHEREOF, the [City/Town] and **ecomaine** have entered this Agreement as of the date first written above.

WITNESS:

[CITY/TOWN OF _____]

BY: _____
Its

ECOMAINE

BY: _____
Its

EXHIBIT A

PROMISSORY NOTE

U.S. \$ _____, 20__

FOR VALUE RECEIVED, the City/Town of _____, a Maine municipality (“Payor”) promises to pay to _____, a Maine _____ (“Holder”), or order, without set off or deduction the principal sum of _____ Dollars (\$ _____), plus interest on the unpaid principal balance from the date of this Note at the rate of ZERO percent (0%) per annum shall be paid as follows:

Payor shall make thirty (30) consecutive annual installment payments of principal on this Note, each in the amount of \$ _____ commencing on July 1, 2025, and continuing on the same day of each subsequent year until the Maturity Date.

All payments due hereunder shall be made to the Holder at 64 Blueberry Road, Portland, ME 04102, unless another holder or address is given in writing to the parties liable herefor.

Payor reserves for itself and any party liable herefor the right to pay at any time the entire unpaid principal balance or any part thereof without penalty or premium. Any such payments shall be applied to the remainder of the unpaid principal of the debt. Any partial prepayment shall not postpone the due date of any subsequent annual installments or change the amount of such installments, unless the Holder shall otherwise agree in writing.

Payor shall pay to the Holder a late charge of one and one-half percent (1.5%) per month of and for any payment under this Note not received by the Holder within thirty (30) days after the installment is due. In addition, if any payment under this Note is not received within thirty (30) days of when due, including without limitation the payment due at the maturity date, then Payor shall be liable to Holder for the payment of a late payment fee of Six Percent (6%) of the total amount of such delinquent payment, to be assessed at the option of the Holder at any time while any balance remains outstanding hereunder.

In case of default in the payment of principal due under this Note, or in case of default in the terms or conditions of any other obligation of Payor to Holder, and if any such default is continued for a period of ten (10) consecutive days after delivery to Payor of notice in writing from the Holder specifying the nature of such default, the Holder shall have the option to declare due and payable at once the entire unpaid principal balance hereof. Delay or failure on the part of the Holder in exercising these or any other rights hereunder shall not operate as a waiver of these or any other rights under this Note or otherwise. After demand or acceleration of all amounts due and owing, acceptance by the Holder of any payment representing less than the full amount demanded or due and owing shall not constitute a waiver or relinquishment of such demand or acceleration.

Payor and all other parties liable herefor, whether principal, guarantor, endorser or otherwise, hereby severally waive demand, notice, presentment and waive recourse to suretyship defenses generally, including extensions of time, releases of security, releases of rights, releases of parties or other indulgences which may be granted by the Holder to the makers or any party liable herefor, all of which actions the Holder hereof may take at its sole discretion without notice to or further assent from any of the undersigned and without affecting the liability of the undersigned hereon. Holder shall not be deemed to have waived any of its rights under this Note or otherwise unless such waiver is in writing and signed by the Holder. Holder's failure to require strict performance of the terms, covenants and agreements of this Note or any delay or omission on the part of the Holder in exercising any right, or the making of advances notwithstanding the existence of any event or condition of default, or any acceptance of partial or adequate payment or performance shall not waive, affect or diminish such right or Payor's duty of compliance and performance. A waiver on any one occasion shall not be construed as a bar to or waiver of the same or any other right on the same or any future occasion. All rights and remedies of the Holder under this Note or any other of the documents entered into between Payor and Holder shall be cumulative and may be exercised singularly or concurrently.

The undersigned agrees to pay all expenses of any nature with respect to the collection and enforcement of this Note, whether incurred in or out of court, and whether incurred before or after this Note shall become due, including but not limited to reasonable attorney's fees and costs, which the Holder may deem necessary or proper in connection with the satisfaction of the indebtedness evidenced hereby. The Holder is authorized, but not required, to pay at any time and from time to time any or all of such expenses, which expenses will then be added to the amount of indebtedness of this Note.

The word "Holder," as used herein, shall mean the payee or any endorsee of this Note in possession hereof, or the bearer hereof, if this Note is at the time payable to the bearer.

Each notice, demand, election or request provided for or permitted to be given pursuant to this Note (hereinafter in this paragraph referred to as "Notice") must be in writing and shall be deemed to have been properly given or served by personal delivery, or by sending same by overnight courier service, or by depositing same in the United States Mail postpaid either by Express Mail or registered or certified return receipt requested, or by national overnight delivery service and addressed as follows:

If to Holder:

If to Payor:

Each Notice shall be effective upon being personally delivered or upon being sent by national overnight courier service or upon being deposited in the United States Mail as aforesaid. Rejection or other refusal to accept or the inability to deliver because of changed address for which no Notice was given shall be deemed to be receipt of the Notice sent. By giving at least thirty (30) days prior Notice thereof, Payor or Holder shall have the right from time to time and at any time

during the term of this Note to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

This Note is entered into in connection with a business or commercial transaction. This Note shall take effect as a sealed instrument.

NOTICE: Under Maine law, no promise, contract or agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt for more than \$250,000 may be enforced in court against the Holder unless the promise, contract, or agreement is in writing and signed by the Holder. Accordingly, the undersigned cannot enforce any oral promise unless it is contained in a document signed by the Holder, nor can any change, forbearance other accommodation relating to the obligations or any other loan document be enforced unless it is in writing signed by the Holder.

If any obligation or portion of this Note is determined to be invalid or unenforceable under law, it shall not affect the validity or enforcement of the remaining obligations or portions hereof. All rights and obligations hereunder are to be governed by the laws of the State of Maine.

WITNESS:

PAYOR:

By: _____
Print name: _____
Title: _____

EXHIBIT B

Proportionate Shares of Participating Municipalities

[INSERT TABLE]

Addendum to ECO Maine Interlocal Solid Waste Agreement

WHEREAS, ECO Maine, a Maine non-profit corporation (“ECO Maine”), was duly created and is existing pursuant to the provisions of Title 30-A, Chapter 115 of the Maine Revised Statutes, as amended, Title 38, Section 1304-B of the Maine Revised Statutes, as amended, and Title 13-B of the Maine Revised Statutes, for the purpose of operating a solid waste disposal and management program for the municipalities participating therein pursuant to an Interlocal Solid Waste Agreement dated December 1, 2005, as amended (the “Agreement”) and Articles of Incorporation and Bylaws of ECO Maine, as amended from time to time; and

WHEREAS, the Participating Municipalities of ECO Maine consist of the Cities of Portland and South Portland and the Towns of Bridgton, Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Gorham, Gray, Harrison, Hollis, Limington, Lyman, North Yarmouth, Pownal, Scarborough, Yarmouth, Waterboro and Windham; and

WHEREAS, under the Agreement, the ECO Maine Board of Directors may vote to accept additional municipalities to join ECO Maine, as Participating Municipalities under said Agreement; and

WHEREAS, the City/Town of _____ (hereinafter the “City/Town”) has voted to join ECO Maine as a Participating Municipality and to execute this Addendum to the Agreement; and

WHEREAS, the ECO Maine Board of Directors has duly voted pursuant to the Agreement to accept the City/Town as a Participating Municipality under the Agreement.

NOW, THEREFORE, the undersigned ECO Maine hereby amends the Agreement to accept and admit the City/Town as a Participating Municipality of ECO Maine, and the City/Town hereby approves the Agreement and agrees to be bound by all of the terms and conditions of the Agreement and to perform and pay its respective obligations as a Participating Municipality of ECO Maine under the Agreement. This Addendum may be executed in separate counterparts.

DATED this __ day of _____, 2025.

ECO MAINE

CITY/TOWN OF _____

By: _____
Its:

By: _____
Its:

ECO MAINE

INTERLOCAL SOLID WASTE AGREEMENT

Counterpart Signature Page

Witness:

City/Town of _____:

By: _____

Name:

Its: _____



WASTE HANDLING AND RECYCLING AGREEMENT
BETWEEN
CITY/TOWN OF _____ AND ECOMAINE

This AGREEMENT, dated as of _____, 2025, is entered into by and between the **CITY/TOWN OF _____**, a municipality and body corporate existing under the laws of the State of Maine (hereinafter referred to as the “MUNICIPALITY”) and **ECO Maine**, a Maine non-capital stock nonprofit corporation organized and existing under the laws of the State of Maine (hereinafter referred to as “**ecomaine**”).

WHEREAS, the MUNICIPALITY is required by Maine law to provide disposal services for the safe and efficient disposal of certain solid waste generated within the MUNICIPALITY; and

WHEREAS, it is the policy of the State of Maine to promote and foster resource conservation and resource recovery from solid waste; and

WHEREAS, **ecomaine** owns and operates a waste-to-energy plant located at 64 Blueberry Road in Portland, Maine that is licensed by the Maine Department of Environmental Protection as a solid waste disposal facility; and

WHEREAS, **ecomaine** and is willing and able to accept and handle the MUNICIPALITY’s solid waste at its waste-to-energy plant upon the terms contained herein; and

WHEREAS, **ecomaine** also owns and operates a single-sort recycling facility located at 64 Blueberry Road in Portland, Maine; and

WHEREAS, **ecomaine** encourages and promotes regional recycling in accordance with the State’s solid waste management and recycling plan; and

WHEREAS, recycling is to the benefit of the economy and environment of the MUNICIPALITY; and

WHEREAS, the MUNICIPALITY generates recyclable materials within its boundaries and provides for a method of collection of those recyclable materials; and

WHEREAS, the MUNICIPALITY is seeking a cost-effective and environmentally sound manner for the processing of recyclable materials; and

WHEREAS, **ecomaine** is willing and able to accept and process the MUNICIPALITY’s recyclable materials for processing at its single-sort recycling facility;

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

In addition to any terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings:

“Acceptable Waste” means that portion of Solid Waste, including Recyclable Materials, within the boundaries of the MUNICIPALITY characteristic of that collected and/or disposed of as part of normal municipal or ordinary household, institutional, commercial and industrial Solid Waste including, but not limited to, the following:

- (1) Garbage, trash, rubbish, paper and cardboard, plastics and refuse, and processible portions of commercial and industrial Solid Waste, to the extent that **ecomaine** reasonably determines that the air emission criteria and standards applicable to and at the Facility or any Substitute Facility or applicable landfill are not violated, and to the extent that any such Solid Waste is no more than four and one-half (4½) feet in any dimension unless **ecomaine** reasonably determines that the size and shape of such Solid Waste will not prevent appropriate processing at the Facility; and
- (2) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 ½) feet long and four (4) inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the MUNICIPALITY shall not be obligated to deliver or cause to be delivered any items listed in this subpart (2) to the Site, and further provided that such items may be delivered to the Site by or on behalf of the MUNICIPALITY on an irregular basis only, and shall represent an insignificant portion of the total Waste delivered to the Site and shall be subject to reasonable restrictions established by **ecomaine** on amounts and times of delivery.

Notwithstanding any provisions to the contrary, Unacceptable Waste, including Hazardous Waste, shall not be Acceptable Waste and is explicitly excluded therefrom. Furthermore, any substances which, as of the date of this Agreement, are included as Acceptable Waste, but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall not be Acceptable Waste under the terms of this Agreement. However, any substances which as of the date of this Agreement are not included within the definition of Acceptable Waste because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall be considered Acceptable Waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction or unless such substances are otherwise considered Unacceptable Waste or Hazardous Waste.

“Agreement” means this Agreement, as it may be amended from time to time.

“Bonds” means the bonds issued by **ecomaine** or another entity from time to time to finance:

- (1) All or a portion of the cost of designing, constructing and installing all or any portion of the Facility; and
- (2) Such additional amounts as may be required to pay any costs of issuance of the Bonds and interest on the Bonds and to fund any reserves required to be funded from Bond proceeds; provided that the Bonds include, but are not limited to, all other bonds now outstanding or hereafter issued pursuant to a Trust Indenture to be entered by **ecomaine**, including, without limitation, bonds issued to refund in whole or in part any outstanding bonds or to finance costs of acquisition of the Facility.

“Business Day” means each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday that is not a holiday as may be designated by **ecomaine**.

“Contaminant” means any material, including free flowing liquid, included within a load of Recyclable Materials that is not included in **ecomaine**’s Program List (defined below).

“Delivery Hours” means the period of time on each Business Day set by **ecomaine** during which Acceptable Waste may be delivered to the Facility. Delivery Hours may be temporarily suspended or modified by **ecomaine** due to Shutdowns or hazardous conditions or lawful orders to do so.

“Effective Date” means January __, 2025.

“Facility” means the waste-to-energy plant and the recycling facility (consisting of all ancillary buildings, equipment, installations and the like) owned and operated by **ecomaine**, located at the Site.

“Food Waste” means source-separated food scraps that are discarded from a household.

“Handle” means to store, transfer, collect, separate, recycle, bale, salvage, process, reduce, recover, incinerate, designate to a Substitute Facility, treat or otherwise dispose of.

“Hauler” means any entity or person that performs solid waste services on behalf of the MUNICIPALITY, including, without limitation, the delivery of Municipal Waste or Recyclable Materials to the Site. “Hauler” shall also mean the MUNICIPALITY when the MUNICIPALITY delivers Municipal Waste or Recyclable Materials to the Facility with its own employees or agents.

“Hazardous Waste” means Waste that, by reason of its composition, characteristics or other inherent properties is dangerous to Handle by ordinary means, or which may present a substantial endangerment to health or safety, or which presents a reasonable possibility of adversely affecting the operation of the Facility. Hazardous Waste shall also mean Waste that is defined as harmful, toxic, dangerous or hazardous at any time during the term of this Agreement pursuant to (i) the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq., as amended; and (ii) the Maine Hazardous Waste, Septage and Solid Waste Act, 38 M.R.S. §§ 1301 et seq., as amended; and (iii) any other federal, state, or local codes, statutes or laws; and (iv) any regulations, orders or other actions promulgated or taken with respect to the items listed in (i) through (iii) above; provided, however, that any such materials that are later determined not to be harmful, toxic,

dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be considered Hazardous Waste unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction. “Hazardous Waste” shall include, without limitation, medical waste.

“**Municipal Waste**” means Acceptable Waste, excluding Recyclable Materials, which is collected by or on behalf of the MUNICIPALITY and for which Tipping Fees are paid by the MUNICIPALITY to **ecomaine** under this Agreement.

“**Pit**” means the storage area or areas at the Site from which Municipal Waste will be extracted for disposal or other Handling.

“**Processed Waste**” means the Waste that is actually delivered to the Site by or on behalf of the MUNICIPALITY and which is removed from the delivery vehicle or container or which is otherwise accepted for Handling at the Site.

“**Processing Fee**” means the per-ton fee paid by the MUNICIPALITY for the processing of Recyclable Materials by **ecomaine** at the Facility.

“**Program List**” means a list of Recyclable Materials accepted by **ecomaine** for processing at the Facility, as indicated on Attachment A.

“**Recyclable Materials**” means materials that are separated from waste, either at the source of such waste or at any transfer station, recycling facility or other location, and which, in the reasonable judgment of **ecomaine**, are capable of being returned to the economic mainstream in the form of raw materials or products, provided that Recyclable Materials shall not include Hazardous Waste.

“**Residue**” means by-products of the Handling of Processed Waste that are not themselves Hazardous Wastes. Such by-products may include, but are not limited to, ash, process rejects, and unprocessable Wastes.

“**Shutdown**” means a full or partial cessation of operation of the Facility.

“**Single Sort Recycling Program**” means the single category recycling program owned and operated by **ecomaine** at the Facility, whereby residentially-generated materials to be recycled are not required to be sorted into categories, but this term shall not be construed to include commercially-generated recyclables or source-separated recyclables.

“**Site**” means, collectively, the Facility and ancillary buildings and operations located at 64 Blueberry Road, Portland, Maine.

“**Solid Waste**” means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

“**Substitute Facility**” means any properly licensed solid waste disposal facility not owned or operated by **ecomaine**, which is used or designated by **ecomaine** to Handle any Acceptable Waste of the MUNICIPALITY during periods that Facility is not in operation.

“*Tipping Fee*” means the payments required to be made by the MUNICIPALITY to **ecomaine** pursuant to Section 5 hereof.

“*Ton*” means a quantity of 2,000 pounds.

“*Unacceptable Waste*” means that portion of Solid Waste that is not Acceptable Waste and includes, but is not limited to, sewage and its derivatives, sludges from air or water pollution control facilities, septic tank sludge, fish processing residuals (including crustacean shells), agricultural wastes, construction and demolition debris, materials which generate objectionable odors, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, Hazardous Waste, Solid Waste which may cause emission limitations to be violated, Solid Waste with heating values determined by **ecomaine** to be extreme, and Solid Waste which is more than two and one-half (2½) feet in any dimension unless deemed by **ecomaine** to be Acceptable Waste.

“*Waste*” means items, materials or substances delivered to the Site by the MUNICIPALITY, its employees, agents or contractors.

“*Weight Slip*” means a weight record containing the weight, date, time and vehicle identification of each vehicle entering and exiting the Site.

ARTICLE II **REPRESENTATIONS, WARRANTIES AND COVENANTS**

2.1 **Representations of ecomaine.** **ecomaine** warrants and represents to the MUNICIPALITY the following:

- (a) It is a non-capital stock, non-profit corporation duly organized and validly existing under the laws of the State of Maine in good standing, and authorized to do business under the laws of the State of Maine and that it has full power and authority to execute and to enter into this Agreement and is qualified to perform this Agreement in accordance with its terms.
- (b) The execution and delivery of this Agreement has been duly authorized by all appropriate actions of **ecomaine** and its Board of Directors, and this Agreement constitutes the legal, valid and binding obligation of **ecomaine** enforceable in accordance with its terms (except as enforceability may be limited by applicable bankruptcy or similar laws affecting creditors’ rights, and by application of equitable principles if equitable remedies are sought).
- (c) The execution, delivery and performance of this Agreement will not violate any provision of law, any order of any court or other agency of government, **ecomaine**’s by-laws or recording certificate, or any indenture, material agreement or other instrument to which **ecomaine** is now a party or by which it or any of its properties or assets is bound, or be in conflict with, result in a breach of or constitute a default (with due notice or the passage of time or both) under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of **ecomaine**.

(d) To the best of the knowledge of **ecomaine**, there is no action, suit, proceeding or investigation at law or in equity pending or threatened against **ecomaine** by or before any court or public agency, or any basis therefore, wherein an unfavorable decision, ruling or finding would adversely affect in any way the validity or enforceability of this Agreement or the transactions contemplated hereby or materially adversely affect **ecomaine** or its financial condition.

2.2 Representations of MUNICIPALITY. The MUNICIPALITY warrants and represents to **ecomaine** each of the following:

(a) The execution and delivery of this Agreement has been duly authorized by all appropriate actions of its governing body, this Agreement has been executed and delivered by an authorized officer of the MUNICIPALITY, and this Agreement constitutes the legal, valid and binding obligation of the MUNICIPALITY enforceable upon it in accordance with its terms (except as enforceability may be limited by applicable bankruptcy or similar laws affecting creditors' rights, and by application of equitable principles if equitable remedies are sought).

(b) To the best of the knowledge of the MUNICIPALITY, there is no action, suit, proceeding or investigation at law or in equity pending or threatened against the MUNICIPALITY by or before any court or public agency, or any basis therefore, wherein an unfavorable decision, ruling or finding would adversely affect in any way the validity or enforceability of this Agreement or the transactions contemplated hereby or materially adversely affect the MUNICIPALITY or its financial condition.

(c) As of the effective date of the Agreement, the MUNICIPALITY will not be a party to another waste disposal agreement (other than this Agreement) described in Title 38, Section 1304-B of the Maine Revised Statutes. The MUNICIPALITY is not party to any agreement, indenture, loan or credit agreement or arrangement or any other agreement, resolution, contract, instrument, or subject to any restriction which may reasonably be expected to have any adverse effect on its ability to carry out its obligations under this Agreement or which may reasonably be expected to have a materially adverse effect on its properties, assets, operations or condition, financial or otherwise.

(d) The execution, delivery and performance by the MUNICIPALITY of this Agreement (a) do not and will not violate or conflict with any provisions of the charter of the MUNICIPALITY or any resolution or ordinance of the MUNICIPALITY or any laws of the State of Maine or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator, or governmental authority, and (b) do not and will not violate any provision of, constitute a breach or default or constitute an event which with notice and/or the passage of time would constitute a breach or default under the provisions of any indenture, contract, agreement or other undertaking to which the MUNICIPALITY is a party or which purports to be binding on the MUNICIPALITY or on any of its assets.

ARTICLE III
OPERATION OF THE SYSTEM

- 3.1 Waste Handling. **ecomaine** shall, on and after the Effective Date, except as otherwise expressly provided for herein, operate, maintain and administer the Facility so as to be capable of Handling Municipal Waste and Recyclable Materials.
- 3.2 Benefits. Except as otherwise provided herein, **ecomaine** shall be exclusively entitled to any benefits derived from Municipal Waste and Recyclable Materials delivered to the Facility by or on behalf of the MUNICIPALITY.
- 3.3 Residue Handling. **ecomaine** shall be obligated to Handle all Residue generated by the processing of Municipal Waste and Recyclable Materials at the Facility.
- 3.4 Compliance with Law. At all times during the term of this Agreement, **ecomaine** shall operate the Facility and the Site and Handle all Municipal Waste, Recyclable Materials and Residue in compliance with all federal, state and local laws and regulations applicable thereto.
- 3.5 Program List for Recycling. **ecomaine** shall provide the MUNICIPALITY with the Program List, which may be revised by **ecomaine** up to twice per year upon sixty (60) days' prior notice to the MUNICIPALITY.

ARTICLE IV
DELIVERY AND HANDLING OF ACCEPTABLE WASTE

- 4.1 Obligations of the MUNICIPALITY. The MUNICIPALITY agrees to deliver or cause to be delivered to the Site all Acceptable Waste, including all Recyclable Materials on the Program List, generated by residential households within the boundaries of the MUNICIPALITY and under the MUNICIPALITY's control. The MUNICIPALITY shall be responsible for all costs associated with collection and transportation of Acceptable Waste to the Site. For the avoidance of doubt, Acceptable Waste "under the MUNICIPALITY'S control" does not include any Municipal Waste or Recyclable Materials collected by a commercial Hauler using a dumpster service.
- 4.2 Obligations of ecomaine. **ecomaine** agrees to receive and Handle, as provided herein, all Acceptable Waste delivered to the Site by or on behalf of the MUNICIPALITY, and agrees to receive and process all such Recyclable Materials through the Single Sort Recycling Program, except as otherwise provided herein.
- 4.3 Delivery Requirements. All deliveries of Acceptable Waste to the Site by or on behalf of the MUNICIPALITY shall be made during Delivery Hours in vehicles that are covered or otherwise secured in a manner to prevent objectionable litter and odor. **ecomaine** may reject any Acceptable Waste delivered at hours other than Delivery Hours and may also reject delivery of Unacceptable Waste. Except as otherwise provided herein, **ecomaine** shall keep the Site open for receipt of Acceptable Waste during Delivery Hours for all Business Days.
- 4.4 Weighing of Loads. **ecomaine** shall maintain weighing facilities at the Site for the purpose of determining the total tonnage of loads of Acceptable Waste delivered to the Site by or on behalf of the MUNICIPALITY. Each vehicle delivering Municipal Waste or Recyclable

Materials to the Site shall be weighed in and weighed out, and **ecomaine** shall create and provide to the vehicle a Weight Slip for such loads. Tare weights may be utilized if agreeable to both parties. **ecomaine** shall maintain copies of all Weight Slips for a period of at least two years. The MUNICIPALITY shall have the right to inspect and make copies of the Weight Slips upon reasonable advance notice.

4.5 Estimating Tonnage. **ecomaine** shall estimate the quantity of Municipal Waste and Recyclable Materials delivered to the Site during any time that all weighing facilities are incapacitated, being tested or are otherwise not available for use, on the basis of vehicle volumes and estimated data obtained from historical information pertinent to the MUNICIPALITY, provided, however, that the MUNICIPALITY, at its expense, may have such loads weighed at an alternate State-certified facility if adequate assurances of accuracy are provided to **ecomaine**. These estimates shall take the place of actual weighing records during such times.

4.6 Title. Municipal Waste that is delivered to the Site and that is not rejected by **ecomaine** as Unacceptable Waste shall be deposited at the Pit, and Recyclable Materials shall be deposited at the recycling facility. No Municipal Waste or Recyclable Materials may be dumped outside the Site buildings except during an emergency and then only if applicable environmental, safety and aesthetic requirements are satisfied. Except as otherwise provided in this Agreement, title to and responsibility for all Acceptable Waste shall pass to **ecomaine** when such Acceptable Waste is delivered to the Site.

4.7 Hazardous Waste. Neither **ecomaine** nor the MUNICIPALITY shall knowingly permit deliveries of Hazardous Waste to the Site by the MUNICIPALITY or its employees, agents, Haulers or contractors.

4.8 Unacceptable Waste. The MUNICIPALITY shall pay all costs related to Handling of Unacceptable Waste delivered to the Site by the MUNICIPALITY, its employees, agents, Haulers or contractors, provided that the MUNICIPALITY shall not be obligated to pay costs related to the Handling of Unacceptable Waste generated within the MUNICIPALITY but not delivered to the Site by the MUNICIPALITY, its employees, agents or contractors.

4.9 Responsibility of the MUNICIPALITY. Until delivery to the Facility by the MUNICIPALITY or its Hauler, all Waste shall remain the property of the MUNICIPALITY and all responsibility for safe and lawful Handling of the same rests with the MUNICIPALITY.

4.10 Responsibility of **ecomaine**. Upon acceptance of Waste by **ecomaine** from the MUNICIPALITY or its Hauler, all responsibility belongs to **ecomaine**, provided that any Hazardous Waste delivered by the MUNICIPALITY to the Facility and inadvertently accepted by **ecomaine** shall remain the responsibility of the MUNICIPALITY.

4.11 Contamination of Recyclable Materials.

(a) The MUNICIPALITY shall use its best efforts to ensure that Contaminants are not included with loads of Recyclable Materials. Upon inspection, **ecomaine** may downgrade loads that contain Contaminants. Downgraded loads will incur an additional contamination fee as determined by **ecomaine**.

(b) For loads of Recyclable Materials containing any portion of Hazardous Waste, including medical waste, to the extent detected by **ecomaine** prior to tipping, **ecomaine** will immediately reject such loads and the MUNICIPALITY or its Hauler shall promptly remove such loads from the Facility for disposal at an appropriate facility. For loads containing any portion of Hazardous Waste, including medical waste, to the extent detected by **ecomaine** after tipping, **ecomaine** will segregate such loads and dispose of them at an appropriate facility designated by **ecomaine**. All costs associated with the disposal of Hazardous Waste delivered to the Site by the MUNICIPALITY will be at the sole expense of the MUNICIPALITY.

4.12 Alternative Disposal.

(a) In the event that no economically feasible market for Recyclable Materials exists at any point during the term of the Agreement, **ecomaine** may, in its sole discretion, utilize alternative disposal methods for some or all of the Recyclable Materials, including without limitation disposal at a waste-to-energy plant or landfill.

(b) In the event that the Facility is temporarily shut down or is running over capacity, **ecomaine** may, in its sole discretion, bypass loads of Municipal Waste and/or Recyclable Materials to the **ecomaine** landfill in Westbrook or other location of similar distance, in which case the MUNICIPALITY'S Hauler will be instructed to deliver its load to that location.

ARTICLE V FEES

5.1 Municipal Waste and Recyclable Materials. The MUNICIPALITY agrees to pay **ecomaine** (1) Tipping Fee for each Ton of Waste; and (2) a Tipping Fee for each Ton of Recyclable Materials delivered by the MUNICIPALITY, its employees, agents or contractors. The Tipping Fees for each Fiscal Year shall be calculated by:

- (i) Calculating the "total cost of the System" of the previous Fiscal Year; and
- (ii) Subtracting from the aforesaid "total cost of the System" all revenues received by **ecomaine** from the operation of the System during the previous Fiscal Year, from any source other than Tipping Fees received from Member Municipalities or any agency, instrumentality or subdivision thereof; and
- (iii) Dividing the resulting amount by the number of Tons of Municipal Waste and Recyclable Materials delivered during the previous Fiscal Year, by Member Municipalities, or any agency, instrumentality or subdivision thereof for which a Tipping Fee may be charged.

5.2 Total Cost of the System. As used herein, the "total cost of the System" for any Fiscal Year shall mean all expenses associated with the System during that year and shall include, but not be limited to:

- (i) The current expenses of operating, maintaining and managing the System, including transportation and other ancillary costs;

- (ii) Payments of principal, premium, interest penalties and other charges on all bonds, notes and other obligations issued by **ecomaine** including any amount owing to the issuer of a credit or liquidity facility provided in connection with said bonds, notes and other obligations as such bonds, notes and other obligations become due or upon an accelerated basis;
- (iii) The creation and maintenance of such reserves sufficient to provide funds available for debt service equal to 125% of expected debt service, or as may be required by any trust agreement or resolution securing bonds, notes and other obligations of **ecomaine**, or as may be deemed necessary by **ecomaine** for any reasonable contingency;
- (iv) The provision of funds for paying the cost of all necessary repairs, replacements and renewals of the System;
- (v) Payment or provisions for any and all amounts that **ecomaine** may be obligated to pay or provide for by law or contract, including any resolution or contract with or for the benefit of the holders of its bonds, notes and other obligations and for the benefit of the issues of a credit or liquidity facility provided in connection with said bonds, notes and other obligations;
- (vi) Any deficit or anticipated deficit for the current year's operation, including any deficit resulting from the failure of a Member Municipality or any other person or entity to pay Tipping Fees when due and owed; and
- (vii) Payments in lieu of taxes to Member Municipalities where all or a portion of the System is located.

5.3 Payment of Tipping Fees. On or before July 15 of each year following the Commencement Date of Operations, **ecomaine** shall adopt a final budget for operation and maintenance of the System for the ensuing Fiscal Year which shall include an estimate of the total Tipping Fees to be paid by the MUNICIPALITY during the ensuing Fiscal Year based on the actual Tonnages delivered at the Facility by the MUNICIPALITY during the previous Fiscal Year and upon the Tipping Fee for the Fiscal Year as calculated in Section 5.1 of this Article. The MUNICIPALITY shall pay not later than the 15th day of each following month an amount of money which shall equal 1/12th of the estimated total Tipping Fees to be paid by the MUNICIPALITY during the Fiscal Year.

5.4 Adjustments. The Tipping Fee shall be adjusted during any Fiscal Year to reflect substantial and unanticipated increases in costs, decreases in revenues or changes in waste deposited at the Facility, provided that the MUNICIPALITY shall receive 30 days' prior notice of any adjustment of the Tipping Fee. Any such adjustments shall be made using the calculation method set forth in Section A of this Article, including such increases in costs, decreases in revenues, and changes in Waste deposited at the Facility. If (a) **ecomaine** gives written notice to the MUNICIPALITY either (i) that in the judgment of **ecomaine** that any liabilities or expenses (including but not limited to any amounts due on or in connection with any Bonds of **ecomaine** or under any agreement with any Credit Enhancement Provider and any amounts necessary to provide adequate reserves) cannot be paid when due, or (ii) that any such liabilities and expenses have not been paid when due; and (b) **ecomaine** has not obtained other sources of funds or

revenues to pay such liabilities and expenses, then the Tipping Fee shall be increased by such amount as determined in accordance with Section A of this Article, including such increases in costs, decreases in revenues and changes in waste deposited at the site.

5.5 Invoices. **ecomaine** shall provide the MUNICIPALITY with a monthly invoice detailing all Tipping Fees due under Sections 5.1 and 5.2, all Processing Fees due under Section 5.3, any contamination fees due under Section 4.11, and any other amounts due from the MUNICIPALITY for Waste and Recyclable Materials deposited at the Site under the terms of this Agreement during the calendar month preceding issuance of the invoice. The MUNICIPALITY shall pay the invoice amount within thirty (30) days of the invoice date. If the MUNICIPALITY fails to pay the invoice when due, the MUNICIPALITY shall be obligated to pay such invoiced amount together with a late charge equal to one and one-half percent (1.5%) per month on the unpaid portion of that invoice. The MUNICIPALITY shall have the right to dispute in good faith any invoiced amount by notifying **ecomaine** of such dispute within thirty (30) days of the MUNICIPALITY's receipt of the invoice. The parties agree to use good faith efforts to resolve such dispute promptly and the MUNICIPALITY shall pay **ecomaine** the amount that is determined to be due within ten (10) days of resolution of the dispute.

5.6 Full Faith and Credit. The MUNICIPALITY pledges its full faith and credit for the payment of Tipping Fees, Processing Fees and other payments required of it under this Agreement, and agrees to levy upon and raise from taxable estates within the MUNICIPALITY by general or special tax the amounts required to make such payments, or to raise such amounts by means of a fee, user charge or other cost sharing or assessment mechanism or to borrow such amounts by issuance of general obligation bonds or notes.

ARTICLE VI **FORCE MAJEURE**

6.1 Defined. Neither party shall be liable for its failure to perform hereunder if its performance is rendered impossible by any act, event or condition beyond its reasonable control which, by exercise of due diligence, it shall be unable to overcome. Such acts, events or conditions shall include, but not be limited to, the following:

- (a) Acts of God, hurricane, tornado, lightning, earthquake, epidemic or pandemic;
- (b) Acts of war, civil insurrection or terrorism;
- (c) Fire or flood not caused by the party unable to perform; or
- (d) Injunctions, or restraining orders, judicial or governmental laws, regulations, requirements, orders, actions, or inaction, including the revocation or suspension, or failure to issue or to obtain or renew any permit or license, except where the order, action or inaction is due to the acts or omissions of the party claiming the existence of a force majeure hereunder.

6.2 Notice. A party claiming the benefit of a Force Majeure under this article shall, as soon as reasonably practicable after the occurrence of any such event, (i) provide written notice to the other party of the nature and extent of any such Force Majeure condition; and (ii) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

ARTICLE VII
DAMAGE, DESTRUCTION, CLOSURE

7.1 **Closure of Facility by ecomaine**. If the System or any substantial portion thereof is damaged or destroyed to an extent that it cannot function as contemplated by the parties, then **ecomaine** shall restore, repair and reconstruct the System to the best of its ability. If restoration, repair or reconstruction is impractical, then ECO Maine may terminate this Agreement by written notice to the MUNICIPALITY within one-hundred twenty (120) days after the date of damage or destruction, provided that whether restoration, repair or reconstruction is impractical shall be determined by **ecomaine** and further provided that this Agreement may be terminated pursuant to the terms of this Article only after the Bonds have been paid or defeased in full and any amounts owing to any Credit Enhancement Provider for the Bonds has been paid. This Agreement will terminate thirty (30) days after the date of such notice and the parties shall have no further obligations hereunder, except for payment of all amounts then due and owing.

ARTICLE VIII
TERM

8.1 **Term of Agreement**. This Agreement shall remain in effect as long as the **ecomaine** Interlocal Solid Waste Agreement remains in full force and effect and the MUNICIPALITY has not withdrawn from said Agreement in accordance with the provisions thereof, except that, notwithstanding any provision to the contrary, this Agreement shall remain in effect until the Bonds have been paid or defeased in full and any amounts owing to any Credit Enhancement Provider have been paid.

8.2 **Continuity of Service**. If **ecomaine** shall propose to continue to operate the Facility beyond the term hereof, **ecomaine** shall so advise the MUNICIPALITY, and if the MUNICIPALITY so agrees, the MUNICIPALITY shall then have the right to continue delivering Acceptable Waste to the Facility on terms no less favorable than those then accorded other Member Municipalities. The MUNICIPALITY may elect to exercise such right by providing **ecomaine** with written notice of this election on the later of the date sixty (60) days after the date on which **ecomaine** informs the MUNICIPALITY of its intent to continue to operate the Facility or one hundred eighty (180) days before the end of the term of this Agreement. However, the MUNICIPALITY shall have no right to make such election unless it is a Member Municipality as of the date the election is made. The MUNICIPALITY agrees that it shall execute all documents and take whatever other actions are necessary to effectuate such election and the failure of the MUNICIPALITY to do so by at least ten (10) days after the election is made shall void that election.

8.4 **Termination**. Neither **ecomaine** nor the MUNICIPALITY has the right to terminate this Agreement prior to the time provided in this Article for any reason whatsoever, including without limitation, by reason of the default, continuing or persistent default or non-performance of either party hereunder, the withdrawal of any Member Municipality from the Interlocal Agreement or the termination or dissolution of the Interlocal Agreement.

ARTICLE IX
REMEDIES FOR NONPERFORMANCE

9.1 Material Breach. If at any time subsequent to the Commencement Date of Operations, the MUNICIPALITY delivers Acceptable Waste to the Facility which is required to be accepted by **ecomaine** pursuant to this Agreement, and **ecomaine** fails to accept such Acceptable Waste, then **ecomaine** shall be liable to pay to the MUNICIPALITY the reasonable cost which the MUNICIPALITY had to pay for disposing of the Acceptable Waste which **ecomaine** did not accept. **ecomaine** shall pay such costs within forty five (45) days of receipt of an itemized bill from the MUNICIPALITY.

9.2 Default by the MUNICIPALITY.

(a) Failure of the MUNICIPALITY to deliver or cause to be delivered to the Facility all Municipal Waste generated within the boundaries of the MUNICIPALITY and under its control, as set forth in Section 4.1, shall constitute a breach of this Agreement.

(b) Failure of the MUNICIPALITY to deliver or cause to be delivered to the Facility all Recyclable Materials generated within the boundaries of the MUNICIPALITY and under its control, as set forth in Section 4.1, shall constitute a breach of this Agreement.

(c) The parties agree and acknowledge that because of the unique nature of the Facility it is difficult or impossible to determine with precision the amount of damages that would or might be incurred as a result of a failure of the MUNICIPALITY to deliver or cause to be delivered all Acceptable Waste and/or Recyclable Materials generated in the MUNICIPALITY to the Facility, except as otherwise provided in Article V of this Agreement. Accordingly, the parties agree and acknowledge that in the event of a breach under this Section, the MUNICIPALITY shall pay **ecomaine** an amount equal to the Tipping Fee or Processing Fee in effect for the period of breach times the estimated number of tons of Municipal Waste or Recyclable Materials that were not delivered to the Facility as a result of such breach. **ecomaine** will estimate such number of undelivered tons on a monthly basis by:

(i) Calculating the number of tons of Municipal Waste or Recyclable Materials generated in the MUNICIPALITY and delivered to the Facility in the calendar month prior to the commencement of the breach; and

(ii) Adjusting the above number of tons for any monthly or seasonal variation in delivery that has occurred in the previous two calendar years; and

(iii) Subtracting from the resulting figure the number of tons of Municipal Waste or Recyclable Materials generated in the MUNICIPALITY and actually delivered to the Facility during each month in which the breach occurs.

(c) In the event that sufficient historical data does not exist to allow calculation of the estimated number of tons of undelivered Municipal Waste or Recyclable Materials as the result of a breach under this Section, **ecomaine** shall estimate that number of undelivered tons in any reasonable manner available.

9.3 Other Remedies. In addition to any right of termination provided herein, either party may pursue all remedies available to it in law or in equity to collect the payments and other amounts due as provided in this Agreement, or to enforce performance and observance of any obligation,

agreement or covenant under this Agreement, and each party shall bear its own costs for the same.

9.4 Waiver. In the event any agreement or covenant contained in this Agreement should be breached by one party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Article X Assignment/Delegation

10.1 No Assignment without Consent. Except as otherwise permitted in this Article, this Agreement shall not be assigned or delegated by either party without the prior written consent of the other party.

10.2 Assignment to Successor of **ecomaine**. Anything to the contrary notwithstanding, **ecomaine** may assign its interest and obligations hereunder to a person, firm or corporation acquiring all or substantially all of the business and assets of **ecomaine** by transfer of assets or otherwise.

10.3 Assignment for Secured Transactions.

(a) Anything to the contrary notwithstanding, the MUNICIPALITY consents to **ecomaine** entering into an indenture of trust and/or mortgage and security agreement of the Facility or Site, and/or assignment of this Agreement or the revenues therefrom with a third party trustee for the purposes of obtaining bond financing and into other loan agreements for the purposes of obtaining conventional or bond financing (which may include agreements with providers of credit enhancement in connection with such financing), with the acknowledgement that under such financing agreements **ecomaine** may be required to pledge and assign its rights in and to the Facility, or Site, and its rights under this Agreement to the trustee or other lender and/or to any credit enhancement providers as security for its debt obligations in event of default.

(b) The MUNICIPALITY consents to the assignment of this Agreement to such parties, including the trustee and any credit enhancement providers (hereinafter collectively called the "Assignee"), providing financing or credit enhancement for the Facility or Site, or any portions thereof. In the event of any such assignment, and if the documents executed and delivered in connection with any such assignment so require, the following provisions shall apply:

(i) There shall be no cancellation, surrender, termination, amendment or modification of this Agreement by joint action of **ecomaine** and the MUNICIPALITY without the prior written consent of the Assignee.

(ii) The MUNICIPALITY will mail to each Assignee by certified mail, return receipt requested, at such address as specified by the Assignee, copies of all notices which the MUNICIPALITY may from time to time serve **ecomaine** or any successors, simultaneously therewith.

(iii) In the event that the Assignee gives written notice to the MUNICIPALITY that **ecomaine** is in default under any of the bonds, or under any agreement with any credit enhancement provider, then the MUNICIPALITY shall make all payments due hereunder directly to the Assignee, and shall deliver Acceptable Waste to the Site as designated thereafter from time to time by the Assignee. Following any such notice of default and unless and until the MUNICIPALITY receives notice from the Assignee to the contrary, the Assignee shall have the right to determine the **ecomaine** budget and to exercise all other rights of **ecomaine** hereunder, and to take such other actions as provided in any agreement between any Assignee and **ecomaine**.

(iv) No waiver by **ecomaine** of any of the obligations of the MUNICIPALITY hereunder and no consent or election made by **ecomaine** or the MUNICIPALITY hereunder and no purported termination of this Agreement by **ecomaine** or the MUNICIPALITY shall be effective against the Assignee without the prior written consent of the Assignee.

(v) No Assignee shall have any obligation to perform the obligations of **ecomaine** hereunder unless it is in possession or control of the Site (and then only as long as the Assignee is in possession or control of the Site), provided, however, that if the Assignee does not take possession or control of the Site, then **ecomaine** shall continue to have the right and obligation to operate the Site in accordance with and subject to the other terms of this Agreement. The Assignee may, but shall not be obligated to, cure any default of **ecomaine** under this Agreement.

ARTICLE XI INSURANCE

11.1 Obligation to Indemnify. To the extent practicable and financially feasible as determined by **ecomaine** in its sole discretion, **ecomaine** shall obtain and maintain or cause to be obtained and maintained, with financially sound and reputable insurers, insurance with respect to the Facility, and against such liabilities, casualties, business interruptions and contingencies and of such types and in such amounts as shall be deemed by **ecomaine** to be customary in the case of municipal organizations engaged in the same or similar activities or having similar properties similarly situated.

ARTICLE XII MISCELLANEOUS

12.1 Non-Discrimination. **ecomaine** shall be an equal opportunity and affirmative action employer, and it shall not discriminate on the basis of age, race, religion, color, creed, sex, sexual preference, handicap, financial status, or national origin:

- (a) In the persons served, or in the manner of service; or
- (b) In the hiring, assignment, promotion, salary determination, or other conditions of employment.

12.2 Applicable Law. This Agreement and its performance shall be construed and governed in accordance with the laws of the State of Maine, without regard to conflicts of law principles.

12.3. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

12.4 Amendments. No amendments to this Agreement may be made except in writing signed by both parties. Should this Agreement be assigned under financing arrangements, if financing documents so require, the written consent of such assignee shall also be required before any amendment becomes effective.

12.5 Severability. In the event any covenant, condition or provision of this Agreement is held to be invalid or unenforceable by a final judgment of a Court of competent jurisdiction, or by any other tribunal, board or other entity, the decision of which is binding upon the parties and which becomes final, the invalidity or unenforceability thereof shall in no way affect any of the other covenants, conditions or provisions hereof, provided that such remaining covenants, conditions and provisions can thereafter be applicable and effective without materially changing the obligations of either party.

12.6 Notices. All notices herein required or permitted to be given or furnished under this Agreement by either party to the other shall be in writing, and shall be deemed sufficiently given and served upon the other party if hand delivered or sent by U.S. mail, postage prepaid, addressed as follows:

If to **ecomaine**: Kevin Roche, CEO/General Manager
ecomaine
64 Blueberry Road
Portland, ME 04102

With a copy to: Mark A. Bower, Esq.
Jensen Baird
Ten Free Street, P.O. Box 4510
Portland, ME 04112

If to MUNICIPALITY:

Said notice shall be deemed given upon receipt when hand delivered and three (3) business days after mailing when mailed. Each party shall have the right, from time to time to designate a different person and/or address by notice given in conformity with this Section.

12.7 Binding Effect. The Agreement shall bind upon and inure to the benefit of the parties hereto and their respective successors and assigns.

12.8. Other Documents. Each party promises and agrees to execute and deliver any instruments and to perform any acts which may be necessary or reasonably required in order to give full effect hereto, including any consent to or acknowledgment of any assignment of this Agreement by **ecomaine** to any Assignee.

12.9 Consents. To the extent that the consent of either party to this Agreement is required to any action of the other party pursuant to any provision of this Agreement, such consent will not be unreasonably withheld.

12.10 Headings. Captions and headings herein are for ease of reference and do not constitute a part of this Agreement, except all definitions, and their terms, in Article I are part of this Agreement.

12.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, and together shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by email (PDF) or facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

12.12 Integration. This instrument embodies the whole agreement of the parties with respect to the subject matter hereof, and there are no promises, terms, conditions or obligations with respect to such subject matter other than those contained herein. This Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement by their respective duly authorized officers.

Witnesses:

ecomaine

By: _____

Name:
Its CEO/General Manager

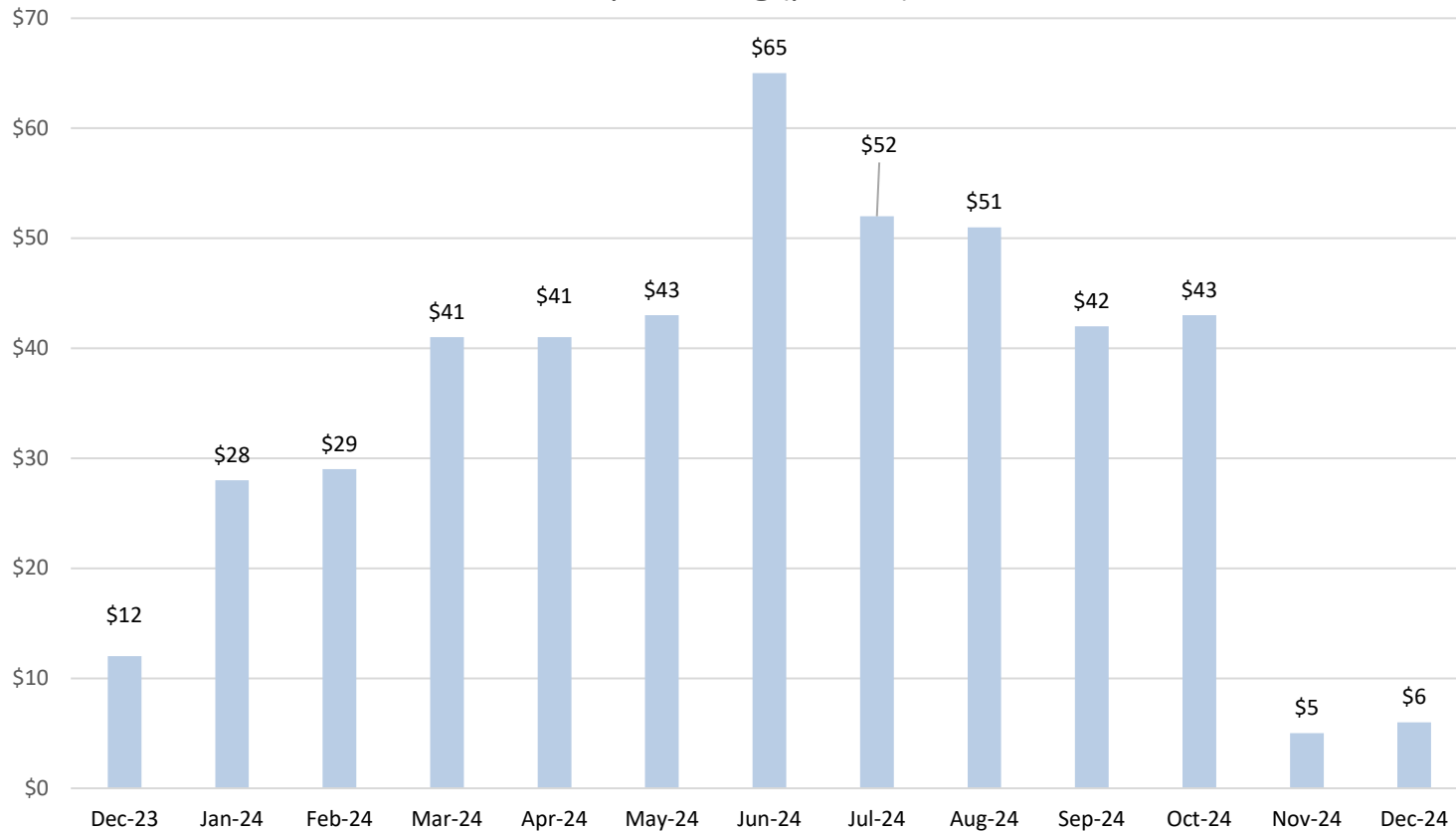
CITY/TOWN OF _____

By: _____

Name:
Its

Mixed Paper

Paper Pricing (per ton)



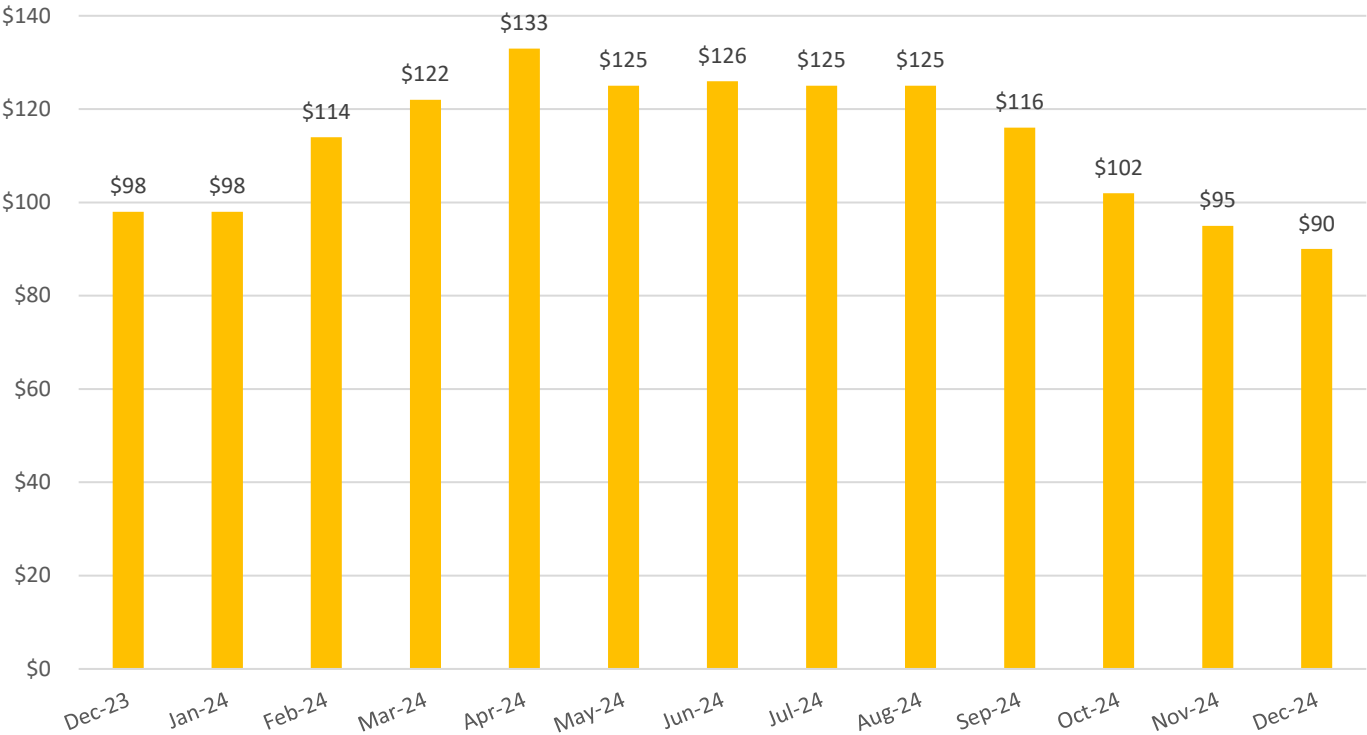
50% Decrease
(Dec'23 to Dec'24)

Markets & pricing are subject to fluctuation, due to supply & demand and transportation / shipping

All information property of ecomaine

Cardboard

Cardboard Pricing (per ton)



8% Decrease
(Dec '23 to Dec '24)

Markets & pricing are subject to fluctuation, due to supply & demand and transportation / shipping

All information property of ecomaine

Metal

Metal Pricing (per ton)



57% increase
(Dec '23 to Dec '24)

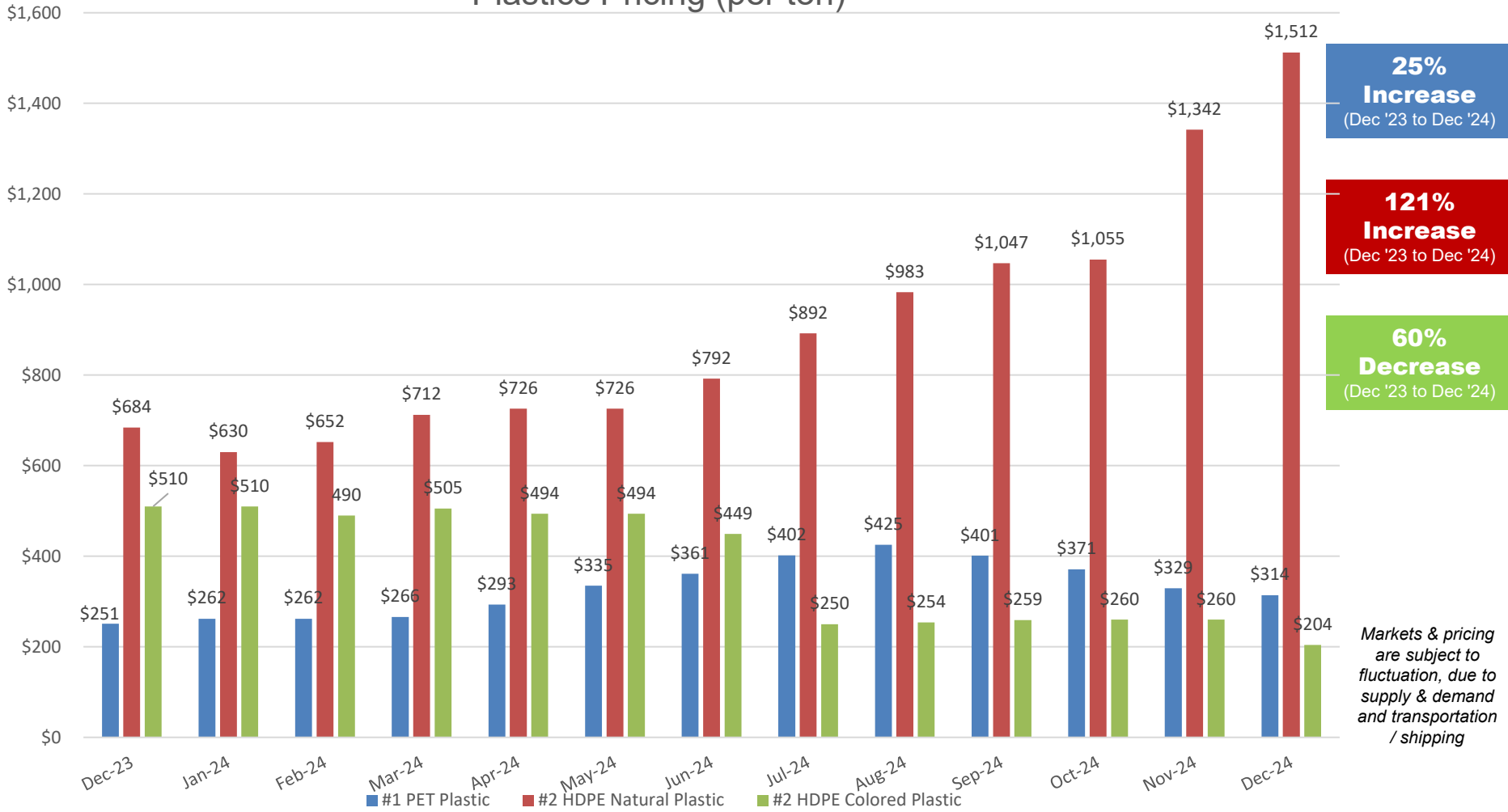
20% Decrease
(Dec '23 to Dec '24)

Markets & pricing are subject to fluctuation, due to supply & demand and transportation / shipping

All information property of ecomaine

Plastics

Plastics Pricing (per ton)



All information property of ecomaine