

PORTAGE COUNTY MUNICIPAL SOLID WASTE &
RECYCLING AGREEMENT
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PORTAGE COUNTY MUNICIPAL SOLID WASTE & RECYCLING AGREEMENT

THIS AGREEMENT entered between the Portage County Solid Waste Management Board, a duly authorized agent of Portage County and created under Wis. Stat. § 59.70(2), hereinafter designated as "Board", and the Town of New Hope, a Wisconsin municipality, hereinafter designated as the "Municipality".

INTENT AND RECITALS

A. The Wisconsin Recycling Law (1989 Wisconsin Act 335) has a declared goal for the state to reduce the amount of solid waste placed in landfills through mandated recycling programs by designated responsible units of government. Each city, village or town is designated by the Wisconsin Recycling Law as a responsible unit to develop and implement a recycling program to manage the solid waste generated within its jurisdiction. The governing body of a responsible unit may, by agreement under Wis. Stat. § 66.0301, designate the Board to be the responsible unit for implementation of the mandates of the Wisconsin Recycling Law.

B. The Board has access to planning and financial resources necessary to implement certain components of a recycling program as mandated by the Wisconsin Recycling Law, such as providing overall administration and a recycling facility, marketing recyclables, and coordinating a county-wide recycling education program. The towns, villages or cities of Portage County have direct contact with their citizenry and are equipped to provide other components of a recycling and solid waste program such as collection, enforcement of local ordinances, and local recycling education concerning collection matters.

C. The Board and the Municipality, in the interest of the health, safety and welfare of their citizens and to provide an effective recycling program and waste disposal program using the strengths each can bring to create a recycling and waste disposal program, hereby agree to form an intergovernmental recycling program for the separation, collection, transportation, processing and marketing of recyclable materials and for the environmentally sound management of wastes not separated for recycling.

D. Whereas both parties, accepting and acknowledging the basic terms and conditions of the previous agreement, further acknowledge the necessity of this superseding agreement to reflect current and future practice and conditions and the superseding agreement was contemplated where the original agreement permits written modification.

In consideration of the benefits and agreements set forth herein, the Board and Municipality agree as follows:

ARTICLE I

PURPOSE

1.1 Responsibility: Delineation. The purpose of this Agreement is to establish and delineate the responsibilities of the Board and the Municipality in fulfilling the requirements of 1989 Wisconsin Act 335, as codified in Wis. Stat. Chapters 287 & 289, which set forth the components of an Effective Recycling and Solid Waste Program. This Agreement is made pursuant to Wis. Stat. § 66.0301, the intergovernmental cooperation statute. The Board shall be the responsible agency of the County to carry out the terms and conditions of the Agreement that apply to the County.

1.2 Delivery of Solid Waste. A second purpose of this Agreement is for the municipality to contract to deliver municipal solid waste to the County and the County to agree to accept municipal solid waste at a County-designated acceptance facility

ARTICLE II

DEFINITIONS

2.1 Capitalized terms. All capitalized terms used in this Agreement shall have the meanings and definitions found in Wis. Stat. § 287.01 and Wisconsin Administrative Code Chapters NR 540 and NR 542, unless these capitalized terms are otherwise defined in this Agreement.

ARTICLE III

RESPONSIBLE UNIT DESIGNATION

3.1 Board is Responsible Unit. During the term of this Agreement, Municipality designates the Board as the Responsible Unit for developing and implementing a recycling program as required by the Wisconsin Recycling Law and which is consistent with the terms of this Agreement. This designation is conditioned upon the Board performing its duties and responsibilities under this Agreement. The Board accepts Responsible Unit designation conditioned upon the Municipality performing its duties and responsibilities under this Agreement. Upon termination of this Agreement for any reason, the Municipality shall resume its status as the Responsible Unit.

ARTICLE IV

TERM

4.1 Beginning and Ending Date: Automatic Renewal. The term of this Agreement shall begin on the date this Agreement is executed by both parties, following the adoption of the appropriate resolution(s) by both the Municipality and the Board authorizing

its execution. This Agreement shall terminate on December 31, 2029, unless terminated earlier because of default (see Article IX) or upon written consent of the Board and Municipality.

4.2 Program Termination. In the event the Board's recycling and/or solid waste program is terminated, any net assets available after liabilities have been paid shall be distributed to Municipalities who are then a party to this agreement. Assets shall be distributed on the basis of the population of the Municipality divided by the total population of all Municipalities a party to this agreement.

ARTICLE V

DUTIES AND RESPONSIBILITIES OF THE BOARD

5.1 Duties. The Board agrees to provide the following services and perform the following duties:

5.1.1 Recycling Program. Develop, implement and operate a program to manage recyclable materials generated within the Municipality in cooperation with the Municipality and in compliance with the requirements of Wis. Stas. Chapter 287 and the priorities under Wis. Stat. §287.11.

5.1.2 Processing and Marketing. Implement a program for the processing and marketing of recyclable materials collected by the Municipality.

5.1.3 Other Solid Waste Management and Enforcement. Provide for the continuous management of solid wastes that are not separated for recycling or recovery under the recycling program consistent with the highest feasibility priority under Wis. Stats Chapters 287 and 289. The Board may enact and enforce policies, rules, regulations and/or ordinances concerning intent of the Wisconsin Recycling Law and implementing DNR administrative rules.

5.1.4 Overall Administration. Provide for the overall administration of the recycling and solid waste programs including staff, supplies and equipment necessary to implement the Board's duties and responsibilities.

5.1.5 Report Preparation and Funding. Prepare all necessary reports to State and regulatory agencies; serve as the Responsible Unit to accept all forms of state funding due the Responsible Unit and apportion of these funds between the Board and Municipality, in accordance with Article VII.

5.1.6 Report Sharing. Provide information and pertinent financial data regarding the status, planning and operation of the recycling and solid waste programs to the Municipality on a semi-annual basis.

5.1.7 Education. The Board shall conduct a public education campaign to inform residents of the Municipality of the reasons to recycle, local opportunities to recycle and prohibitions concerning recyclable and non-recyclable materials.

5.2 Acceptable Materials. The materials listed by the State of Wisconsin DNR and those listed in Exhibit A shall constitute the recyclable materials that the Board shall be responsible for accepting, processing and marketing.

5.3 Material Recovery Facility and Operation. The County shall provide a Material Recovery Facility (MRF) or a similar licensed facility or program to which the Municipality shall deliver those Acceptable Materials so designated on Exhibit A. The Board shall be responsible for all administrative costs and services related to the operation of the MRF or similar program. Actual hours and days of operation of the MRF or similar program shall be determined by the Board. All references in this Agreement to the "MRF" shall be designated to include any and all county-designated facility or program for recycling.

5.3.1 Ownership of Acceptable Materials. All Acceptable Materials shall become the property of the Board upon delivery to and acceptance at the MRF or similar program.

5.3.2 Acceptance of Materials. Actual acceptance materials shall be deemed to have occurred only after Board determines that the delivered materials:

- (i) constitute Acceptable Materials as set for in Exhibit A;
- (ii) constitute recyclable materials as defined by. Wis. Stat. § 287.07(4);
- (iii) are sorted according to Board rule; and
- (iv) are not contaminated.

5.3.3 Sorting Rules. Board rules relating to sorting of Acceptable Materials shall be determined by the Board in consideration of any new or existing MRF or similar program physical plant. Municipality will receive at least forty-five (45) days written notice of forthcoming rule changes. Sorting changes shall not be implemented without prior discussions with Municipality giving due consideration to the cost impact on Municipality of any rule change.

5.3.4 Contamination. Contamination of Acceptable Materials shall be deemed to exist in situations including but not limited to where the Acceptable Materials are in a condition that makes recycling technically or economically infeasible.

5.3.5 Unacceptable Materials: Hazardous Wastes. Municipality shall be responsible for disposal and all associated costs of materials that are not accepted at the MRF or similar program. If delivered materials are not accepted, the Board shall give immediate notice to the Municipality by telephone and confirm the same in writing. If any materials delivered to or dumped at the MRF or similar program is determined by the Board to be hazardous or toxic, the offending Municipality shall immediately remove the same from the MRF or similar program for proper disposal, at its expense, and shall be responsible for clean-up costs, if any.

5.3.6 Emergency and Non-Emergency Shutdown. If operation of the MRF or similar program is prevented or delayed by act of God, including equipment failure, a labor dispute involving persons with whom the Board has no employment relationship, or other cause beyond the reasonable control of Board, then the Board may suspend accepting Acceptable Materials at the MRF or similar program. Any such situation shall be known as an Emergency Shutdown. Provided, however, that if an Emergency Shutdown is expected to last or actually lasts longer than fourteen (14) days, then the Board at its cost, shall provide a reasonable alternative mechanism for the disposition of Acceptable Materials, which may include delivery to the County Solid Waste Site or delivery to an alternative MRF.

Any prevention or delay in the operation of the MRF or similar program other than an Emergency Shutdown shall be known as a Non-Emergency Shutdown. There shall be no Non-Emergency Shutdown of the MRF or similar program without sixty (60) days written notice to Municipality. No Non-Emergency Shutdown shall last for longer than seven (7) days. The notice to Municipality shall state the exact date(s), time, and duration of the Non-Emergency Shutdown. The Board may suspend accepting Acceptable Materials at the MRF or similar program during a period of a Non-Emergency Shutdown, provided that no Non-Emergency Shutdown shall be declared without a valid operational purpose, which shall be included in the notice to Municipality. Board shall exercise good faith in declaring any period of Non-Emergency Shutdown.

5.3.7 Other Users. The Board, at its discretion, may provide recycling services at the MRF or similar program to municipalities, individuals or businesses not located in Portage County.

5.4 Documentation. The Board and the Operator shall maintain copies of records of revenues, expenses and activities in operating the MRF or similar program and records of its services under this Agreement. Such records shall include accounts, ledgers, weight slips, contracts, fiscal records, and management documentation.

5.4.1 Documentation Custodian. The Board shall designate a custodian of the above-described documents, who shall make said records available to the Municipality upon reasonable advance oral or written notice and during ordinary business hours (7:30 am to 3:30 pm; Monday through Friday).

5.5 Solid Waste Management Board Representation. The County agrees to appoint to the Solid Waste Management Board the chief elected officer of the community in which the MRF or similar program facility is located or the chief officer's designee.

ARTICLE VI

DUTIES OF THE MUNICIPALITY

6.1 Duties. The Municipality agrees to provide the following services and perform the following duties:

6.1.1 MRF or similar program Designation and Delivery Warranty. The Municipality hereby designates the MRF or other county-designated facility or program as its recycling facility. Municipality hereby warrants that in every contract for solid waste services in which the Municipality is a party, or in every license issued by the Municipality for solid waste services, the contractor or licensee shall deliver to the MRF or other county- designated facility or program all Acceptable Material generated within the Municipality, consistent with the Board rule.

6.1.2 Responsible Unit Designation. The Municipality designates the Board as the Responsible Unit to accept all grant monies or other assets distributed to Responsible Units by the State of Wisconsin.

6.1.3 Collection of Materials. The Municipality is responsible for collection of all Acceptable Materials through any method available to it including Municipal collection services, Municipal contract with 3rd party vendor, or individual property owner contracts with 3rd party vendors for collection.

6.1.4 Separation and Delivery of Materials. The Municipality is responsible for delivering or making satisfactory arrangements for the delivery of such Acceptable Materials to the MRF or other county-designated facility or program separated in the manner and according to the schedule established by Board rule, so as to facilitate effective processing of said Acceptable Materials.

6.1.5 Education. The Municipality, in cooperation with the Board, shall educate its residents as to material separation and collection procedures, the requirements of state and local recycling laws or rules, and other information specific to the functions of the Municipality under this Agreement. Municipality shall inform its citizens of Board rules regarding sorting and contamination of Acceptable Materials.

6.1.6 Enforcement. The Municipality shall enact rules, regulations, resolutions or ordinances as required under Wis. Stat. Chapters 287. The Municipality shall provide effective enforcement of its separation, collection and other recycling ordinances and rules.

6.1.7 No Contaminated Material. Unless specifically authorized by the Board, the Municipality shall not deliver or cause to be delivered to the MRF or other county-designated facility or program any material not listed as Acceptable Material or any Acceptable Material which has not been generated within the boundaries of Municipality, or which has become contaminated or otherwise changed to render the material technically or economically infeasible for recycling.

6.1.8 Sizing Cooperation. The Municipality shall cooperate with the Board to limit the physical dimensions of individual items of Acceptable Material which it delivers or causes to be delivered to the MRF or other county-designated facility or program so that the dimensions are suitable for processing by the MRF's or other county-designated facility or program shredding, baling or other processing equipment. Board shall provide Municipality with written rules regarding the physical dimensions of individual items of materials at least forty-five (45) days before any such rule goes into effect.

6.2 Documentation for Reports. The Municipality shall submit all information necessary for the Board to prepare the following reports and applications and both parties certify that they will provide all information necessary to the other to ensure the timely and accurate filing of all required government reports.

6.2.1 Grant Applications. Grant applications for state reimbursements, which applications are due by October 1st of each year. By September 1st of the same year Municipality shall provide the Board with all requested documentation to permit the Board to file these applications. These dates may be amended in the event the State of Wisconsin amends the application dates.

6.2.2 Actual Expenses Report. The actual expenses report of the Board and Municipality, which the Board is required to file with the State on or about April 30th of each year. By April 1st of the reporting year, Municipality shall provide a report of its actual expenses in implementing its duties under this Agreement.

6.3 Solid Waste. The Municipality is responsible for delivering or arranging for the delivery of solid waste not separated for recycling to the Portage County designated solid waste facility or Transfer Facility. Solid Waste fees for transfer, administration and disposal will be set by the Board. Municipality hereby warrants that in every contract for solid waste services in which the Municipality is a party, or in every license issued by the Municipality for solid waste services, the contractor or licensee shall deliver all solid waste generated within the Municipality but not separated for recycling or other recovery methods to the Portage County designated solid waste facility, or Transfer Facility consistent with Board rules, regulations and directives.

ARTICLE VII

FUNDING AND FINANCING

7.1 Financing an Effective Recycling Program. Board shall plan and implement an ongoing recycling program as set forth by law. The Board retains the right to designate the nature, type, and location of facilities and resources necessary to implement the program. Municipality shall incur costs of collection of Acceptable Materials. Both parties shall incur costs relating to enforcement and education. These various costs shall be defrayed as follows:

7.1.1 Grants and Grant Sharing. During the term of this Agreement the Board shall apply for and receive the grants, monies, or other assets distributed to Responsible Units by the State of Wisconsin. These grants, monies, or other assets shall be shared by the Board and Municipality so long as the Municipality has eligible expenses as set forth by the Wisconsin Department of Natural Resources or Board rule. The grant application submitted annually to the State shall form the basis for sharing state grant funds. Grants, monies, or other assets shall be distributed based on population estimates released from the Department of Administration each year. In all cases, the party responsible for providing the service is also responsible for providing cost estimates for submission on state grant applications. Municipality must provide board with cost estimates for Municipality provided services no later than September 1st of the year preceding the year in which grant funds will be used. The State will determine grant eligibility of all cost estimates submitted.

7.1.2 Revenue from Sale of Acceptable Materials. The Board shall have the right to receive any and all revenues from the sale of recycled materials processed by the Board under this Agreement. These revenues shall be applied to the cost of the recycling program and shall not be made available to any general fund of Portage County.

7.1.3 Solid Waste Fees. Recycling program costs not paid by state grants or by revenue from the sale of Acceptable Materials will be paid through the Portage County tipping fee or other revenues generated by the Solid Waste program. In cases of one-time, unexpected cost over-runs, the SWMB will attempt to moderate the impact on tipping fees through use of Reserve Funds. The Board will take all necessary actions to ensure that the Solid Waste program and recycling program continue as fee-funded programs which shall not impact the county tax levy.

7.2 Audits and Reconciliations. Municipality and Board shall exchange documentation and report of costs incurred by February 1st of the year following the year the costs were incurred in order to reconcile accounts for the previous year. An audit and reconciliation of distributions shall be furnished to the Municipality by the Board by April 30th of the year following the year costs were incurred.

7.3 Record Keeping. The Board and Municipality shall each keep a record of all transactions under this Agreement. Upon request, each party shall provide the other with access to these records and copies of all reports and plans kept pursuant to this Agreement.

ARTICLE VIII

INSURANCE

8.1 Municipality's Insurance. The Municipality shall maintain its own liability insurance for any construction, operation, equipment or maintenance in which it engages to carry out its obligations or exercise its rights under this Agreement in such form and amount so as to address the Municipality's liability risks arising out of the implementation of the Agreement.

8.2 Board's Insurance. Board shall maintain insurance on the MRF or other county-

designated facility or program for liability, errors and omissions and property damage. Such insurance shall include at least the following: (i) adequate fire, lighting, vandalism, riot, strike, explosion, civil commotion, malicious damage, tornado and windstorm insurance on all portions of the MRF or other county-designated facility or program which are subject to loss through such casualties; (ii) adequate public liability insurance; and (iii) insurance of the kinds and in the amounts normally carried by private companies engaged in the operation of similar facilities.

8.2.1 MRF Insurance Proceeds. All insurance proceeds received for losses under any MRF casualty policy, except those specified in (ii) of Paragraph 8.2, shall be used in the repairing of the damage or in the replacing of the MRF or for the continuous operation of the recycling program.

ARTICLE IX

DEFAULT AND REMEDIES

9.1 Default. Each party is responsible for its duties and implementation of Effective Recycling and Solid Waste Program components set out in this Agreement. A default under this Agreement shall occur upon the receipt of a notice or order from the DNR that a component(s) of the recycling or solid waste program failed to meet the standard required for an Effective Recycling or Solid Waste Program, as defined by statute. The defaulting party shall be the party responsible for that component under this Agreement.

Either party shall have the right to terminate this Agreement upon default of the other party of any material covenant, condition or obligation required by this Agreement. Neither party shall have the right to terminate this Agreement unless and until the defaulting party has received at least sixty (60) days prior written notice specifying the nature of the default. The notice shall specify a reasonable period of time to cure the default up to six months or the date in the DNR order or notice, whichever is later. The defaulting party must cure the default within such reasonable period of time, or this Agreement will terminate. Termination shall not limit or otherwise affect the respective rights, obligations and damages of the parties accrued prior to the date of termination. This Agreement shall be null and void as of the date of termination.

9.2 Damages. Damages under this Agreement shall be paid to the non-defaulting party. Damages shall be measured by the actual costs incurred by the non-defaulting party to perform the duty or responsibility of the defaulting party. Such costs may include salary and overhead of the non-defaulting party and the amounts paid to a 3rd party to perform the responsibility of the defaulting party up to the time of termination of this Agreement.

9.3 Specific Performance. It is the intent of the parties that each of the provisions of this Agreement be carried out to the fullest extent possible. In addition to damages, either party may be entitled to specific performance of any obligation owed by the other party which is necessary to ensure that the terms and provisions of this Agreement are carried out as contemplated.

9.4 Duties to Mitigate. Both parties agree to use their best efforts to mitigate any

damages which they might suffer by reason of an event of default.

9.5 Survival of Rights and Obligations. The termination of this Agreement shall not relieve either party of any obligation to the other party assigned under this contract, which arose prior to the termination.

9.6 Remedies Cumulative. All remedies provided for herein or otherwise available at law or equity shall be cumulative. The election of any remedy shall not bar other remedies available to the party.

9.7 Acts of God. If performance of any action by either party is prevented or delayed by an act of God, war, a labor dispute involving persons with whom the party has no employment relationship or other cause beyond the reasonable control of such party, the time for the performance of such action will be extended during the period, however, this Agreement shall not be extended beyond its terms.

9.8 Waivers. No waiver of any default by either party will be implied from the failure by either party to take any action in respect of the default. Any express waiver of any default of any provision of this Agreement will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any party will not be deemed to waive or render necessary the consent or approval of any subsequent similar act or request.

9.9 Invalidation of Contract Provisions. Should an arbitrator, administrative agency or a court of law rule that any portion of this Agreement is invalid, said ruling shall not invalidate the remaining portions of this Agreement and the remaining portions of this Agreement shall be deemed to continue in effect.

ARTICLE X

AMENDMENTS

10.1 Amendments in Writing. The Board and the Municipality agree that this initial Agreement may be further amended and/or supplemented only by written amendment.

ARTICLE XI

UNIFORMITY AND EQUALITY

11.1 Equitable Treatment. In administering this Agreement, the Board agrees to treat each Municipality in an equitable manner and method with other municipalities executing similar agreements with the Board.

ARTICLE XII

INDEMNIFICATION

12.1 Duty to Indemnify and Hold Harmless. Each party shall save, indemnify and hold harmless the other party and its officers, supervisors, trustees, commissioners, employees, representatives and agents, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, actual damages, fine, penalties and attorneys' fees, asserted to have resulted from, arisen out of, or to have been in any way connected to (i) breach of or any action under any obligation of the indemnifying party under this Agreement, or (ii) damages or injuries to persons or property caused by negligent acts of the indemnifying party or any of its agents, subcontractors, or employees in performance of its obligations under this Agreement.

12.2 No Liability for Some Damages. Neither party shall be liable to the other for incidental, indirect or consequential damages related to collecting, transporting, processing, storing, or selling of Acceptable Material or the providing of any service under this Agreement.

12.3 Rights Survive Termination. Termination of this Agreement shall not terminate the rights of either party which have accrued as of the date of the Agreement's termination and which relate to the enforcement of the other party's obligations, including, but not limited to, the obligations to pay or otherwise reimburse and to indemnify, defend and hold harmless.

ARTICLE XIII

NOTICES

13.1 In writing: Certified Mail. Written notices required to be given under this Agreement shall be deemed properly given when sent by certified mail, postage prepaid or by telefax and addressed to:

If to the Board:

Portage County Solid Waste
Attn: Solid Waste Director
600 Moore Road
Plover, WI 54467
715.346.6297

If to the Municipality:

Town of New Hope Chair
Attn: Todd Knepfel or successor
1501 County Road ZZ North
Amherst Jct. 54407
715.677.4784

or at such other place as the respective party may from time to time designate in writing to the other.

ARTICLE XIV

NONDISCRIMINATION

14.1 No Party to Discriminate. In the providing of services at or through the MRF or other county-designated facility or program and under this Agreement neither the Board nor the Municipality shall discriminate against any person on the basis of race, color, religion, sex, national origin (ethnic status), age, handicap, marital status, offender status, sexual orientation, political affiliation or belief, arrest or conviction record.

ARTICLE XV

AGREEMENT AUTHORIZATION

15.1 Authority to Enter into Agreement. The Board and the Municipality warrant for themselves that they have each complied with all of the necessary statutory or ordinance provisions relating to the executing of this Agreement and that the persons executing this Agreement on their behalves are authorized to do so.

ARTICLE XVI

ENTIRE AGREEMENT AND CHOICE OF LAW

16.1 No Unwritten Agreement. The entire agreement of the parties is contained in this Agreement and supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof.

16.2 Choice of Law. The parties agree that this agreement shall be interpreted and reviewed in accordance with the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the Board and the Municipality have executed this Agreement as of the day and date first set forth above.

FOR PORTAGE COUNTY AND THE SOLID WASTE MANAGEMENT BOARD:

Amanda Haffele
Solid Waste Director

Date: _____


Amanda Haffele
Solid Waste Director

Date: 9-15-25

FOR THE TOWN OF NEW HOPE:

Todd Knepfel
Town Chair

Date: _____


Todd Knepfel
Town Chair

Date: 9-15-25

EXHIBIT A

ACCEPTABLE MATERIALS TO BE DELIVERED TO MATERIAL RECOVERY FACILITY OR DESIGNATED FACILITY

Aluminum cans
Steel cans
Corrugated cardboard
Container board
Magazines or other material printed on similar paper Newsprint
Office paper
Plastic bottles and jugs; numbers. 1 and 2
Plastic containers numbers 3 through 7 (currently exempt from recycling due to state variance)

ACCEPTABLE MATERIALS TO BE DELIVERED TO PORTAGE COUNTY TRANSFER FACILITY OR DESIGNATED FACILITY

Major appliances (accepted for a fee)
Waste tires (accepted for a fee)
Electronics (accepted for a fee)
Fluorescent bulbs (accepted for a fee)
Waste oil
Lead acid batteries