

## **EXTENSION OF INTERMUNICIPAL AGREEMENT FOR COOPERATIVE RECYCLING ON THE SOUTH SHORE**

This agreement is made among the Towns of Abington, Cohasset, Duxbury, Hanover, Hanson, Hingham, Hull, Kingston, Middleboro, Norwell, Plymouth, Rockland, Scituate, Weymouth and Whitman under Massachusetts General Laws, Chapter 40, Section 4A, and other applicable laws.

### **RECITALS**

Whereas the members acknowledge that there is a critical need to eliminate, mitigate and prevent the adverse environmental and public health effects associated with the collection, processing and disposal of solid waste from whatever source derived, including municipal, industrial, domestic, commercial and other sources or activities;

Whereas the members desire to maintain full local authority and control over their solid waste management and recycling activities;

Whereas the members recognize that waste reduction and recycling conserve natural resources, reduces greenhouse gas emissions from the manufacture and disposal of consumer products, reduces our reliance on landfilling and incineration of waste; and is cost-effective; and support the Commonwealth of Massachusetts' goal to minimize the disposal of material waste and maximize the diversion of recyclable materials from the waste stream;

Whereas the members desire to work cooperatively to reduce the costs to local taxpayers for solid waste management and to conduct their local recycling programs in the most cost-effective and environmentally safe manner;

Whereas the members wish to maximize their purchasing power by joining together for regional procurements relating to solid waste disposal and recycling;

Whereas the Member Municipalities each have the power to enter into this Agreement under applicable Massachusetts law and Board of Selectmen, Town or City Council votes duly adopted;

Now therefore the Member Municipalities wish to work together in a cooperative effort to increase their recycling and decrease the amount of waste generated by members, mutually acknowledge the receipt of good and valuable consideration for this Agreement, consisting of the mutual promises and covenants set forth herein, and enter into this agreement to evidence that they have agreed as follows:

## ARTICLES OF AGREEMENT

### Article 1 South Shore Recycling Cooperative.

There is hereby established the South Shore Recycling Cooperative (hereinafter referred to as the "SSRC"), which shall include those cities and towns as named above which have adopted this Agreement by vote of the Board of Selectmen, Town or City Council, and any others that complete the membership process during the term of this Agreement, hereinafter referred to as "Member Municipalities".

### Article 2. Purpose and Functions of the SSRC.

The SSRC is established to provide a forum of cooperative management of solid waste by Member Municipalities, to assist each Member Municipality to improve the cost-effectiveness of their recycling efforts by providing economy of scale while maintaining full control over solid waste management; to assist Member Municipalities to improve programs to divert waste materials from the waste stream and to reduce the amount and toxicity of wastes; and to provide such assistance on an individual basis to each Member Municipality and cooperatively in joint programs with other Municipalities.

Notwithstanding any provision herein, no Member Municipality shall be obligated to participate in any particular SSRC contract, program, or procurement and each Member Municipality shall be free to establish its own contracts, programs or procurements independently of the Cooperative.

### Article 3. Board of Directors.

The executive power of the Cooperative shall be vested in a Board of Directors consisting of two representatives from each member appointed for a term as provided by law, or by local charter or bylaw. These Board members shall serve until their successors are appointed and qualified, or until the representative is no longer affiliated with the Member Municipality. The bylaws of the Cooperative shall provide for how a member town's vote should be cast if the two representatives from the town cast opposite votes on the same motion.

### Article 4. Authority and Functions of Board of Directors.

The Board of Directors is hereby authorized and directed to:

- a) Adopt and amend bylaws for the conduct of Board meetings and the regulation of its affairs, provided that such bylaws are consistent with this Agreement and any applicable special or general laws;
- b) Annually, no later than June 30 each year, elect from among its members a Chairman, Vice-Chairman, Secretary, and Treasurer;
- c) Submit a written report each year to each of the Member Municipalities detailing the services provided and funds received, and providing full financial disclosure;
- d) Conduct regional procurements for members;
- e) Prepare, advertise, and award regional contracts for recycling services on behalf of Member Municipalities;
- f) Develop and implement regional public education programs;
- g) Help develop grant proposals to assist members to obtain state grants to improve their solid waste management and recycling programs;

- h) Make recommendations and provide technical assistance to Member Municipalities concerning solid waste management and recycling;
- i) Recommend policies to members governing solid waste management and recycling best practices; and
- j) Assist Member Municipalities to establish, where appropriate, facilities such as transfer stations, materials recycling facilities, collection centers, permanent household hazardous waste collection centers, organics management or other solid waste facilities which provide necessary solid waste or recycling services for the host municipality and for other Member Municipalities.

Article 5. Effective Date.

- a) This Agreement shall take effect as of July 1, 2018.
- b) Before this Agreement becomes effective or binding on a city or town, it must be approved by vote of the respective Board of Selectmen, Town or City Council in accordance with G.L. c. 40, §4A.

Article 6. Annual Membership Fees

Each member Town shall pay an annual Membership Fee to the Cooperative in an amount to be determined by the Board of Directors. Failure of any member Town to make such required payment or otherwise fund the required Membership Fee to the Cooperative at the time required may be prohibited from participating in any SSRC programs or receiving services in accordance with Article 9 hereof.

Article 7. Term.

This Agreement shall be in effect for a fifth five-year term through June 30, 2023. The term hereof may be extended for additional five-year periods by the affirmative vote, within the last year of the then-current term, of the Board of Selectmen, Town or City Council of each Member Municipality which desires to extend the term hereof. The failure of any one or more Member Municipalities to vote to extend the term hereof shall not prevent the other members from extending the term and continuing the SSRC.

Article 8. Membership.

- a) A member municipality may continue its membership in the SSRC by vote in accordance with G.L. c. 40, §4a to approve this Agreement.
- b) A non-member municipality may become a member of the SSRC upon:
  - (i) A vote by the non-member in accordance with G.L. c. 40, §4A to approve this Agreement;
  - (ii) Acceptance of Commonwealth of Massachusetts Acts of 1998 Chapter 194, Section 419 and,
  - (iii) An affirmative vote by a majority of the Board of Directors to accept the non-member as provided in the bylaws of the SSRC and subject to such conditions as the Board of Directors may impose.

Article 9. Termination.

- a) Any Member Municipality may terminate its membership as of the end of a fiscal year by vote of Board of Selectmen, town or city council, as the case may be, without cause provided the Board of Selectmen, Town or City Council, as the case may be, gives notice to the other members of the intent to terminate this Agreement no later than six months prior to the date of termination.
- b) In the event of termination, the municipality terminating the Agreement shall still be obliged to provide its required membership Fee, as provided in Article 6, for the entire fiscal year during which the notice of the termination was given. Any municipality giving notice of termination later than December 31 shall be obliged to provide the required membership fee to the Cooperative for the following fiscal year.
- c) Upon such termination, a former member shall have no further rights nor claims with respect to the property, assets, or other rights of the Cooperative but shall be responsible for liabilities and claims with respect to the period of its membership prior to such termination.
- d) Termination of this agreement by one member shall not have the effect of terminating the agreement as to the remaining Member Municipalities.

Article 10. Amendment

The provisions, terms and conditions of this Agreement may be modified only by written amendments to this Agreement approved by all members by vote of their respective Board of Selectmen, Town or City Council.

Article 11. Severability

If any clause or provision of this Agreement or its application shall be held unlawful or invalid, no other clause or provision of this Agreement shall be affected, and this Agreement shall be construed and enforced as if such unlawful or invalid clause or provision had not been contained herein.

Article 12. Assignment.

No member shall have the right to assign or otherwise transfer its rights or obligations as a Member Municipality under this agreement.

Article 13. Waiver.

Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of such party's right and shall not affect the right of such party to exercise at some future time said right or rights or any other right it may have hereunder.

Article 14. Interpretations.

For purposes of this Agreement, except where the context clearly indicates otherwise, the use of the singular shall include the plural and pronouns shall include both singular and plural and shall include all genders.

Article 15. Authority to create entity

If the Board of directors shall hereafter determine, it may create an independent legal entity by creating a not-for-profit corporation or through the adoption of special legislation.

Article 16. Liability

The individual Member Municipalities of the SSRC shall not be liable for any actions or decisions of the Cooperative, and the Cooperative shall indemnify, defend and hold harmless each Member Municipality from any claim, demand, action or cause of action arising from or caused by any action or decision made by or on behalf of the SSRC.

The Agreement shall not be deemed to create a fiduciary relationship between the MMs, other than as set forth herein. Nothing in the IMA is intended to make any Member Municipality an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose.

Each employee of any of the Member Municipalities will continue to be an employee of the town of origin while working for SSRC, and any injury to such employee or any claim brought against such employee by a third party, shall be the exclusive responsibility of the municipality of origin; provided however, that SSRC may decide to hire or retain its own employees, in which case, SSRC shall be the Public Employer and may employ personnel to carry out the purposes of the SSRC and may establish the duties, compensation and other terms and conditions of employment of personnel;

Each party shall release and indemnify, defend, and hold the others harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the releasing party's breach of this Agreement or the negligence or misconduct of the releasing parties, or the releasing party's agents or employees. No party in entering into this IMA has waived any governmental immunity or limitation of damages which may be extended to it by operation of law. This IMA is by and between the parties which have executed it and is not intended to confer any express or implied benefits to any other person or entity. This IMA is not intended to confer any third party beneficiary status to any person. It is expressly understood that the services provided hereunder are deemed for public and governmental purposes and all privileges and immunities from liability enjoyed by municipalities shall extend to their participation hereunder and to the activities so undertaken to the fullest extent provided by law.

**APPROVED AND AGREED TO:**

\_\_\_\_\_  
MAYOR or CHAIRMAN, BOARD OF SELECTMEN

TOWN OF \_\_\_\_\_ DATE: \_\_\_\_\_