

**THIRD AMENDED AND RESTATED
INTERLOCAL
SOLID WASTE MANAGEMENT AGREEMENT
NORTHEAST NEBRASKA SOLID WASTE COALITION
ADOPTED October 1, 2023**

THIS THIRD AMENDED AND RESTATED AGREEMENT (“Third Amended Agreement”) is made and entered into by and among the undersigned political subdivisions comprising the membership of the Northeast Nebraska Solid Waste Coalition (“Coalition”), listed on Exhibit "A" hereto, whose governing bodies approved, by resolution, this Amended Agreement on or before October 1, 2023. It is the intent of the members of the Coalition that this Third Amended Agreement shall supersede all prior agreements.

WITNESSETH:

WHEREAS, the undersigned political subdivisions have previously affiliated as members of the Coalition and endeavor to ratify their membership in the Coalition;

WHEREAS, the members of the Coalition have found it necessary to amend the existing interlocal agreement to provide a mechanism for utilization in allowing additional political subdivisions to join the Coalition together with a need to amend certain provisions of the previously executed interlocal agreement;

WHEREAS, the members of the Coalition are desirous of having a single document which describes the amended agreement of the parties and therefore all prior iterations of the Interlocal Agreement of the Coalition are superseded by this Third Amended Agreement;

WHEREAS, the members of the Coalition for their common good are desirous of adopting this Third Amended Agreement pursuant to the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§13-801, *et seq.*, as the same may from time to time be amended (the “Act”), for the purpose of providing solid waste management to their respective constituencies by the means of building, maintaining, and operating a solid waste disposal facility (“Facility”); and

WHEREAS, the members of the Coalition are in agreement for their joint and mutual benefit and to avoid any unnecessary risks associated with or liability for environmental clean-up as a result of hazardous material contamination to ground water and/or other segments of the environment, as well as any post-closure risks or liability for the same, that any solid waste disposal facility or landfill created, built, and operated as provided herein shall accept only solid wastes from the parties hereto or as approved by the Board of Directors of the Coalition (“Board”), subject to the terms and conditions set forth herein and the By-Laws of the Coalition;

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions hereinafter set forth, the members of the Coalition being parties hereto agree as follows:

1. The purpose of the Coalition is to build, maintain, and operate a solid waste disposal, recycling, and education facility for the citizens who are constituents of the parties hereto, and for certain types of waste from non-parties. Parties who associate with the Coalition may withdraw from the Coalition as set forth in Paragraph 14 of this Third Amended Agreement, and in no event shall such withdrawing party be relieved of liabilities of the Coalition incurred prior to such withdrawing party's notice of withdrawal.

2. The parties hereto agree pursuant to the provisions of the Act, that the Coalition a separate body politic. The Coalition shall function as a local subdivision of government providing for solid waste management, recycling, and disposal, and as a nonprofit agency, which shall be empowered to make all financial and policy decisions affecting the purpose for which it is created.

3. Additional political subdivisions or entities may seek to become parties to this Third Amended Agreement and added as members to the Coalition upon providing to the Chairperson of the Board a letter of application which shall be considered by the Board at the next regular or special Board meeting. The application must identify the total population served by such political subdivision or entity, including any other political subdivisions, entities, or unincorporated areas (hereafter, "Communities") which rely upon the applicant for disposal of solid waste, and identify which, if any, transfer station the applicant intends to utilize, and/or any private haulers that serve the applicant. Upon receiving the approval of two-thirds (2/3) of the Directors and upon the governing body of the political subdivision applying for membership authorizing the execution of this Third Amended Agreement by Resolution and upon the execution of this Third Amended Agreement, including any addendum, amendment or modification thereto, the political subdivision applying for membership shall become a member of the Coalition. Further, the parties agree to comply with the terms of the host Agreement for the Facility entered into with Stanton County dated November 4, 1993, as amended from time to time. Until such time as an applicant becomes a member, the applicant is subject to non-member rates, or denial of the use of the Facility.

4. The parties hereto are hereby authorized and encouraged to establish by separate Interlocal Agreement relationships with other parties hereto to provide for the most economically feasible location and development of their own transfer stations, including but not limited to the transfer station's capitalization, debt service, operation and maintenance, and related capital and operating reserve costs required to transport their waste to the solid waste disposal facility, whether by the political subdivision(s) involved, or through private haulers that serve the parties.

5. Subject to Paragraph 17, the Coalition shall continue in existence and operation for the active life of the Facility and post-closure; it is the intent of the parties that the Coalition shall terminate on or as soon as practicable after the post-closure timeframe established by the rules of the Nebraska Department of Environment and Energy ("NDEE"), or its successor agency.

6. The Coalition shall be governed by the Board, which shall be made up of representatives as set forth below. Each Director shall be appointed by Resolution of the applicable governing body, and each such applicable governing body may name an alternate person to act and vote in the absence of the governing body's named representative. The Coalition shall have, through the exercise of a majority vote of its Board, those responsibilities and powers set forth in the Act, as well as the power to issue bonds and notes pursuant to Neb. Rev. Stat. §13-808, *et. seq.*, and the power to enter into service agreements pursuant to Neb. Rev. Stat. §§13-2024.

(A) A single representative from each of the three (3) largest municipalities which are parties to this Third Amended Agreement;

(B) A single representative, which shall rotate annually, for all other members which are a party to this Third Amended Agreement excluding representatives in a) and c) of this Section.

(C) A representative from the township where the solid waste disposal facility is located, currently Maple Creek Township.

7. Powers and responsibilities of the Board shall include, but not be limited to the following:

(A) Set budgets and rates ("user fees") and to provide for a system of budgeting, accounting, auditing and reporting of all Coalition funds and transactions, for a depository, and for the bonding of employees and officials or the provision of equivalent insurance coverage provided by the Coalition;

(B) Establish solid waste disposal facility use rules and regulations for the Coalition facility, including those prohibiting various types of wastes;

(C) Establish goals and/or mandates regarding waste reduction, reuse, and recycling;

(D) Contract for the design, development, construction, operation, and maintenance of a publicly owned solid waste disposal facility with public or private entities as allowed by Nebraska law;

(E) Manage and review solid waste disposal facility operations;

- (F) Organize efforts to keep the general public informed of desired solid waste facility operations and procedures, and making the public aware of potential problems and concerns;
- (G) Address questions and concerns of the general public;
- (H) Make application for any permits or licenses required by regulating agencies;
- (I) See that the solid waste disposal facility operating personnel are kept abreast of latest developments and concerns regarding the solid waste disposal facility;
- (J) Employ such personnel as are needed to carry out the objectives of the Coalition set forth herein, fix their compensation, benefits, enact personnel rules and regulations, and terminate their employment;
- (K) Adopt By-Laws regarding the organization and operation of the Coalition;
- (L) Make application for and receive grants related to the solid waste management purposes for which the Coalition was formed;
- (M) Borrow funds as necessary;
- (N) To contract with and compensate consultants for professional services including, but not limited to, architects, engineers, planners, lawyers, accountants, rate specialists, and others found necessary or useful and convenient to the stated purposes of the Coalition;
- (O) To sue and be sued;
- (P) To purchase, plan, develop, construct, equip, maintain, and improve facilities and systems for use in solid waste management and lease or acquire land in fee by gift, grant, purchase or condemnation, as necessary for the construction and operation of such a facility or system;
- (Q) To acquire, hold, use and dispose of the reserves derived from the operation of solid waste management facilities and systems and other moneys of the Coalition;
- (R) To acquire, hold, use and dispose of other personal property for the purposes of the Coalition; and

(S) To make or cause to be made studies and surveys necessary or useful and convenient to carrying out the functions of the Coalition.

8. The Coalition shall be funded by the revenues derived from the rates ("user fees") set by the Board for solid waste disposed at Coalition facilities in accordance with the provisions set forth by the Board. NO PROPERTY TAX SHALL BE LEVIED FOR ANY COST RELATED TO THE CREATION, BUILDING, OR OPERATION OF THE SOLID WASTE DISPOSAL FACILITY provided, however, that (1) in the event that funds derived from "user fees" are insufficient to service debt of the Coalition, then and in that event the individual members of the Coalition shall be assessed (which assessment may be provided for in any service agreement with each such member) on a per-capita basis on the basis of the entire population served by the members of the Coalition as determined by the most recent decennial census which assessment shall be paid by revenues derived from local property taxes or other local revenue sources; and (2) in the event of a request from the Board for the members' assistance in meeting state or federal financial assurance requirements of Coalition for closure, post-closure care or for corrective action, then and in that event the members shall participate in the Local Government Financial Test, the Local Government Guarantee, a State-Approved Mechanism, or in any combination of these financial assurance mechanisms as requested by the Board, on a per-capita basis on the basis of the entire population of the members of the Coalition as determined by the most recent decennial census. The rates charged by the Coalition shall be uniform for all members for disposal costs at the gate of said facility based on the tonnage or volume of waste. Rates charged by the parties hereto to their constituents for collection and transfer to the solid waste disposal facility shall be the function and responsibility of each of the said parties hereto. The Coalition is hereby empowered and authorized to establish classes of user fees for the following:

- (A) Members that send qualifying waste directly to the Facility;
- (B) Member transfer stations that send waste to the Facility;
- (C) Non-member transfer stations that send waste to the Facility;
- (D) Non-transfer station and non-qualifying waste to Facility;
- (E) City of Clarkson;
- (F) Minimum charges;
- (G) Landfill Inspection Fee;
- (H) Administrative Fee;
- (H) Equipment Use Fee or special waste fee; and

(l) Non-typical waste

9. The parties hereto agree to:

(A) pass appropriate ordinances or resolutions requiring their citizens to manage their solid wastes in compliance with the policies of the Coalition, and require any Community served by such member to do the same;

(B) where legally required by law to do so, to require the disposal of said wastes only through a transfer station approved by Coalition; and

(C) incorporate the rates for solid waste disposal as set annually by the Coalition Board of Directors into any rate charged to their respective constituents and Communities served.

10. The Coalition shall set the standards of and for the solid waste it shall accept from transfer stations and at the solid waste disposal facility. Said standards shall be in compliance with applicable permits, rules and regulations of state and federal agencies with jurisdiction over the solid waste disposal facility.

11. The parties hereto agree that the solid waste disposal rates and classes shall be approved by the Board, and shall be calculated to fund capital, debt service, operating, closure, post-closure, financial assurance, reserve funds, self-funded insurance costs, and other costs which may arise from the operation, management, design, expansion, or replacement of the Facility.

12. Any party to this Third Amended Agreement which does not agree with the rates established by the Board which apply to such party shall be allowed to challenge the reasonableness of said rate at a meeting before the Board within thirty (30) days after the Board adopts annual rates as provided herein. The Board's decision as to such challenge shall be final.

13. The parties hereto further agree to comply with the Coalition's permits, and shall cooperate with the Coalition's efforts to obtain and maintain necessary permits for the solid waste facility. Transfer station operators shall be required to keep exacting records of the tonnage and volume of waste they initially receive, what is diverted, reused or recycled, what is excluded as hazardous material, what is excluded as required by the Coalition, and the tonnage or volume approved for transfer to the solid waste disposal facility on not less than a monthly basis.

14. The parties hereto shall remain parties to this Third Amended Agreement, except as provided in Paragraph 1 of this Third Amended Agreement, for the duration of the amortization schedule of all revenue bond issues and until the required post-closure

care and any required corrective action has been completed. In the event any party hereto desires to withdraw from this Third Amended Agreement, said party shall forfeit any future opportunities for self-insurance reimbursement from the funds established for this purpose, but shall remain responsible for any assessments or any financial assurance mechanism participation as requested, directed or agreed under the provisions this Third Amended Agreement. Any member seeking to withdraw from membership in the Coalition shall file with the Board a certified copy of the resolution of the member's governing body approving withdrawal. The withdrawal shall be effective upon such filing.

15. Any refund of post-closure self-funded insurance funds shall be redistributed to the parties hereto at the time of such refund on a per-capita basis (using the most recent decennial census) weighted by Coalition membership years.

16. Any party to this Third Amended Agreement shall have the right to conduct an inspection of the solid waste disposal facility with not less than one (1) day's advance written notice to the Chairperson of the Board.

17. The Coalition may be dissolved only by the adoption of resolutions approving such action by the governing body of each member, provided that the Coalition may not be dissolved until all outstanding bonds, notes, service agreements or other contractual or regulatory obligations and legal claims shall have been satisfied in full. Upon dissolution of the Coalition, each member shall become the owner of a fractional undivided interest in all remaining assets of the Coalition. Each member's undivided fractional interest in such assets shall be determined in accordance with that fraction which is produced, based upon the most recent decennial census, by dividing the population of each member by the entire population of all members of the Coalition.

18. The title to all property, personal or real, owned by the Coalition shall be held in the name of the Coalition. All conveyances of real property owned or held in the name of the Coalition shall be authorized by resolution of the Board and executed by the Chairperson or Vice Chairperson on behalf of the Coalition.

19. Each party to this Third Amended Agreement shall execute duplicate copies of this Third Amended Agreement and provide one executed copy to the Board. The parties agree that the separately executed copies of this Third Amended Agreement shall constitute the Interlocal Agreement of the Coalition, shall be given full force and effect, and shall supersede all prior iterations of the Coalition's Interlocal Agreement.

20. Each member shall provide to the Coalition a certified copy of the resolution of the governing body of the member approving this Third Amended Agreement and a certified copy of the resolution appointing said members representative to the board of directors, said resolutions being effective upon their filing with the Coalition.

21. This Third Amended Agreement may be amended upon approving resolutions adopted by the governing bodies of sixty percent (60%) of the population based upon the most recent decennial census, of the members at the time of the proposed amendment. A certified copy of each approving resolution shall be submitted to and kept on file with the Board.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Third Amended Agreement in duplicate this ____ day of _____, 2023.

EXHIBIT "A"

MEMBERS OF THE
NORTHEAST NEBRASKA SOLID WASTE COALITION

- (1) City of Battle Creek, Nebraska
- (2) Burt County, Nebraska
- (3) City of Columbus, Nebraska
- (4) Village of Craig, Nebraska
- (5) Village of Creston, Nebraska
- (6) Dodge County, Nebraska
- (7) Village of Duncan, Nebraska
- (8) City of Fremont, Nebraska
- (9) City of Hooper, Nebraska
- (10) Village of Hoskins, Nebraska
- (11) Village of Inglewood, Nebraska
- (12) City of Madison, Nebraska
- (13) Madison County, Nebraska
- (14) Village of Meadow Grove, Nebraska
- (15) Village of Nickerson, Nebraska
- (16) City of Norfolk, Nebraska
- (17) City of Oakland, Nebraska
- (18) Village of Pilger, Nebraska
- (19) Platte County, Nebraska
- (20) Village of Silver Creek, Nebraska
- (21) City of Stanton, Nebraska
- (22) Stanton County, Nebraska
- (23) Village of Uehling, Nebraska
- (24) Village of Winslow, Nebraska