



# Paper Cup Alliance Equipment Grant Agreement

This Agreement is made and entered into as of the \_\_\_ day of \_\_\_\_, 2021 by and between the Foodservice Packaging Institute, Inc., a New York corporation having an office address at 7700 Leesburg Pike, Suite 143, Falls Church, VA 22043 (FPI), and the City of Milwaukee, through its Department of Public Works ("DPW"), having an office address at 841 N. Broadway #501, Milwaukee, WI 53202 (Grantee), each individually a "Party" and collectively the "Parties".

## I. PURPOSE

FPI desires the Grantee to recover the targeted post-consumer foodservice packaging (FSP) materials outlined below as part of its permanent recycling program, and to undertake such efforts on the terms set forth in this Agreement.

## II. RECYCLING OF FSP MATERIAL

During the term of this Agreement as specified in VIII., the Grantee shall (i) accept and sort the targeted post-consumer FSP material ("Post-Consumer FSP") at the City of Milwaukee and Waukesha County Joint MRF located at **1401 W. Mt Vernon Ave, Milwaukee, WI 53233** as part of their regularly approved and updated recyclables acceptance guidelines offered to residential curbside and other recycling programs for all the current and future municipal customers and third party haulers; and (ii) sell resulting commodity loads containing Post-Consumer FSP material.

- At present, the TOTAL households served by the City of Milwaukee and Waukesha County with recyclables delivered to the Joint MRF is approximately 277,000 as outlined below:
  - 181,000 households in the City of Milwaukee
  - 96,000 households in Waukesha County

The parties recognize that municipal and other customer terms of service are contract bound and time limited in nature and the number of households served will change over time, however, during the term of this agreement, the Grantee will continue to explicitly offer the targeted materials to its current and future customers, advise FPI of changes in municipal customers as part of its regular reporting if requested, and assist, as may reasonably be requested, with FPI efforts to encourage municipal adoption of FSP for Grantee customers.

## III. MATERIALS AND END MARKET PLAN

Upon installation and operation of the sorting robot, Grantee shall include the following Post-Consumer FSP materials as part of its recycling program (check all that apply):

- ✓ paper cups

**Additional Materials in Program for Promotional Consideration** (check those that apply):

- ✓ paper bags
- ✓ pizza boxes
- ✓ molded fiber food packaging (carriers/containers/egg cartons)
- ✓ aluminum foil & trays (containers/pans/trays)

- ✓ PET cups & containers
- ✓ PP cups & containers

Through continued promotion, the Grantee will communicate the inclusion of already accepted FSP. Already accepted FSP items include pizza boxes, paper bags, aluminum foil & trays, and PET and PP cups & containers. The Grantee, with assistance from FPI as necessary, shall use commercially reasonable efforts to research, identify, and engage with suitable end markets for each of the affected material streams resulting from the collection of the Post-Consumer FSP categories listed above.

#### IV. GRANT

FPI will provide a one-time grant of **\$125,000** (the "Grant Funds") to the Grantee towards the purchase of the following equipment and support services (the "System") that the Grantee shall use in performing its duties under this Agreement.

##### **Equipment & Support Services:**

- New BHS Max AI Autonomous Recovery QC Robot
- Air Compressor and Controls
- Training and Commissioning
- Freight & Installation

The grant funds shall be paid in three (3) phases:

The amount of the grant is \$125,000, and such funds shall be paid by FPI to Grantee as follows:

- Phase 1 - \$42,000 shall be paid within ten (10) days after Grantee's delivery to FPI of a copy of a purchase order for the System and a copy of the manufacturer's quote for the System.
- Phase 2 - \$42,000 shall be paid within ten (10) days after Grantee provides FPI with a written description (the manufacturer's equipment specification would suffice) and written confirmation of the shipment of the System from the manufacturer to the Facility; and
- Phase 3 - the remaining \$41,000 shall be paid within ten (10) days after Grantee provides FPI with written confirmation (in a form reasonably satisfactory to FPI) that the System has been installed at the Facility and is in operation.

The date of the Phase 1 grant fund request shall be the effective date for purposes of this Agreement ("Effective Date").

#### V. BENCHMARKING AND PERFORMANCE MEASUREMENT

Grantee shall conduct a "before" and "after" assessment to benchmark the impact of a recycling program that includes the Post-Consumer FSP materials identified herein. The baseline assessments shall be conducted (a) shortly after the third payment has been made as per Section IV. Grant and prior to launching communications for the expanded recycling program, and again (b) 6-12 months after launching communications for the expanded recycling program.

The before-and-after benchmarking assessment shall measure recycling activities in the baseline scenario and in the final scenario and provide a comparison. Both the preliminary and final benchmarking assessments shall identify: (i) the list of items or materials formally targeted for collection by the recycling facility at that point in time; (ii) an audit of the MRF residue from the end of the MRF processing line that includes the measurement of new FSP materials to be added, and food waste;; (iii) overall inbound tonnage (from select communities); (iv) list of end-markets for post-consumer FSP fiber products; (v) tonnage of post-consumer FSP fiber products (which may be aggregated with cartons) sent to end-markets, and (vi) information about the quality of post-consumer FSP fiber products -containing loads sent to end markets. Any other program changes such as addition of other materials (including FSP materials), change in collection containers, etc. should also be noted with the date they took effect.

Results of the two assessments shall be recorded, analyzed, and compared, to yield insight into the impact and benefits of adding Post-Consumer FSP to the recycling program. FPI is available to provide guidance and support as needed. Data and results shall be submitted to FPI electronically in working form through media mutually agreed upon (e.g. Excel). The preliminary assessment shall be submitted in conjunction with the initial quarterly report as described below. The final assessment shall be submitted in conjunction with the quarterly report approximately 12 months following the preliminary assessment.

## **VI. COMMUNICATION**

FPI and the Grantee will work in partnership to provide project related communication resources. The Grantee shall:

- 1) update its guidance (including website, informational bulletin, and promotional materials) to indicate that paper cups are accepted for recycling;
- 2) update its guidance (including website, informational bulletin, and promotional materials) to remove any references to paper cups as prohibited in recycling, and to remove/modify any blanket references to foodservice or food-contact items as prohibited or not recyclable to avoid confusion about cups being accepted; and
- 3) provide notification in writing to all customers served by the Milwaukee, WI Facility, including (a) private haulers and (b) the cities and counties listed in Section II above, that cups are an acceptable recyclable material at the Milwaukee, WI Facility, and encouraging them to make the updates described above to their resident/customer guidance.

Written communication relating to the announcement of additional materials accepted for recycling, notice to the public regarding the addition of recyclable foodservice packaging materials and kickoff of the new collection program, web site content and other press releases related to the collection of additional FSP materials shall be approved by FPI and the Grantee prior to their public release.

The Grantee agrees that FPI or others acting on its behalf may mention the Grantee and reproduce photos, educational materials, in a case study and other FPI web site content, press releases, and other

publicity materials. The Grantee shall review and approve these communications prior to their public release.

## VII. QUARTERLY REPORTING

During the term of this Agreement, Grantee shall provide FPI with quarterly reports that show (see below for sample reporting tables):

- a) Paper cup/carton material tonnage.
- b) Updates on product quality (downgrades, rejected loads, etc.) due to food contamination, which is outside of the control of Grantee, related to affected Post-Consumer FSP materials. Additional data concerning the Post-Consumer FSP, including inbound material - or product-specific Recycling Facility tonnage, may be included as mutually agreed upon (as needed FPI would like to check carton tonnage vs. total inbound residential so we can understand % of paper cups in the stream).
- c) Available AI (artificial intelligence/robot learning) sort data on the type of article, size of material, amount of material presented, and other data (as appropriate) that can be reported through use of the AI technology (if applicable).

## FPI Quarterly Report Format

FSP Bale Information:

Date	Commodity	Tonnage	Market	Notes (market feedback)

Facility Inbound Tonnage:

Month	Total Inbound Tons	MRF Residual Tons

AI Data (as appropriate/available):

Month	Total Material Presented	Targeted Material Picked	Targeted Material Passed

The first quarter's report shall be submitted by the end of the third month after the final payment of the grant (in conjunction with the preliminary benchmarking assessment). The quarterly reports will continue thereafter. The last quarter's report shall be submitted within one month following the

termination date of this Agreement.

## VIII. TERM AND TERMINATION

The term of this Agreement shall be five (5) years from the Effective Date. This Agreement shall automatically terminate upon expiration of the term. This Agreement may be sooner terminated by either Party due to breach by the other Party of any material provision of this Agreement if such other party fails or is unable to cure the breach within 45 days of receipt of written notice of such breach from the other Party. No waiver by a Party of any prior breach shall be considered a waiver by such Party of any subsequent breach.

## VII. INDEMNITY

Each Party (the "Indemnifying Party") agrees to hold harmless and indemnify the other Party and its members, officers, directors, employees, and agents (each an "Indemnified Party") from and against all third party claims, actions, demands, personal injuries or damages to tangible property, losses and liabilities, including reasonable attorneys' fees and costs of suit ("Claims"), excluding punitive or exemplary damages, to the extent that, without fault of any Indemnified Party, such Claims arise directly from (i) any negligent act, negligent omission or willful misconduct on the part of the Indemnifying Party, its employees, independent contractors or agents, in connection with performance under this Agreement or (ii) a breach or violation of law, governmental rules or regulations by the Indemnifying Party, its employees, independent contractors and agents, provided that the Indemnified Party (a) gives the Indemnifying Party prompt notice of the Claim, (b) permits the Indemnifying Party, at its option, to assume defense of the Claim (if applicable), and (c) cooperates with the Indemnifying Party in its defense of the Claim.

## VIII. MISCELLANEOUS

- a) Entire Agreement. This Agreement embodies the entire Agreement and understanding between the Parties hereto with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements and understandings other than this Agreement relating to the subject matter. Neither party's standard form or pre-printed terms and conditions of purchase or sale shall apply to any transaction hereunder.
- b) Governing Law. This Agreement will be governed exclusively by, and construed exclusively in accordance with, the laws of the State of Wisconsin.
- c) Severability. In the event that any provision of this Agreement is held to be unenforceable under applicable law, this Agreement will continue in full force and effect without such provision and will be enforceable in accordance with its terms.
- d) Assignment; Successors and Assigns. This Agreement may not be assigned by either party hereto without the written consent of the other party hereto. Notwithstanding the foregoing, either party shall be entitled to assign this Agreement to any direct or indirect subsidiary or affiliate of such party or any corporation or entity that controls, is controlled by, or is under common control with such party. This Agreement and the rights, interests and obligations hereunder shall be

binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

- e) Notices. All notices and other communications required or permitted hereunder will be in writing and will be delivered by hand or courier to the office addresses below, or sent by email to:

City of Milwaukee  
Samantha Longshore  
841 N. Broadway, Room 620  
Milwaukee, WI 53202  
[slongs@milwaukee.gov](mailto:slongs@milwaukee.gov)

FPI  
Natha Dempsey, President  
7700 Leesburg Pike, Suite 143,  
Falls Church, VA 22043  
[ndempsey@fpi.org](mailto:ndempsey@fpi.org)

- f) Amendments. This Agreement may be amended only by a written agreement executed by the Parties hereto.
- g) Waiver. No provision of this Agreement may be waived except by a written document executed by both Parties. No waiver of a provision will be deemed to be or will constitute a waiver of any other provision of this Agreement. A waiver will be effective only in the specific instance and for the purpose for which it was given and will not constitute a continuing waiver.
- h) Counterparts. This Agreement may be in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one in the same instrument. The parties may sign and deliver this Agreement by electronic or facsimile transmission. Each party agrees that the delivery of this Agreement by electronic or facsimile transmission shall have the same force and effect as delivery of original signatures and that each party may use such electronic or facsimile signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.



# Paper Cup Alliance Equipment Grant Agreement

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

Foodservice Packaging Institute, Inc. (FPI)	City of Milwaukee
By: <u><i>Natasha Dempsey</i></u>	By: _____
Date: <u><i>12/03/2021</i></u>	Date: _____
Print Name: <u><i>Natasha Dempsey</i></u>	Print Name: _____
Title: <u><i>President</i></u>	Title: _____

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**ADDENDUM TO THE GRANT AGREEMENT BETWEEN  
THE FOODSERVICE PACKAGING INSTITUTE, INC.**

**AND**

**THE CITY OF MILWAUKEE**

**BY AND THROUGH ITS DEPARTMENT OF PUBLIC WORKS**

This is an addendum to the grant agreement between the Foodservice Packaging Institute, Inc. (hereinafter referred to as "FPI"), with its principal place of business at 7700 Leesburg Pike, Suite 143, Falls Church, VA 22043, and City of Milwaukee by and through its Department of Public Works (hereinafter referred to as "Grantee" or "City"), with its principal place of business at 841 N Broadway Milwaukee, WI 53202. This addendum and the grant agreement, along with all accompanying exhibits and attachments collectively form a single contract and shall be collectively referred to herein as the "Agreement".

In addition to the terms of the grant agreement, the parties hereby agree to the following:

1. Public Records Law. FPI understands that City is bound by the Wisconsin Public Records Law, Wis. Stat. §19.21, et. seq. Pursuant to Wis. Stat. §19.36(3), City may be obligated to produce, to a third party, the records of FPI that are "produced or collected" by FPI under this Agreement ("Records"). FPI is further directed to Wis. Stat. §19.21, et. seq, for the statutory definition of Records subject to disclosure under this paragraph, and FPI acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, FPI is (1) obligated to retain Records for seven years from the date of the Record's creation, and (2) produce such Records to City if, in City's determination, City is required to produce the Records to a third party in response to a public records request.
2. Nondiscrimination. It is City's policy not to discriminate against any qualified employee or qualified applicant for employment because of an individual's sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories ("Protected Classes"), pursuant to Milwaukee Code of Ordinances ("MCO") Section 109-9. Contractors and their subcontractors employing any resident of City of Milwaukee may not discriminate against any member of the Protected Classes, and such contractors must insert this clause into any subcontracts of subcontractors employing any resident of City of Milwaukee.
3. Conflict of Interest. Any contract in which a member of the City of Milwaukee Common Council is an interested party shall be voidable at the sole discretion of City, and City may sue to recover any amounts paid on such contract.

IN WITNESS WHEREOF, FPI and City have caused this Agreement to be executed for and on their respective behalf as of the dates hereinafter set forth.

FOODSERVICE PACKAGING  
INSTITUTE, INC

CITY OF MILWAUKEE

  
\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

*Natta Dimpsey*  
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

*President*  
\_\_\_\_\_  
Title

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Title

*12/03/2021*  
\_\_\_\_\_  
Date

\_\_\_\_\_