

****DRAFT****

**INTERGOVERNMENTAL AGREEMENT
RECYCLING MODERNIZATION ACT - CONTAMINATION REDUCTION PROGRAM**

THIS AGREEMENT, entered into consistent with ORS Chapter 190 and ORS 459.065(1)(b), is between Washington County, hereinafter referred to as “County,” whose address is 155 N First, Hillsboro, OR 97124, and the individual signatory city of Tualatin hereinafter referred to as “City” or “Cities.” Similar agreements will also be entered into between the County and other Washington County cities. Any reference hereinafter to “Participating Local Governments” includes both County and all individual signatory cities to an agreement identical to this Agreement including City. The Participating Local Governments are Washington County and, at the time of signature, includes the Cities of Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard and Tualatin. This list of cities is not exclusive and additional cities may join this Agreement independently without requiring consent from any of the other cities.

WHEREAS, Participating Local Governments have responsibilities related to the recycling contamination reduction under the provisions of (Oregon Revised Statute 459A.929) and related administrative rules; and

WHEREAS, the Participating Local Governments agree that performing these responsibilities in a collaborative and cooperative manner promotes the cost-effective and efficient use of public resources; and

WHEREAS, the Participating Local Governments including County and City desire to enter into an Agreement to establish procedures for mutually performing these responsibilities and related services and defining legal relationships and responsibilities; now, therefore,

In consideration of the mutual covenants herein, and in exchange for the promises and other valuable consideration set forth below, County and City agree as follows:

I. Purpose

Pursuant to Oregon Revised Statute 459A.929 and related administrative rules, the Oregon Department of Environmental Quality (hereinafter referred to as “DEQ”) has established contamination reduction requirements for local governments as part of the Pollution Prevention and Recycling Modernization Act (hereinafter referred to as “RMA”). Local governments in communities with over 4,000 people must establish and implement programs to reduce contamination in the recycling system and set a contamination reduction goal consistent with

statewide goals. The RMA requires producer responsibility organization(s) to compensate local governments up to \$3 per capita for contamination reduction programming work (Oregon Revised Statute 459A.890(4)). The DEQ is required to establish and maintain a list of approved contamination reduction program elements for local governments to use in these programs (Oregon Revised Statute 459A.929). Per ORS 459A.929(2)(c)(B). Local governments may select elements from DEQ's list to implement in their programs or local governments may submit alternative program plans to implement program elements not included in the DEQ's list of approved program elements. Local governments are required to report on contamination reduction programs in the annual Opportunity to Recycle (hereinafter referred to as "OTR") reports. DEQ establishes minimum requirements for local government programs and provides that cities and counties may work cooperatively with neighboring cities and counties to complete this work. This Agreement documents the arrangements among the Participating Local Governments, establishes the County's duties as co-administrator of the contamination reduction program on behalf of the Participating Local Government(s) for each fiscal year covered under this Agreement.

II. Term of Agreement

Participation shall be accomplished by adoption of the contamination reduction program work plan by the Participating Local Governments and by entering into this Agreement. The term of this Agreement commences upon execution and continues in effect through June 30, 2030, unless terminated by either party as provided for in Section III "Termination and Opt-Out." Thereafter, this Agreement automatically renews for successive five-year terms (July 1 – June 30) provided funding from the producer responsibility organization(s) continues to be available, as per Oregon Revised Statute 459A.890(4). Cities maintain the ability to implement their own contamination reduction program plan after executing this agreement.

III. Termination and Opt Out

County or City may opt out of this Agreement upon giving 120 days written notice of its intent to do so. County or City may be terminated from participation in this Agreement if either is in default of the terms hereof. In the event of a default, the party alleging the default shall give the defaulting party (and all Participating Local Governments) written notice of the alleged default and defaulting party shall have 30 days after receipt of notice to cure the default. When County or City opts out of this Agreement or it is terminated, the effective date shall be deemed to be July 1 of the next ensuing fiscal year or a date agreed upon by the parties. Further, that party's assigned funding for the current year's work program as

provided in Section VII, "Funding," shall remain under the authority of the Agreement for the remainder of the current fiscal year.

The County may immediately terminate this Agreement by written notice to City in the event the County does not receive adequate funding from the producer responsibility organization(s).

Any withdrawal from this Agreement under this section by a party shall not require of consent of any of the other Cities. Washington County reserves the right to add additional signatories to this Agreement without the consent of the Cities and the Cities expressly agree that any additional party may be added without requiring an amendment to this Agreement.

V. Duties of Parties

A. Duties of County

1. The County shall establish an annual work plan for contamination reduction and identify specific steps to implement the plan.
2. The County shall perform work requiring technical expertise, including plan development, data collection/compilation, report writing, program coordination, technical advice to Cities, and general information delivery to the public.
3. The County shall perform fieldwork including providing customer facing contamination reduction education and resources, technical assistance, and feedback to generators for which the producer responsibility organization(s) funding has been allocated as provided for in Section VII herein. Where funding for specific cities is curtailed by the producer responsibility organization(s), then adjustments shall be made by the County to the types of fieldwork conducted.
4. The County shall perform work requiring coordination with garbage and recycling collection companies, the DEQ, and other agencies and represent the Participating Local Governments before such agencies.
5. The County shall act as agent for all Participating Local Government(s) in establishing program criteria and seeking reimbursement in applying for contamination reduction funds. This does not preclude any City from individually receiving or allocating funding to other entities (as defined by DEQ) for contamination reduction programming consistent with the process set out in Section VII, "Funding."

5. The County shall perform specific duties assigned in the contamination reduction work plan for a given year.

B. Duties of City

1. City shall perform the specific duties assigned as outlined in the contamination reduction work plan, as reviewed and approved by the City prior to each respective fiscal year, for a given year and annually provide the DEQ and producer responsibility organization(s) with information required for funding distribution.
2. City shall ensure that any entity other than the County that receives contamination reduction funding provides data to the County that is required, as determined by the DEQ, to include in the annual Opportunity to Recycle reports completed on behalf of the City. Data must be provided to the County by January 15th of each year.
3. City shall be responsible for amending administrative rules or codes based on contamination reduction work plan developed by the County, provided any such work plan does not materially conflict with pre-existing City administrative rules or codes, or otherwise introduce stipulations that may be disallowed under City administrative or contracting rules. However this does not absolve the City of its obligations under ORS 459A.929.

VI. Indemnification

- A. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, the County shall hold harmless, defend, and indemnify City, its directors, officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the County's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of the County.
- B. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, City shall hold harmless, defend and indemnify the County, its Commissioners, employees and agents against all claims, demands,

actions, and suits (including all attorney fees and costs) arising from City's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of City.

VII. Funding

A. Contamination Reduction Programs

1. The County shall develop, propose and present a contamination reduction work plan to the Cities each year, including projected annual expenses and funding. The annual contamination reduction work plan will be developed in a timely manner so as to meet all deadlines set by the DEQ, the producer responsibility organization(s) and Cities. The contamination reduction work plan shall provide Participating Local Governments with contamination reduction program standards that meet OTR requirements and DEQ guidance.
2. Upon review of the annual contamination reduction work plan, the Cities will work with the County to determine the funding percentage to be allocated to the County for purposes of funding the activities described in Section V(A) above.
3. Producer responsibility organization(s) shall act as the administrator of contamination reduction program funding. The County shall request reimbursement of the funds on behalf of the Participating Local Government(s).
4. Each City has the right, for up to three years, to audit County records relating to producer responsibility organization(s) funding received through this Agreement.
5. Each City's participation in this Agreement is dependent on the execution of the Primary Funding Agreement and contamination reduction addendum between the County and the producer responsibility organization(s). If the County does not have an executed contamination reduction addendum which includes the City listed in Schedule A it is not considered a signatory to this Agreement. This IGA shall be considered to be operative for any local government upon the date of signing this Agreement.

B. Programs Funded through the Producer Responsibility Organization

1. For all sources of funding provided by the producer responsibility organization(s) related to compliance activities under the RMA, each City shall determine whether to receive those funds directly or allocate those funds to the County or other entity as provided for within this Agreement.

2. City maintains the ability to implement their own contamination reduction program, separate from the program coordinated by the County for Participating Local Governments. City may retain funding or allocate funding to another entity that is responsible for implementing the City's contamination reduction program. Any City choosing to retain contamination reduction funding or allocate to another entity shall notify in writing the County of its intent to retain those funds or allocate to another entity no later than January 31 of each year.

IX. Exclusivity

This writing is intended both as the final expression of the Agreement between County and City with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. The addition or removal of any additional unit of local government shall not affect the rights or obligations of the other signatories, and any such Agreement with an individual unit of local government shall be considered effective upon the signing of this Agreement (contingent upon the requirements of Section VII section A of this IGA).

WASHINGTON COUNTY (County)

CITY of (City)

By: _____

By: _____

Print name and title

Print name and title

Date

Date