

**STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE GRANT AGREEMENT**

Project name: Fresh Alliance Project

DEQ Agreement # 084-08

This Agreement is between the State of Oregon, acting by and through its Department of Environmental Quality (Agency or DEQ) and **the City of Portland** (Recipient).

Recipient Data	DEQ Data
Project Officer: Laura Haggi Organization: Portland Office of Sustainable Development 712 NW 9 th Ave., Ste 350 Portland, OR 97209 Phone: (503) 823-7871 E-mail: lhaggi@ci.portland.org <p style="text-align: right;">Taxpayer ID# :93-6002236</p>	Project Officer: Leslie Kochan Department of Environmental Quality 2020 SW 4 th Ave., Suite 400 Portland, OR 97201 Phone: (503) 220-5529 E-mail: kochan.leslie@deq.state.or.us

1. **Authority** The persons signing this Agreement represent and warrant that they have the power and authority to enter into this Agreement. DEQ enters into this Agreement under the authority of Oregon Revised Statutes 190.110 and 459.053(7).
2. **Effective Date and Duration** This Agreement is effective on the date on which every party has signed it and, when required, it has been approved by the Oregon Department of Justice. Unless earlier terminated or extended, this Agreement expires **February 28, 2010**.
3. **Project** The Project is described in attached Exhibit A. Recipient agrees to perform the Project in accordance with the terms and conditions of this Agreement.
4. **Agreement Documents** This Agreement consists of this Agreement and attached Exhibits A and B and C.
5. **Grant Funds** The maximum, not-to-exceed compensation that the Agency will pay to Recipient is **\$35,844**. This is a cost reimbursement grant. Disbursements will be made only in accordance with the schedule and requirements contained in Exhibit A.
6. **Subcontracts** Recipient may enter into subcontracts for any of the work scheduled under this Agreement.
7. **Amendments** The terms of this Agreement may not be waived, altered, modified, supplemented, or amended in any manner, except by written instrument signed by both parties and, if required, the Department of Justice. Recipient must notify DEQ's Project Officer in writing no later than thirty (30) calendar days before this Agreement expires of any proposed amendments to the Agreement. **No payment will be made for any services performed before the effective date or after the expiration date of this Agreement. This Agreement will not be amended after the expiration date.**
8. **Termination**
 - (a) This Agreement may be terminated by mutual consent of both parties or by Agency upon written notice to the Recipient. This notice may be transmitted in person, by mail, facsimile, or by Email.
 - (b) If this Agreement is terminated under Section 8 (a), Agency will pay Recipient for unpaid approved invoices and for authorized and approved expenses incurred under this Agreement but not yet billed.
9. **Funds Available and Authorized** The Recipient shall not be compensated for Work performed under this Agreement by any other agency or department of the State of Oregon. Agency certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement within the Agency's current biennial appropriation or limitation. The Recipient understands and agrees that Agency's payment of amounts under this Agreement is contingent on Agency receiving appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
10. **Match** Recipient agrees to provide matching resources valued at **\$ 48,125**. Additional match is welcome. **Current match expenditures must be submitted with all invoices using the Solid Waste Grant Agreement Payment Request and Expenditure Report form (Exhibit B).**
11. **Reporting** **Recipient must submit semi-annual Project Progress Reports on January 31st and July 31st of each year during the term of this Agreement and a Final Report at the project's completion. The Agency may withhold payments until it receives and approves the required reports.** The reports must be submitted to DEQ's Project Officer and may be submitted electronically. All reports will contain information as outlined in attached Exhibit C.

 Recipient must immediately notify the Agency of any developments that significantly impact the activities funded by this Agreement, including delays or adverse conditions that materially impair Recipient's ability to meet the objectives of the Agreement. This notification must include a statement of the action Recipient has taken or contemplated to minimize or mitigate the impact and any assistance needed to resolve the situation.
12. **Grant Requirements** All equipment and materials purchased with funds made available by this Agreement must be used only for purposes of the same general nature outlined in this Agreement. Use of grant funds is expressly prohibited for:
 - Disposal site engineering, design, or hydro geologic study required by Agency permit or enforcement action;
 - Costs for which payment has been or will be received under another financial assistance program;
 - Capital expenditures for solid waste planning;

- Costs incurred before this Agreement is effective or after it expires;
 - License applications or permit fees;
 - Ordinary operating expenses of local government that are not directly related to the project; and
 - Costs incurred for landfill closures.
13. **Recovery of Grant Funds** Any Grant funds disbursed to Recipient under this Grant Agreement that are expended in violation or contravention of any of the provisions of this Agreement must be returned to Agency. The Recipient will return all funds found by Agency to have been expended in violation of this Agreement no later than 15 days after Agency's written demand.
 14. **Captions** The captions or headings in this Agreement are for convenience only and do not define, limit, or describe the scope or intent of any provisions of this Agreement
 15. **Records Maintenance and Access** The Recipient will maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles and will maintain any other records pertinent to this Agreement in such manner as to clearly document Recipient's performance. The Agency, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives will have access to the books, documents, papers, and records that are directly pertinent to this Agreement in order to perform audits and examinations and to make excerpts and transcripts. Recipient will retain and keep accessible all financial records, supporting documents, and all other records related to this Grant Agreement for a minimum of three (3) years after the project is completed or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.
 16. **Compliance with Applicable Law** Recipient will comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work performed under this Agreement. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. These laws, regulations, and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. DEQ's performance under the Agreement is conditioned upon Recipient's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235, and 279B.270, which are incorporated by reference herein.
 17. **Recycled Paper** Recipient will, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).
 18. **Indemnity** To the extent permitted by Article I, Section 10, of the Oregon Constitution and by the Oregon Tort Claims Act, ORS 30.265 to 30.300, Recipient shall defend (subject to any limitation imposed by ORS Chapter 180), save, hold harmless, and indemnify the State of Oregon and Department and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of Recipient or its officers, employees, contractors, or agents under this Contract or in the implementation of the Project, including but not limited to, all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of Recipient or its officers, employees, contractors, or agents.
 19. **Merger Clause** THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF THE TERMS OF THIS AGREEMENT WILL BIND EITHER PARTY UNLESS THEY ARE IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE, IF MADE, IS EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. THE RECIPIENT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES THAT HE OR SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Approved by Recipient:

Tom Potter, Mayor, City of Portland _____
Date

Approved by the State of Oregon
Department of Environmental Quality:

Wendy Wiles, Land Quality Division Administrator _____
Date

APPROVED AS TO FORM

Inda Mengot
CITY ATTORNEY

Exhibit A

DEPARTMENT OF ENVIRONMENTAL QUALITY SOLID WASTE GRANT AGREEMENT

Project Name: Fresh Alliance Project

DEQ #: 084-08

Recipient: City of Portland

BACKGROUND

The City of Portland, through its Office of Sustainable Development, will supervise the Project, which will be carried out by Fresh Alliance, a non-profit organization. Fresh Alliance is the Oregon Food Bank's food rescue program for the retail grocery industry. Fresh Alliance currently sends, on a daily basis, refrigerated trucks to 57 stores in the Portland area to collect usable dairy, deli and frozen meat items. The Recipient will use the DEQ Grant to support the expansion of the food rescue program to fifteen new stores and to support the goal of collecting 200 pounds per store per day in all stores. DEQ grant monies will be used to purchase roll carts, collection tubs, and educational materials for the stores. It will also be used to purchase passive cooling devices for direct service agencies who handle some of the store pickups in their neighborhoods. The Grant will also be used to pay a portion of the salary of a Food Resource Developer and a driver.

The Project will result in waste prevention as food that otherwise might be landfilled will be rescued for human consumption. In addition, food rescue displaces food that would otherwise be grown for the same purpose, in the process saving resources and preventing pollution caused by food production and transportation. Additionally, greenhouse gases are offset by the reduced transportation of food waste to landfills.

PROJECT

The Recipient will complete the following tasks:

Task 1 Reporting: Submission of semi-annual Project Progress Report to DEQ. *The semi-annual Project Progress Report is due no later than July 31, 2008. The Report will summarize accomplishments to date. The Report will be submitted to DEQ's project officer and may be provided electronically. See additional detail on reporting under Exhibit C. The Project Progress Report will include grant expenditure and match information as outlined in attached Exhibit B.*

Task 2 Develop store level recognition materials and begin development of promotional and motivational materials.

Task 3 Train volunteers for food sorting and collection of Fresh Alliance product delivered to Oregon Food Bank locations.

Task 4 Prepare education packets for store clerk training.

Task 5 Reporting: Submission of semi-annual Project Progress Report to DEQ. *The semi-annual Project Progress Report is due no later than January 31, 2009. The Report will summarize accomplishments to date, including status of Tasks 2-4. The Report will be submitted to DEQ's project officer and may be provided electronically. See additional detail on reporting under Exhibit C. The Project Progress Report will include grant expenditure and match information as outlined in attached Exhibit B.*

Task 6 Add new retail grocers in Portland area.

Task 7 Begin purchase and distribution of sorting carts, collection tubs, and passive cooling devices.

Task 8 Train grocery clerks in new stores.

Task 9 Reporting: Submission of semi-annual Project Progress Report to DEQ. *The semi-annual Project Progress Report is due no later than July 31, 2009. The Report will summarize accomplishments to date, including status of Tasks 6-8. The Report will be submitted to DEQ's project officer and may be provided electronically. See additional detail on reporting under Exhibit C. The Project Progress Report will include grant expenditure and match information as outlined in attached Exhibit B.*

Task 10 Complete development of promotional and motivational materials.

Task 11 Complete purchase of collection tubs and distribution of used tubs.

Task 12 Reporting: Submission of semi-annual Project Progress Report to DEQ. *The semi-annual Project Progress Report is due no later than January 31, 2010. The Report will summarize accomplishments to date, including status of Tasks 10-11. The Report will be submitted to DEQ's project officer and may be provided electronically. See additional detail on reporting under Exhibit C. The Project Progress Report will include grant expenditure and match information as outlined in attached Exhibit B.*

Task 13 Reinforce store level support and employee training.

Task 14 Reporting: Submission of Final Report. A Final Report is due no later than February 28, 2010. The Report will include the data described in Exhibit C. The Report will be submitted to DEQ's project officer and may be provided electronically. The Final Report will include a final Solid Waste Grant Agreement Payment Request and Expenditure Report as outlined in attached Exhibit B.

PROJECT BUDGET

	Grant Amount	Match Amount	Total
A. Personnel	\$12,500	\$18,725	\$31,225
B. Professional Services			
C. Services and Supplies	\$23,384	\$29,400	\$52,784
D. Capital Outlay			
E. Other			
Total	\$35,884	\$48,125	\$84,009

Budget amounts may vary between categories by \$1000 without approval from DEQ or by an amount greater than \$1000 with prior written approval from DEQ project officer.

CONSIDERATION

1. Recipient may not submit billings for, and Agency will not pay, any amount in excess of the maximum compensation amount set forth in this Agreement. If the Agreement is amended to increase this maximum compensation amount, the amendment must be fully effective before Recipient performs work subject to the amendment. Recipient will notify DEQ's Project Officer in writing no later than thirty (30) calendar days before this Agreement expires of any proposed amendments to the Agreement. No payment will be made for any services performed before the effective date or after the expiration date of this Agreement. **This Agreement will not be amended after the expiration date.**
2. Recipient may submit multiple requests for cost reimbursement. The billings must describe all work performed with particularity, including by whom it was performed, and must itemize and explain all expenses for which reimbursement is claimed. All billings must be submitted with the Solid Waste Grant Agreement Payment Request and Expenditure Report (Exhibit B).
3. Billings must be sent to Contracts Office, Department of Environmental Quality, 811 SW Sixth Ave, Portland, OR 97204. Invoices are subject to DEQ's review and approval. **Invoice payments will be sent to Contracts Office, Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204.**
4. **The Agency will withhold 10% of total grant funds for the project until the Recipient has submitted, and the Agency has approved, a final report as described in Task 12 above and a final Payment Request and Expenditure Report form.**

TRAVEL AND OTHER EXPENSES

Travel and other expenses of the Recipient will not be reimbursed by the Agency.

Exhibit C
PROJECT PROGRESS AND FINAL REPORT REQUIREMENTS

Recipient must submit Project Progress Reports to the Agency on the schedule outlined in this Agreement. The reports must be submitted to DEQ's Project Officer and may be provided electronically.

The reports must be submitted with a PAYMENT REQUEST AND EXPENDITURE REPORT form (attached Exhibit B). Reports must also generally contain brief information on each of the following:

- a. A comparison of actual accomplishments with the goals and objectives established for the reporting period.
- b. Reasons why established goals were not met, if appropriate.
- c. Other pertinent information on progress of the project.

Recipient must immediately notify the Agency of developments that have a significant impact on activities funded by this Agreement, including delays or adverse conditions that materially impair Recipient's ability to meet the objectives of the Agreement. This notification must include a statement of the action taken or contemplated and any assistance needed to resolve the situation.

A Final Report is due to Agency no later than the end date of this Agreement. The report must be submitted with a PAYMENT REQUEST AND EXPENDITURE REPORT form (attached Exhibit B). The final report must include:

1. A comparison of actual accomplishments with the project goals and objectives as outlined in this Agreement. If a baseline assessment was done, include a description of that process and what was learned. Include a description of project accomplishments not included in the goals and objectives, if applicable.
2. Provide details on new stores brought into the Fresh Alliance program and the additional pounds of food collected as a result of the Fresh Alliance Project.
3. A description of volunteer and employee training, and examples of educational, motivational, and promotional materials used.
4. A description of significant problems encountered during project design and implementation and how these problems resulted in project changes or expected accomplishments.
5. A description of the most and least successful components of the project with an explanation of why they were or were not successful.
6. An explanation for significant differences between project budget and project expenditures.
7. A discussion of the technical and economic feasibility of others carrying out a similar project. Include recommendations on what should be done differently in managing a similar project.
8. Provide copies of materials related to the project including brochures, public service announcements, photographs, news clippings, or reports.
9. Provide any additional comments, suggestions, or ideas for DEQ's Solid Waste Gant Program.

Payments may be withheld until the Agency receives and approves required reports.