

## ATTACHMENT 1

**INTERGOVERNMENTAL AGREEMENT**  
**Waste Composition Study (2016-2017 City of Portland)**

187835

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

CITY OF PORTLAND CONTACT DATA	DEQ CONTACT DATA
Agreement Administrator: Pete Chism-Winfield  City of Portland, Bureau of Planning and Sustainability 1900 SW 4th Ave, Suite #7100, Portland, OR 97212 Ph: 503-823-7652 E: <a href="mailto:pete.chism-winfield@portlandoregon.gov">pete.chism-winfield@portlandoregon.gov</a>	Agreement Administrator: Peter Spendelow  Oregon Department of Environmental Quality 811 SW 6th Avenue, Portland, OR 97204 Ph: 503-229-5253 E: <a href="mailto:spendelow.peter@deq.state.or.us">spendelow.peter@deq.state.or.us</a>

1. **Background** DEQ is required by Oregon Revised Statutes 459A.035 to conduct periodic solid waste composition studies. DEQ has contracted with Sky Valley Associates LLC (Contractor) to carry out the sample collection, sorting, and data recording for the Oregon 2016/2017 Waste Composition Study (the "2016/2017 Study" – DEQ Contract #072-16). The City of Portland would like to participate in the study in order to include more samples from Portland, resulting in greater precision of the City of Portland waste composition estimates. Samples will include additional garbage samples delivered to disposal sites in or near the Portland and samples from both garbage and recycling collected at multifamily buildings in Portland. DEQ will coordinate sample collection with disposal sites, garbage haulers, recycling collectors and recycling facilities, will designate the samples to be selected for the disposal site portions of the study, and will assist in training the sort crew. DEQ will also be responsible for verifying all the data collected by Contractor, analyzing the data supplied by Contractor and for preparing written reports giving results of the disposal site portion of the 2016/2017 Study. The City of Portland will be responsible for arranging the samples to be directly collected from multifamily communities in the Portland area.
2. **Authority** DEQ has authority under Oregon Revised Statute (ORS) 190.110 to cooperate for any lawful purpose with a unit of local government. DEQ has authority under ORS 459A.035 to conduct solid waste composition studies.
3. **Effective Date and Duration** This Agreement is effective on the date of the last required signature. Unless earlier terminated or extended, this Agreement expires **June 30, 2018**.
4. **Statement of Work** Work authorized by this Agreement is set forth in the statement of work attached as Exhibit A.
5. **Consideration** The City of Portland agrees to pay DEQ a maximum, not-to-exceed price of **\$19,000** for work authorized by this agreement.
  - a) The City of Portland will reimburse DEQ for the actual contract costs incurred for samples collected that were generated in the City of Portland which are designated to be paid for by the City of Portland as specified in Exhibit A, including but not limited to Table 1 of that exhibit. The per-sample contract costs of each sample are specified in the below table. **The City of Portland and DEQ may agree in writing to change the precise number of samples collected from each substream as designated in Table 1 without requiring an amendment to this Agreement.** Changes to the not-to-exceed compensation may be made only by written amendment to this Agreement.
  - b) **The City of Portland will submit a deposit of \$17,500 to DEQ on or before June 30, 2016.** The deposit will be drawn upon as costs are actually incurred. DEQ will report quarterly to the City of Portland on the total number of samples collected and analyzed for the City of Portland and the total cost of those samples. Once the cost of sampling for the City of Portland exceeds \$17,500, DEQ will submit monthly invoices to the City of Portland. The invoice will show the number of Portland-designated samples collected by the Contractor, accepted by DEQ and allocated to the City of Portland for payment purposes. The City of Portland will make payment within 30 days of receipt of invoices from DEQ. The invoice will be submitted to: Pete Chism-Winfield, 1900 SW 4<sup>th</sup> Ave, Suite 7100, Portland, OR 97212.

<b>Table: Per-sample costs</b>	<b>cost per sample</b>
Disposal Site: Garbage Route Trucks	\$356
Disposal Site: Compacting Drop Boxes	\$235
Disposal Site: Loose Drop Boxes	\$235
Disposal Site: Self-haul	\$235
Disposal Site: Residuals, Mixed Solid Waste Processing Facility	\$436
Multifamily sorting cost: solid waste sample	\$235
Multifamily sorting cost: recycling sample	\$180
Multifamily cost of collection: both solid waste and recycling at same time	\$207
Multifamily cost of collection: either solid waste or recycling alone	\$160
Generator Site: Multifamily, collecting and sorting solid waste and recycling	\$622
Multifamily combined cost if solid waste or recycling delivered to site	\$575

- c) Any portion of the deposit not used by DEQ upon the expiration of this Agreement under Section 5 or the termination of this under Section 8 will be returned to the City of Portland.

- 6. Agreement Documents** This Agreement consists of this document and the attached Exhibit A.
- 7. Amendments** The terms of this Agreement may not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties. If the maximum compensation amount is increased by amendment of this Agreement, the amendment must be fully effective before DEQ performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement.
- 8. Termination** This Agreement may be terminated by mutual consent of both parties, or by either party upon 30 days written notice to the other party. This notice may be transmitted in person, by mail, facsimile, or Email. If this Agreement is terminated under Section 8, the City of Portland must pay DEQ for actual costs of work authorized by this Agreement but not yet paid.
- 9. Funds Available and Authorized** The City of Portland certifies at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.
- 10. Captions** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.
- 11. Compliance with Applicable Law** DEQ will comply with all federal, Oregon, and local laws, regulations, rules, orders and ordinances applicable to this agreement.
- 12. Contribution** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.
- With respect to a Third Party Claim for which the State is jointly liable with the City of Portland (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the City of Portland in such proportion as is appropriate to reflect the relative fault of the State, on the one hand, and of the City of Portland, on the other hand, in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State, on the one hand, and of the City of Portland, on the other hand, shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- With respect to a Third Party Claim for which the City of Portland is jointly liable with the State (or would be if joined in the Third Party Claim), the City of Portland shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the City of Portland, on the one hand, and of the State, on the other hand, in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the City of Portland, on the one hand, and of the State, on the other hand, shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The City of Portland's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.
- 13. Alternative Dispute Resolution** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.



- 14. No Third Party Beneficiaries** The State of Oregon and the City of Portland are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless the third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. DEQ is an intended beneficiary of the terms of this Agreement.
- 15. Severability** If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.
- 16. Survival** Sections 5, 8 and 15 of this Agreement shall survive termination or expiration of this Agreement.
- 17. Non-Appropriation** The State of Oregon's obligations under this Agreement are conditioned upon Agency's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.
- 18. Merger Clause** THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE 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. ALL PARTIES, BY THE SIGNATURE BELOW OF THEIR AUTHORIZED REPRESENTATIVES, HEREBY ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

Agreed by DEQ:

Agreed by the City of Portland:

\_\_\_\_\_  
Wendy Wiles, Division Administrator                      Date

\_\_\_\_\_  
Charlie Hales                      Date  
Mayor

Approved as to Form

\_\_\_\_\_  
Jim Roys, Financial Services Manager                      Date

\_\_\_\_\_  
City of Portland

**INTERGOVERNMENTAL AGREEMENT**  
**Waste Composition Study (2016-2017 City of Portland)**

DEQ Agreement # -16**STATEMENT OF WORK**

The Work authorized by this Agreement includes the collection of data from solid waste samples from the City of Portland that are in addition to the samples that DEQ will have collected as part of the statewide waste composition study and in addition to samples that DEQ will be collecting for Metro as part of the waste composition work for Metro. The Work also includes analysis of data from Portland samples, and preparation of a written summary giving results.

DEQ is conducting a statewide waste composition study in 2016 and 2017 which will involve selecting loads of solid waste at disposal sites throughout Oregon, sorting those loads into many material categories, and weighing each category, in order to determine the amount of each material being disposed of in Oregon each year. Field work for this study is being conducted by Sky Valley Associates (Contractor) under DEQ contract #072-16.

**1. Additional Portland Disposal Site Waste Composition Samples**

The City of Portland would like to jointly complete a waste composition study in 2016-2017 with a degree of precision that is expected to be achieved through collecting and sorting at least 150 samples, optimally distributed to achieve the most precise composition results relative to cost. DEQ would like to support that work. To do this, DEQ will increase the number of samples to be collected from waste generated within the boundaries of the City of Portland, to obtain a minimum of 150 samples. DEQ will select these samples to be representative of all solid waste disposed, as described in Oregon Revised Statutes 459A.010(3)(d), that is generated in Portland. The City of Portland will pay the cost of collecting and sorting 50 of these samples as shown in rows 1-6 of Table 1 below. DEQ will pay for any extra samples as needed to achieve a minimum of 150 samples total.

**Table 1: Number of samples and cost schedule**

Substreams of Waste	Portland	Price / sample	City of Portland Cost
Disposal Site: Garbage Route Trucks	31	\$356	\$11,036
Disposal Site: Compacting Drop Boxes	4	\$235	\$940
Disposal Site: Loose Drop Boxes	5	\$235	\$1,175
Disposal Site: Self-haul	8	\$235	\$1,880
Disposal Site: Residuals, Mixed Solid Waste Processing Facility	2	\$436	\$872
<b>Subtotal: Portland Disposal Site Samples</b>	<b>50</b>		<b>\$15,903</b>
Multifamily: Solid Waste and Recycling	4	\$622	\$2,488
<b>Total: City of Portland</b>	<b>54</b>		<b>\$18,391</b>

The number of samples in each category or "substream" in Table 1 above was based on both the amount of waste in each substream and the variability of the substream as of 2009. Based on recently-changing disposal patterns it may be advisable to change the number of samples collected in each category. For example, if self-haul and construction/demolition wastes are particularly lower now than they have been in the past, greater precision may be gained by decreasing the samples from self-haul, drop boxes, and special purpose landfills and increasing the number of samples from other waste substreams.

The protocol for sorting the waste and managing data is documented in the DEQ contract #072-16 between DEQ and Contractor.

DEQ, with the input, cooperation, and assistance from the City of Portland, will be responsible for coordinating the sampling with the disposal sites and garbage haulers in the area, and will be responsible for choosing the loads of waste brought in by garbage haulers that will be sampled for the study. The City of Portland agrees to assist DEQ in obtaining disposal data from local solid waste collection companies and disposal sites to help make sure that the samples gathered as part of this study properly represent disposal of Portland solid waste, and to allow DEQ to compile information on the total weight of different waste substreams of waste during the study period.

DEQ will oversee all of the disposal site sorting, detailed sample analysis, and other work done by the Contractor, in order to ensure the quality of the data gathered on the additional samples.

DEQ will provide analysis and results of the study, and will separately compile and analyze data for the City of Portland. DEQ will consult with the City of Portland on the manner in which data are to be analyzed, summarized, and presented.

DEQ will provide the City of Portland with a copy of the completed study, and on request will also provide the City of Portland with copies of data from the study and with summaries and compilation of the data.

The City of Portland understands that the number of samples provided for by this agreement, insofar as that number may differ from the number stated in DEQ contract #072-16, is subject to agreement by the Contractor under the terms of DEQ contract #072-16.

## 2. City of Portland Multifamily Solid Waste and Recycling Samples

The City of Portland would also like to have data on both disposal and recycling for multifamily properties, in addition to data on multifamily that DEQ is gathering as part of intergovernmental agreements with Metro and with the City of Portland. To that end, DEQ will direct Contractor to collect and sort 4 solid waste and 4 recycling samples from Portland multifamily properties under this agreement. This is in addition to any samples expected to be ordered by Metro, Washington County, and the City of Beaverton. The City of Portland will designate the 4 multifamily properties to be sampled, and will coordinate with the multifamily building property manager and with Contractor and DEQ regarding arrangements to collect samples and also determine other aspects of the solid waste and recycling systems and collection schedules at each property.

Weight of solid waste samples:

- Average sample weight for the study: at least 200 pounds per sample.
- Minimum sample weight: 175 pounds.
- If there is less than 175 pounds of solid waste on site, contractor will return later to collect additional solid waste to meet the 175 pound minimum.

Weight of recycling samples:

- If there is at least 200 pounds of recycling on site, samples averaging 200 pounds and a minimum of 175 pounds for any individual sample is to be collected.
- If there is less than 200 pounds of recycling on site, the entire on-site recycling will serve as a sample. The minimum sample weight is 125 pounds.
- If there is less than 125 pounds of recycling on site, contractor will return later to collect additional recycling to meet the minimum 125 pound limit.

Sort categories: For multifamily property samples, DEQ will have Contractor sort and weigh samples based on the material categories in Table 2 below. For recycling categories, Contractor will also provide counts of deposit containers and carry-out bags as indicated in Table 2.

**Table 2: Material Categories**

<b>Solid Waste Categories</b>	<b>Recycling Categories</b>
1) Cardboard	1) Cardboard
2) Other acceptable paper	2) Paper: commingled-acceptable
3) Acceptable plastic	3) Paper: not compostable or commingled-acceptable
4) Acceptable metal	4) Plastic deposit containers (count)
5) Container glass	5) Plastic: other commingled-acceptable
6) Yard debris	6) Plastic: other rigid
7) Food	7) Plastic carry-out bags (count)
8) Compostable non-food waste	8) Plastic: other commercially recyclable film
9) Household hazardous waste	9) Plastic: nonrecyclable film
10) Covered electronics	10) Metal deposit containers (count)
11) All other waste	11) Metal: other commingled-acceptable
	12) Glass deposit containers (count)
	13) Other container glass
	14) Yard debris, food, and compostable paper,
	15) Diapers
	16) Pet waste
	17) Covered electronics
	18) Other Residual

Recording and submitting data: Contractor will provide DEQ with sorted component weights data for each sample from the multifamily solid waste and recycling samples. DEQ will perform quality control checks on the data and then accept the samples if the results are satisfactory. DEQ will then provide the data to the City of Portland either in an Access database or in Excel files, as preferred by the City of Portland, and will also provide a compilation of data on request. The collection of samples and analysis will be done on a schedule mutually agreeable to the City of Portland, DEQ, and the Contractor.

**SCHEDULE:**

This intergovernmental agreement will take effect on the date of the last required signature. DEQ and the Contractor began field work for the statewide study on April 25, 2016. In signing this agreement, the City of Portland agrees to pay for those samples that are designated to be paid for by the City of Portland that were collected and sorted prior to the date of the last required signature. (If this intergovernmental agreement is not signed by all parties, those City of Portland-designated samples will revert to be samples for only the statewide study, and there will be no separate City of Portland compilation of data or extra samples collected and sorted on behalf of the City of Portland). Gathering of data in the field is expected to be completed by May 15, 2017, and the initial analysis of data and summary of results is expected to be completed by July 31, 2017. Work on multifamily garbage and recycling samples is expected to be conducted in June through November 2016, based on the schedule Metro and the City of Portland adopt for collecting these samples and the availability of Contractor to do the work.