

**INTERGOVERNMENTAL AGREEMENT**  
**Between**  
**THE COUNTIES OF MARION, POLK, AND YAMHILL TO IMPLEMENT**  
**HOUSEHOLD HAZARDOUS WASTE COLLECTIONS AND MANAGEMENT**

This Intergovernmental Agreement is made and entered into on \_\_\_\_\_  
by and between Marion County, Polk County, and Yamhill County, all political subdivisions of  
the state of Oregon.

**RECITALS**

WHEREAS, it is in the interest of public health, safety and the environment to provide  
alternatives to disposal of hazardous waste generated by households, conditionally exempt small  
quantity generators and agricultural activities as defined in ORS 459.411; and

WHEREAS, these Counties have prepared, and subsequently adopted, individual  
Household Hazardous Waste Management Plans; and

WHEREAS, the State of Oregon has declared it a matter of statewide concern to promote  
intergovernmental cooperation for the purpose of furthering economy and efficiency in local  
government; and

WHEREAS, counties have the authority pursuant to ORS Chapter 190 to enter into  
intergovernmental agreements to provide services and facilities through the joint and cooperative  
exercise of powers, privileges and authority; and

WHEREAS, these Counties desire to enter into an agreement regarding their respective  
rights and obligations as between themselves; and

WHEREAS, the Counties of Marion, Polk, and Yamhill (each a "Party" and collectively  
the "Parties") desire to enter into this Intergovernmental Agreement for the purpose of setting  
forth their mutual agreements and undertakings by which they will cooperatively undertake to  
operate the Household Hazardous Waste Program;

NOW, THEREFORE, in consideration of mutual undertakings and agreements contained  
herein, the Parties hereto agree as follows:

**1. PURPOSE.** The purpose of this Agreement is to establish and implement a workable  
program to provide for the collection and proper management of common hazardous wastes from  
households and conditionally exempt small quantity generators (CESQG), and agricultural  
activities, throughout their geographic areas.

**2. DEFINITION OF TERMS.** For the purposes of this Intergovernmental Agreement, except as defined below, the terms used in this Agreement shall have the meanings specified in the Marion County Household Hazardous Waste Implementation Plan.

**2.1 Collection Facility.** The occupied area, buildings, roadways, parking lots, temporary and permanent structures, fences, gates, drainage facilities and related appurtenances constructed and used exclusively for the collection and storage of hazardous waste from households and conditionally exempt generators, as well as agricultural pesticide wastes.

**2.2 Event.** Collection events held within Marion, Polk, or Yamhill, in which Household Hazardous Waste is collected from the public for disposal or recycling.

**2.3 Household Hazardous Waste Contractor.** A licensed and permitted waste management firm hired under contract to operate the collection facilities, provide collection services, properly manage, transport, and/or dispose of the collected wastes.

**2.4 Household Hazardous Waste Implementation Plan (Plan).** The Plan, dated August 7, 2002, that has been adopted by the Marion County Board of Commissioners.

**2.5 Household Hazardous Waste Program.** The services described in the adopted Household Hazardous Waste Implementation Plan, including the provision of permanent collection facilities and collection services for household hazardous waste, hazardous waste from conditionally exempt generators, and waste agricultural pesticides.

**2.6 Parties.** Marion, Polk, or Yamhill County. Party means any one of the Parties to this Intergovernmental Agreement.

**3. LEAD AGENCY.** Marion County will assume the role as Lead Agency for the management and implementation of this Plan.

**3.1 Responsibilities of Lead Agency.** Marion County, through its designated representatives, shall be responsible for the day-to-day administration of the Household Hazardous Waste Program.

**3.2 Authority and Duties of the Lead Agency.** The Lead Agency will be responsible for the following:

- (a) Determining processes for selecting contractors and conducting public procurement processes.
- (b) Negotiating contracts and/or leases for services (including both construction of facilities and operations).
- (c) Administering the contracts for services, including oversight of the contractor(s) to ensure full compliance.
- (d) Reviewing contractors' invoices, paying the contractors, and settling any disagreements regarding compensation.
- (e) Maintaining accounting records of revenues, expenses, and funds available.

- (f) Obtaining approval from the Parties for any limits on program participation, decisions regarding the implementation and requirements of pre-registration for collection services, scheduling and location of collection services, any user fees charged to residents desiring to use collection facilities at times other than regularly-scheduled collection Events, and of other classes of users desiring to participate in collection services in excess of participation limits imposed for the purposes of annual budgeting.
- (g) Requiring that the contractors comply with all relevant regulations.
- (h) Maintain ownership of the collection facilities.

**3.3 Contract Authorization.** Marion County, as Lead Agency, is hereby authorized to enter into contracts for the provision of regional services on behalf of all Parties. The contracts shall include provisions for the operation of a permanent facility, and for the provision of collection and disposal services for household hazardous waste, waste from CESQGs, and waste agricultural pesticides. These contracts shall include, at a minimum:

- (a) The contractor must indemnify and hold harmless all IGA Parties against liability for the provision of all services including operation of the facility and collection Events, storage, transportation, and off-site processing and/or disposal of all materials;
- (b) Insurance requirements, including that the contractor's certificate of insurance must name each Party to this IGA as an additional insured;
- (c) Requirements for storage, transportation, manifesting, waste removal, waste disposition, and record keeping, including that all waste be transported by licensed transporters to permitted processing and or disposal facilities
- (d) Service contractor identified as the waste "generator" (responsible for signing manifests) of all hazardous wastes accepted by the contractor at the site or Events;
- (e) Standards for accounting, billing, compensation, and reporting, including the development of an annual program report and a requirement that the contractor supply complete manifest documentation for all hazardous wastes received and transported through and including final disposal;
- (f) Contractor not assign any rights nor subcontract any of its obligations without the prior written consent of the Lead Agency; and
- (g) Contractor will perform any agreement as an independent contractor with complete control over its employees, agents and operations.

**4. IMPLEMENTATION AND COMPENSATION.** The Parties agree to the following commitments:

**4.1 Marion County.** Marion County will coordinate with collection Event staff for provision of services at satellite collection Events held in all three counties.

For collection Events held outside Marion County, Marion County will invoice the corresponding County for the following expenses:

- a. Labor – This will include the actual labor hours for the collection Event staff, from departure from the permanent facility the morning of the Event, to return to the permanent facility at the end of the Event. Also included are the hours spent

- unloading the waste from the collection vans into the permanent facility, along with any time spent bulking and storing away this waste. The hourly rates will be as set forth in the contracted service agreement between Marion County and its contractor.
- b. Disposal – This will include the actual cost of disposal of the materials collected at the Event, based upon unit prices as set forth in the disposal service agreement between Marion County and its contractor.
  - c. Materials – This will include the cost of supplies and materials (e.g., drums, absorbents, personal protective wear, etc.) consumed during the course of the Event and subsequent transport and bulking of waste collected at that Event, based upon unit prices as set forth in the contracted service agreement between Marion County and its contractor.
  - d. Administrative Fee – This fee will cover Marion County’s cost to administer the collection Events. The fee will be an additional 5% of the total expenses invoiced for collection Events. The formula for calculating this fee will be as follows:

$$AF = (L+D+M) \times 5\%$$

Where:

AF = Total Administrative Fee  
 L = Labor Cost  
 D = Disposal Cost  
 M = Materials Cost

Marion County will pay for all expenses related to holding satellite collection Events within Marion County.

Marion County will pre-register participants for drop-off at the permanent collection facility and will keep records of the County of origin of all customers utilizing the facility. Marion County will send a quarterly invoice to Polk County seeking reimbursement of \$74.00 per resident from Polk County that utilizes the permanent facility. Yamhill County residents will not be allowed to use the permanent facility.

Marion County shall annually provide to the other Parties copies of current contracted labor, disposal, and material/supply costs.

Marion County shall maintain and provide supplies and equipment for the permanent collection facility located in Marion County.

#### **4.2 Polk County.**

Polk County shall be responsible for the following related to collection Events held within its jurisdiction:

- a. Promotion of the Event

- b. Provision of volunteers/staff to direct traffic at the Event
- c. Provision of a suitable, paved location to hold the Event
- d. Provision of traffic cones/barricades to ensure proper traffic flow at the Event
- e. Provision of signage directing citizens to the Event
- f. Provision of drop boxes for waste and cardboard recycling for the Event
- g. Provision of restroom or portable toilet facilities for staff at the Event
- h. Provision of safety vests for volunteers and others assisting at the Event
- i. Keeping accurate vehicle counts of participants at each Event
- j. Provision of a safety orientation to all volunteers and other Polk County staff working at the Event
- k. If Polk County desires to provide a product reuse opportunity, then Polk County shall provide the table and staff at the reuse location
- l. Any customer surveys or educational handouts shall be provided by Polk County
- m. Proper disposal of any fluorescent light tubes, batteries, and paint collected at the Event

Polk County shall pay all approved invoices submitted by the Lead Agency within 45 days of receipt.

#### **4.3 Yamhill County.**

Yamhill County shall be responsible for the following related to collection Events held within its jurisdiction:

- a. Promotion of the Event
- b. Provision of volunteers/staff to direct traffic at the Event
- c. Provision of a suitable, paved location to hold the Event
- d. Provision of traffic cones/barricades to ensure proper traffic flow at the Event
- e. Provision of signage directing citizens to the Event
- f. Provision of drop boxes for waste and cardboard recycling for the Event
- g. Provision of restroom or portable toilet facilities for staff at the Event
- h. Provision of safety vests for volunteers and others assisting at the Event
- i. Keeping accurate vehicle counts of participants at each Event
- j. Provision of a safety orientation to all volunteers and other Yamhill County staff working at the Event
- k. If Yamhill County desires to provide a product reuse opportunity, then Yamhill County shall provide the table and staff at the reuse location
- l. Any customer surveys or educational handouts shall be provided by Yamhill County
- m. Proper disposal of any fluorescent light tubes, batteries, and paint collected at the Event

Yamhill County shall pay all approved invoices submitted by the Lead Agency within 45 days of receipt.

## **5. SHARING OF LIABILITY AND INDEMNIFICATION**

**5.1 Contractor Requirements.** Section 3.3 of this Agreement describes the Lead Agency's responsibilities to require insurance of the Lead Agency's contractor(s) as well as indemnification by the Lead Agency's contractors of all Parties of this Agreement. These requirements are intended to protect the Parties from liability arising out of the provision of hazardous waste collection services.

**5.2 Procedure to Assign Liability.** In the event that liability does arise out of the provision of Hazardous Household Waste, Conditionally Exempt Small Quantity Generator, or agricultural pesticide collection activities conducted under this Agreement including but not limited to any and all liability imposed by State or Federal law or regulation, such as fines, penalties, clean up expenses, legal fees, and other costs and expenses resulting from any such action or any such proceeding by virtue of any Federal or State law or regulation, and in the event that this liability is assigned to any Party, including the Lead Agency, the following procedure shall apply:

- (a) The Party shall be responsible for that portion of liability for which the Party was directly responsible.
- (b) All remaining liabilities shall be shared jointly by all Parties to this Agreement. Each Party shall pay its proportionate share, based on its population as set forth in the Household Hazardous Waste Management Plan, of all fines, penalties, costs and expenses in connection therewith including reasonable attorney's fees.

**5.3 Survival of Obligations.** The obligations under this section shall survive the termination of this Agreement.

**6. ADDITIONAL USERS.** The Parties anticipate that other agencies (such as other cities, counties, or Native American tribes) may desire to participate in the Household Hazardous Waste Program. The Lead Agency may contract with those other agencies to participate in the Household Hazardous Waste Program, provided that the Parties to this IGA do not pay any associated additional costs nor incur any associated additional liability.

## **7. INSPECTION OF PREMISES AND RECORDS.**

**7.1** The officials of any Party may inspect the Household Hazardous Waste sites and facilities during hours when the facilities are open for business, or at such other times as the contractor may allow.

**7.2** The officials of any Party may examine any records of the Household Hazardous Waste facility and any records of the Lead Agency related to the Program, including financial records, upon reasonable request to the Lead Agency. The examination shall be allowed promptly. This examination shall be made at the expense of the examining Party. Examination of any of the Household Hazardous Waste Contractor's records shall be in accordance with the terms and conditions of the contractor's agreement with the Lead Agency.

## **8. TERM OF AGREEMENT; TERMINATION; WITHDRAWAL OF PARTIES**

**8.1 Term of Agreement.** This Agreement becomes effective upon the date of the last signature below. It will remain in effect until June 30, 2024. Thereafter, unless terminated, the Agreement shall automatically renew annually for a one year term. This Agreement shall be reviewed by all Parties every five years, upon expiration of the initial term.

**8.2 Withdrawal of Parties.** After the conclusion of the initial Agreement term, any Party may terminate at the end of any fiscal year (June 30) its participation in the Household Hazardous Waste Program and this Agreement, by giving notice to the other Parties at least one hundred twenty (120) days prior to the end of the fiscal year.

**8.3 Withdrawal of Lead Agency.** In the event Marion County chooses to terminate its participation in this Agreement after the conclusion of the initial collection service term, then the entire Agreement will be terminated.

**9. INDEMINIFICATION.** Each Party to this Agreement shall be responsible for damage to persons or property resulting from negligence on the part of itself, its employees, its agents, or its officers within the limits of the Oregon Tort Claims Act. No Party assumes any responsibility for the consequences of any act or omission of any person, firm, or corporation not a Party to this Agreement.

**10. MODIFICATION.** This Agreement shall not be modified or amended in any manner except by an instrument in writing and signed by all the Parties participating at that time.

**11. ASSIGNMENT.** No Party to this Agreement shall assign its rights or obligations under this Intergovernmental Agreement.

**12. SEVERABILITY.** If any provision of this agreement shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect.

**13. GOVERNING LAW.** This Agreement shall be governed by Federal law and the laws of the State of Oregon.

**14. DISPUTE RESOLUTION.** The Parties agree to negotiate in good faith to resolve all disputes arising under the articles of this Agreement. If negotiation between these Parties fails to resolve any dispute to the satisfaction of the Parties, then the issue shall be resolved through binding arbitration in Marion County, Oregon. The Parties shall agree to the selection of the arbitrator. The non-prevailing Party shall be responsible for any costs for the services of the Arbitrator. The decision of the arbitrator shall be final and binding on the Parties hereto.

**15. NOTIFICATION.** All notices required to be given or authorized to be given hereunder shall be in writing and either personally delivered or sent by certified United States mail to the other party at the address shown below, or at such other address specified by a party in a letter sent to the other party hereto by certified United States mail.

Marion County  
Department of Public Works – Environmental Services  
P.O. Box 14500  
Salem, OR 97309

Polk County  
Department of Community Development  
850 Main St.  
Dallas, OR 97338

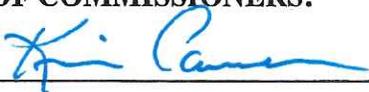
Yamhill County  
Department of Planning and Development  
535 NE Fifth St.  
McMinnville, OR 97128-4523

### SIGNATURES

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below.

#### MARION COUNTY SIGNATURE BOARD OF COMMISSIONERS:

	
Chair	Date
	
Commissioner	Date
	
Commissioner	Date

Authorized Signature:

	
Department Director or designee	Date

Authorized Signature: 	_____
Chief Administrative Officer	Date

Reviewed by Signature: James E Otto 5/22/19  
Marion County Legal Counsel Date

Reviewed by Signature: Cambar Schlegel May 10, 2019  
Marion County Contracts & Procurement Date

**POLK COUNTY SIGNATURE  
BOARD OF COMMISSIONERS:**

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Chair Date

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Commissioner Date

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Commissioner Date

Approved as to Form:

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Legal Counsel Date

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**YAMHILL COUNTY SIGNATURE  
BOARD OF COMMISSIONERS:**

Unavailable for signature

7/25/19

Chair

Date

Commissioner

Date

Commissioner

Date

Approved as to Form:

Legal Counsel

Date

Accepted by Yamhill County  
Board of Commissioners on  
7/25/19 by Board Order  
# 19-256