

State of Oregon

Contract for Services

Recycling System Frameworks Research for Oregon Department of Environmental Quality – Materials Management Program.

This Contract for Services (this "Contract") is by and between the State of Oregon, acting through its Department of Environmental Quality, ("Agency" or "DEQ") and Resource Recycling Systems, a corporation of Michigan doing business as RRS ("Contractor"), and is effective as of the Effective Date.

Contractor's Contract Administrator for this Contract is:

Brianne Haven, Vice President - Operations
416 Longshore Drive
Ann Arbor, MI 48105
Phone: (800) 517-9634
bhaven@recycle.com

Agency's Contract Administrator for this Contract is:

Justin Gast, Natural Resources Specialist
DEQ – Materials Management
700 NE Multnomah Street
Portland, OR 97232
Phone: (503) 229-6495
gast.justin@deq.state.or.us

Either party may change its Contract Administrator by providing the other notice in compliance with Section 17.6 of this Contract.

1. Contract Term.

The "Effective Date" of this Contract is the date this Contract has been fully executed by each party and approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Contract terminates the earlier of when Agency accepts Contractor's completed performance of all project deliverables, or May 31, 2024. If the parties agree, the Contract may be extended for additional terms ("Extension Terms") but the total term shall not exceed 5 years. The termination of this Contract will not extinguish or prejudice Agency's right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence:

2.1. this Contract less all exhibits;

2.2. Exhibit C (Special Terms and Conditions);

2.3. Exhibit A (Statement of Work);

2.4. Exhibit B (Required Insurance), and

2.5. Exhibit D (Independent Contractor Certification)

The foregoing documents and Exhibits are attached hereto and made a part of the Contract by this reference.

3. Services.

3.1. Performance of Services. Contractor shall perform the services (the "Services") and deliver to agency the deliverables ("Deliverables") set forth in Exhibit A, the Statement of Work (the "Statement of Work"). The Statement of Work includes the delivery schedule for the Deliverables and Services. Contractor shall perform the Services in accordance with the terms and conditions of this Contract.

3.2. Submission and Acceptance of Deliverables. When the Statement of Work requires Contractor to deliver Deliverables to Agency, then Contractor shall deliver Deliverables that comply with the requirements and acceptance criteria set forth in the Statement of Work. Contractor shall provide written notice to Agency upon delivery of a completed Deliverables to Agency. By no later than (i) 15 business days after receipt of such notice, or (ii) the date or period for review set forth in the Statement of Work, Agency will determine whether the Deliverables has the characteristics and otherwise meets the acceptance criteria set forth in the Statement of Work. If Agency determines that the Deliverables has the characteristics and meets acceptance criteria set forth in the Statement of Work in all material respects, Agency will notify Contractor in writing of Agency's acceptance of the Deliverables.

3.3. Rejection of Deliverables; Corrections. If Agency determines that a Deliverables does not have the characteristics or otherwise meet the acceptance criteria set forth in the Statement of Work in all material respects, Agency will notify Contractor in writing of Agency's rejection of the Deliverables, and describe in reasonable detail in such notice the Agency's basis for rejection of the Deliverables. Upon receipt of notice of non-acceptance, Contractor shall, within a 15 business day period, modify or improve the Deliverables at Contractor's sole expense so that the Deliverables has the characteristics described in the Statement of Work and meets, in all material respects, the acceptance criteria, and notify the Agency in writing that it has completed such modifications or improvements and re-tender the Deliverables to Agency. Agency will thereafter review the modified or improved Deliverables within 15 business days of receipt of the Contractor's delivery of the Deliverables. Failure of the Deliverables to have the characteristics or meet in all material respects the acceptance criteria set forth in the Statement of Work after the second submission will constitute a default by Contractor. In the event of such default, Agency may either, (i) notify Contractor of such default and instruct Contractor to modify or improve the Deliverables as set forth in this Section, or (ii) notify Contractor of such default and pursue its remedies for default provided for by law or the terms of this Contract.

4. Compensation.

4.1. Not to Exceed Compensation. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$138,200. Agency will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract, and will not pay for Services performed before the Effective Date or after the expiration or termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Services subject to the amendment.

4.2. Payments. Payments, including interim payments, to Contractor are subject to ORS 293.462, will be made only for completed and accepted Deliverables and Services, and will be made in accordance with the payment schedule and requirements set forth in Exhibit A.

Agency shall submit payments to: **Resource Recycling Systems, 416 Longshore Drive, Ann Arbor, MI 48105.**

4.3. Invoices. Contractor shall submit invoices to Agency as set forth in the Statement of Work or, if not set forth therein, to DEQEXP@deg.state.or.us. Contractor may submit invoices in accordance with the payment schedule set forth in the Statement of Work or, if no payment schedule is set forth therein, then no more frequently than once per month for accepted Deliverables and Services. The invoices must describe all Services performed with particularity, including the dates Contractor performed the Services for which it is requesting payment, and by whom the Services were performed and shall itemize and explain all expenses that this Contract requires Agency to pay and for which Contractor claims reimbursement.

4.4. Expenses. Agency will not pay or reimburse any expenses incurred by Contractor during the completion of the Services except as authorized in the Statement Work or elsewhere in this Contract. Any such authorized travel expenses must comply with the Oregon Travel Policy available on the Internet at: <http://www.oregon.gov/das/cfo/sars/policies/oam/40.10.00.pdf>

4.5. Funds Available and Authorized. Contractor will not be compensated for Services performed under this Contract by any agency or department of the State of Oregon other than Agency. Agency believes it has sufficient funds currently available and authorized for expenditure to make payments under this Contract within Agency's biennial appropriation or limitation. Contractor understands and agrees that Agency's payments under this Contract are contingent on Agency receiving appropriations, limitations, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

5. Contractor's Personnel.

5.1. Key Persons. Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key persons identified in the Statement of Work (each a "Key Person" and, together, "Key Persons"). Neither Contractor nor a Key Person may delegate performance of the powers and responsibilities that a Key Person is required to provide under this Contract to another Contractor employee, subcontractor or agent without first obtaining the written consent of Agency. Further, Contractor may not re-assign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the Agency with the required expertise, experience, judgment, and personal attention, without first obtaining Agency's written consent to such re-assignment or transfer, which Agency will not unreasonably withhold or delay. Notwithstanding the foregoing, Contractor may replace a Key Person in the event the Key Person is no longer available due to circumstances beyond Contractor's reasonable control, such as death, illness, or termination of employment with Contractor. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, or if Contractor must replace a Key Person, Agency may interview, review the qualifications of, and approve or reject the proposed replacement for the Key Person. Any such replacement must have substantially equivalent or better qualifications than the Key Person being replaced. Any replacement personnel approved by Agency in writing (email acceptable) will thereafter be deemed a Key Person for purposes of this Contract, and the Statement of Work will be deemed amended to include such Key Person.

5.2. Payment for Replacement Key Personnel. If Agency is paying Contractor on an hourly or other periodic basis, then Contractor will not charge Agency, and Agency will not pay, for a replacement Key Person while such replacement acquires the project knowledge and skills necessary to perform the Services. Such period of non-charge will be agreed upon by the parties.

5.3.State Premises. Contractor and Contractor staff shall comply with all policies, rules, procedures, and regulations established by Agency and the State for access to and activities in and around premises controlled by Agency or any other agency of the State.

6. Independent Contractor; Responsibility For Taxes And Withholding

6.1.Independent Contractor. Contractor shall perform all Services as an independent contractor. Agency reserves the right (i) to determine and modify the delivery schedule for the Services and (ii) to evaluate the quality of the Services; however, Agency may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services.

6.2.No Conflicts. Contractor, by signature to this Contract, represents and warrants that Contractor's performance of the Services under this Contract creates no potential or actual conflict of interest as defined by ORS 244; and no statutes, rules or regulations of any State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor from performing the Services under this Contract.

6.3.Affiliation. Contractor understands and agrees that it is not an "officer," "employee," or "agent" of the State of Oregon, as those terms are used in ORS 30.265 or otherwise.

6.4.Taxes and Benefits. Contractor is responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless required by applicable law, Agency will not withhold from such compensation or payments any amount to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

7. Subcontracts, Successors, And Assignments

7.1.Subcontracts. Contractor shall not enter into any subcontracts for any of the Services required by this Contract without Agency's prior written consent. In addition to any other provisions Agency may require, Contractor shall include in any permitted subcontract under this Contract provisions to ensure that Agency will receive the benefit of subcontractor's performance as if the subcontractor were Contractor. Agency's consent to any subcontract does not relieve Contractor of any of its duties or obligations under this Contract.

7.2.Successors and Assigns. The provisions of this Contract are binding upon and inure to the benefit of the parties to this Contract, their respective successors, and permitted assigns, if any.

7.3.No Assignment. Contractor shall not assign or transfer any of its rights or delegate its obligations under this Contract without Agency's prior written consent.

8. Representations and Warranties.

8.1.Contractors General Representations and Warranties. Contractor represents and warrants to Agency that:

8.1.1. Contractor has the power and authority to enter into and perform this Contract;

8.1.2. This Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;

8.1.3. Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services;

8.1.4. Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty; and

8.1.5. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the Effective Date, faithfully has complied with:

8.1.5.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

8.1.5.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;

8.1.5.3. Any tax provisions imposed by a political subdivision of this State that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor;

8.1.5.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; and

8.1.6. Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.

8.2. Contractor's Performance Warranties.

8.2.1. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor shall apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;

8.2.2. The Services and each Deliverables delivered by Contractor pursuant to the Services will materially comply with any service descriptions, specifications, standards or requirements set forth in this Contract;

8.2.3. Except as otherwise provided in this Contract (including Section 9), Contractor shall transfer all Deliverables to Agency free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind; and

8.2.4. Except as otherwise set forth in this Contract, any subcontractors performing work for Contractor under this Contract have assigned all of their rights in the Deliverables to Contractor or Agency and no third party has any right, title or interest in any Deliverables supplied to Agency under this Contract.

8.3. Warranties cumulative. The warranties set forth in Section 8 are in addition to, and not in lieu of, any other warranties set forth elsewhere in this Contract.

9. Ownership of Work Product.

9.1. Definitions. As used in this Section 9, and elsewhere in this Contract, the following terms have the meanings set forth below:

9.1.1. “Contractor Intellectual Property” means any intellectual property owned by Contractor and developed independently from the Services.

9.1.2. “Third Party Intellectual Property” means any intellectual property owned by parties other than Agency or Contractor.

9.1.3. “Work Product” means everything that is originally made, conceived, discovered, or reduced to practice by Contractor or Contractor’s subcontractors or agents (either alone or with others) pursuant to this Contract, including every invention, modification, discovery, design, development, customization, configuration, improvement, process, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection).

9.2. Original Works. All Work Product created by Contractor pursuant to the Services, including derivative works and compilations of Work Product, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the exclusive property of Agency. Agency and Contractor agree that such Work Product is “work made for hire” of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product is not “work made for hire,” Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency’s reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

9.3. License in Contractor Intellectual Property. In the event that a Deliverables delivered by Contractor under this Contract is or is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Contractor Intellectual Property employed in the Deliverables, and to authorize others to do the same on Agency’s behalf.

9.4. License in Third Party Intellectual Property. In the event that a Deliverables delivered by Contractor under this Contract is or is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency’s behalf and in the name of the Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Deliverables, and to authorize others to do the same on Agency’s behalf.

9.5. No Rights. Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon Contractor any right, title, or interest in any intellectual property that is now owned or subsequently owned by Agency. Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon Agency any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by Contractor.

9.6. Marks. Neither party grants the other the right to use its trademarks, trade names, service marks or other designations in any promotion or publication without prior written consent. Each party grants only the licenses and rights specified in this Contract.

9.7. Competing Services. Subject to the provisions of this Section 9, and Contractor's obligations with respect to Confidential Information, including as defined in Section 10, nothing in this Contract precludes or limits in any way the right of Contractor to: (i) provide services similar to those contemplated in this Contract, or consulting or other services of any kind or nature whatsoever to any individual or entity as Contractor in its sole discretion deems appropriate, or (ii) develop for Contractor or for others, Deliverables or other materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Deliverables delivered pursuant to this Contract. Each party is free to utilize any concepts, processes, know-how, techniques, improvements or other methods it may develop during the course of performance under this Contract free of any use restriction or payment obligation to the other.

10. Confidential Information.

10.1. Confidential Information. Contractor acknowledges that it and its employees, officers, directors, agents or subcontractors (collectively, "Contractor Staff") may, in the course of performing the Services under this Contract, be exposed to or acquire information that is confidential to Agency or Agency's clients. Any and all information of any form (including but not limited to records, files, papers, materials, documents, and communications in written, verbal, oral and electronic form) that Contractor or any Contractor Staff may come into contact with or that is obtained by Contractor or Contractor Staff in the performance of this Contract shall be considered for the purposes of this Contract the confidential information of Agency ("Confidential Information"). Contractor shall, and shall cause Contractor Staff to treat any reports or other documents or items (including software) that result from the use of the Confidential Information in the same manner as the Confidential Information. Confidential Information does not include information that (i) is or becomes (other than by disclosure by Contractor or Contractor Staff acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure; (ii) is furnished by Agency to others without restrictions similar to those imposed by this Contract; (iii) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (iv) is obtained from a source other than Agency without the obligation of confidentiality, (v) is disclosed with the written consent of Agency, or; (vi) is independently developed by Contractor or Contractor Staff who can be shown to have had no access to the Confidential Information.

10.2. Non-Disclosure. Contractor shall hold, and shall cause Contractor Staff to hold, all Confidential Information in confidence, using the highest standard of care applicable, and shall not copy, reproduce, sell, assign, license, market, transfer, distribute, or otherwise dispose of, give, make available or disclose, in whole or in part, directly or indirectly, Confidential Information to third parties (other than its authorized subcontractors), or use Confidential Information for any purposes whatsoever other than the provision of Services to Agency hereunder, and shall advise Contractor Staff of their obligations to keep Confidential Information confidential. Contractor shall assist Agency in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Agency immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract, and Contractor will at its expense cooperate with Agency in seeking injunctive or other equitable relief in the name of Agency or Contractor against any such person. Contractor shall not at any time during or after the term of this Contract, except as directed by Agency, disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract. Upon expiration or termination of this Contract or at Agency's request, Contractor shall deliver to Agency all documents, papers, and other matter

in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing and unless otherwise specified in this Contract, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of performance of the Services.

- 10.3. Confidentiality Policies.** Contractor shall, upon Agency's request, provide its policies and procedures for safeguarding Confidential Information to Agency for Agency's review and consent. Such policies must address information conveyed in oral, written, and electronic format and include procedures for how Contractor will respond when a violation or possible violation occurs.
- 10.4. Injunctive Relief.** Contractor acknowledges that breach of this Section 10, including disclosure of any Confidential Information, will cause irreparable injury to Agency that is inadequately compensable in damages. Accordingly, Agency may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Agency and are reasonable in scope and content.
- 10.5. Publicity.** Contractor agrees that it will not disclose the form, content or existence of this Contract or any Deliverables in any advertising, press releases or other materials distributed to prospective customers, or otherwise attempt to obtain publicity from its association with Agency or the State of Oregon, whether or not such disclosure, publicity or association implies an endorsement by Agency or the State of Oregon of Contractor's services, without the prior written consent of Agency.

11. Indemnity by Contractor.

- 11.1. Claims.** Contractor shall defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all third party claims, suits, actions, losses, damages, liabilities, costs (including attorneys' fees) and expenses (collectively, "Claims") of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract, including but not limited to, unauthorized disclosure of Confidential Information, professional malfeasance, infringement of intellectual property rights, intentional, willful, or wanton wrongful acts, and acts outside the scope of Services set forth in this Contract.
- 11.2. Legal Counsel.** If Contractor is required to defend the State of Oregon or Agency or their officers, employees or agents under Section 11.1, then Contractor shall select legal counsel reasonably acceptable to the Oregon Attorney General to act in the name of, or represent the interests of, the State of Oregon, Agency or their officers, employees and agents. Such legal counsel must accept appointment as a special assistant attorney general under ORS chapter 180 before such action or representation. Further, the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State of Oregon's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State of Oregon or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State of Oregon are served thereby. Contractor's obligation to pay for all costs and expenses includes those incurred by the State of Oregon in assuming its own defense or that of its officers, employees, and agents under (i) and (ii) above.
- 11.3. Damages to State Property and Employees.** Contractor is liable for all Claims for personal injury, including death, damage to real property and damage to tangible and intangible personal property of the State of Oregon or any of its employees, subcontractors or agents resulting from, arising out of, or relating to the intentional, reckless or negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Contract

11.4. CONTRACTOR IS NOT AUTHORIZED TO SETTLE OR COMPROMISE ANY CLAIM REFERENCED IN THIS SECTION WITHOUT THE EXPRESS WRITTEN CONSENT OF AGENCY.

12. Limitation of Liabilities.

12.1. EXCEPT FOR LIABILITY ARISING OUT OF OR RELATED TO (i) SECTION 10, OR (ii) SECTION 11, CONTRACTOR'S LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER SHALL BE LIMITED TO ONE AND ONE HALF TIMES THE MAXIMUM-NOT-TO-EXCEED AMOUNT OF THIS CONTRACT.

12.2. EXCEPT FOR LIABILITY TO THIRD PERSONS ARISING OUT OF OR RELATED TO (i) SECTION 10, OR (ii) SECTION 11, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOST SAVINGS, OR PUNITIVE, INDIRECT, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES.

13. Insurance. Contractor shall maintain insurance as set forth in Exhibit B.

14. Default; Remedies; Termination.

14.1. Default by Contractor. Contractor will be in default under this Contract if:

14.1.1. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or

14.1.2. Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after Agency's notice or such longer period as Agency may specify in such notice; or

14.1.3. Contractor commits any material breach or default of any covenant, warranty, obligation, certification, or agreement under this Contract, fails to perform the Services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after Agency's notice, or such longer period as Agency may specify in such notice; or

14.1.4. Contractor has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State.

14.2. Agency's Remedies for Contractor's Default. In the event Contractor is in default under Section 14.1, Agency may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

14.2.1. Termination of this Contract under Section 14.6.2; or

14.2.2. Withholding all monies due for Services and Deliverables that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively; or

14.2.3. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or

14.2.4. Exercise of its right of setoff, and withholding of amounts otherwise due and owing to Contractor, without penalty; or

- 14.2.5.** Undertaking collection by administrative offset, or garnishment if applicable, of all monies due for Services and Deliverables to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State. Offsets or garnishment may be initiated after the Contractor has been given notice if required by law.
- 14.3. Remedies Cumulative.** The remedies set forth in Section 14.2 are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Sections 14.1, then Contractor will be entitled to the same remedies as if this Contract was terminated pursuant to Section 14.6.1.
- 14.4. Default by Agency.** Agency will be in default under this Contract if:
- 14.4.1.** Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- 14.4.2.** Agency commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.
- 14.5. Contractor's Remedies.** In the event Agency terminates this Contract under Section 14.6.1, or is in default under Section 14.4, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 14.6.3, Contractor's sole monetary remedy will be (i) with respect to Services compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced and authorized expenses incurred and interest, subject to ORS 293.462, and (ii) with respect to Deliverables-based Services, a claim for the sum designated for completing the Deliverables multiplied by the percentage of Services completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor. In no event will Agency be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 14.5, Contractor shall pay immediately any excess to Agency upon written demand.
- 14.6. Termination.**
- 14.6.1. Agency's Right to Terminate at its Discretion.** Agency may terminate this Contract:
- 14.6.1.1.** Upon 30 calendar days' prior written notice by Agency to Contractor;
- 14.6.1.2.** Immediately upon written notice by Agency to Contractor if Agency fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Services or Work Products; or
- 14.6.1.3.** Immediately upon written notice by Agency to Contractor if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Agency's purchase of the Services or Work Products under this Contract is prohibited or Agency is prohibited from paying for such Services or Work Products from the planned funding source.
- 14.6.2. Agency's Right to Terminate for Cause.** In addition to any other rights and remedies Agency may have under this Contract, Agency may terminate this Contract immediately upon written notice by

Agency to Contractor, or at such later date as Agency may establish in such notice, if Contractor is in default under Section 14.1.

14.6.3. Contractor's Right to Terminate for Cause. Contractor may terminate this Contract immediately upon written notice to Agency, or at such later date as Contractor may establish in such notice, if Agency is in default under Section 14.4.

14.7. Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any Services or Work Products for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such Agency property is expressed or embodied at that time.

14.8. Effect of Termination. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Services and the Deliverables.

15. Compliance with Law.

15.1. Compliance with Law Generally. Contractor shall comply, and cause all subcontractors to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract and the performance of the Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Title V and Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act portion of the American Recovery and Reinvestment Act of 2009 (ARRA), including the Privacy and Security Rules found at 45 CFR Parts 160 and 164, as the law and its implementing regulations may be updated from time to time; (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) Section 188 of the Workforce Investment Act (WIA) of 1998, as amended; (ix) ORS Chapter 659, as amended; (x) all regulations and administrative rules established pursuant to the foregoing laws; and (xi) 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 Contract and required by law to be so incorporated. Agency's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

15.2. Compliance with Oregon Tax Laws.

15.2.1. Contractor shall, throughout the duration of this Contract, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes the tax laws described in Section 8.1.5.1 through 8.1.5.4.

15.2.2. Any violation of Section 15.2.1 constitutes a material breach of this Contract. Further, any violation of Contractor's warranty in Section 8.1.5 of this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also constitutes a material breach of this Contract. Any violation entitles Agency to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

15.2.2.1. Termination of this Contract, in whole or in part;

15.2.2.2. Exercise of the right of setoff, or garnishment if applicable, and withholding of amounts otherwise due and owing to Contractor without penalty; and

15.2.2.3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Agency is entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

15.2.3. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

15.3. Compliance with Federal Law. Contractor shall comply with all applicable federal laws, including, without limitation, those set forth in Exhibit D, which is attached and incorporated into this Contract by this reference.

15.4. Pay Equity. As required by ORS 279B.235, Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

16. Governing Law; Venue and Jurisdiction.

16.1. Governing Law. This Contract is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

16.2. Venue and Jurisdiction. Any claim, action, suit or proceeding between Agency (or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. In no event may this section be construed as (i) a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim, action, suit or proceeding, or (ii) consent by the State of Oregon to the jurisdiction of any court.

17. Miscellaneous Provisions.

- 17.1. Records Maintenance; Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract ("Records") in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to such financial records and other Records that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records and other Records for a minimum of 6 years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 17.2. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract.
- 17.3. Force Majeure.** Neither Agency nor Contractor may be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 17.4. Survival.** All rights and obligations cease upon termination or expiration of this Contract, except for the rights and obligations and declarations which expressly or by their nature survive termination of this Contract, including without limitation this Section 17.4, and provisions regarding Contract definitions, warranties and liabilities, independent Contractor status and taxes and withholding, maximum compensation, Contractor's duties of confidentiality, ownership and license of intellectual property and Deliverables, confidentiality and non-disclosure, Contractor's representations and warranties, control of defense and settlement, remedies, return of Agency property, dispute resolution, order of precedence, maintenance and access to records, notices, severability, successors and assigns, third party beneficiaries, waiver, headings, and integration.
- 17.5. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.
- 17.6. Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder must be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the email address, postal address or telephone number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section 17.6. Any communication or notice so addressed and mailed is effective five business days after mailing. Any communication or notice delivered by facsimile is effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Agency, any notice transmitted by facsimile must be confirmed by telephone notice to Agency's Contract Administrator. Any communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives

confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.

- 17.7. No Third Party Beneficiaries.** Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or may 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 such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 17.8. Severability.** The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17.9. Merger Clause; Waiver.** This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract will bind the parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Contract in one instance will not constitute a waiver by Agency of its right to enforce that or any other provision.
- 17.10. Amendments.** Agency may amend this Contract to the extent permitted by applicable statutes and administrative rules. No amendment to this Contract is effective unless it is in writing signed by the parties, and has been approved as required by applicable law.
- 17.11. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed constitutes an original.
- 17.12. Oregon False Claims Act.** Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to this Contract, including the procurement process relating to this Contract, that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or Agency under this Contract or any other provision of law.
- 17.13. Certifications.** The individual signing on behalf of Contractor hereby:
- 17.13.1.** Certifies and swears under penalty of perjury to the best of the individual's knowledge that: (a) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (b) s/he is authorized

to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, that Contractor is not in violation of any Oregon tax laws and that for a period of no fewer than six (6) calendar years preceding the Effective Date of this Contract, Contractor faithfully has complied with: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; (c) Contractor is an independent contractor as defined in ORS 670.600; and (d) the supplied Contractor tax identification numbers are true and accurate;

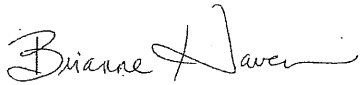
17.13.2. Certifies that, to the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against any disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business certified under ORS 200.055 in obtaining any required subcontracts;

17.13.3. Certifies that Contractor has a written policy and practice that meets the requirements, described in ORS 279A.112, of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of the Contract, to maintain the policy and practice in force during the entire Contract term.

17.13.4. Certifies that the information provided on the attached Exhibit E, Independent Contractor Certification, is true and correct as of the Effective Date; and

17.13.5. Certifies that Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>.

CONTRACTOR:

	September 18, 2019
_____ Brianne Haven, Vice President - Operations	_____ Date

AGENCY:

_____ Lydia Emer, Land Quality Division Administrator	_____ Date
_____ Brian Boling, Central Services Division Administrator	_____ Date

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to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, that Contractor is not in violation of any Oregon tax laws and that for a period of no fewer than six (6) calendar years preceding the Effective Date of this Contract, Contractor faithfully has complied with: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; (c) Contractor is an independent contractor as defined in ORS 670.600; and (d) the supplied Contractor tax identification numbers are true and accurate;

17.13.2. Certifies that, to the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against any disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business certified under ORS 200.055 in obtaining any required subcontracts;

17.13.3. Certifies that Contractor has a written policy and practice that meets the requirements, described in ORS 279A.112, of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of the Contract, to maintain the policy and practice in force during the entire Contract term.

17.13.4. Certifies that the information provided on the attached Exhibit E, Independent Contractor Certification, is true and correct as of the Effective Date; and

17.13.5. Certifies that Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>.

CONTRACTOR:

Brienne Haven, Vice President - Operations

Date

AGENCY:



Lydia Emer, Land Quality Division Administrator

9-18-19

Date



Brian Boling, Central Services Division Administrator

9-19-19

Date

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Exhibit A

Statement of Work

PART I – PROJECT SPECIFIC DEFINITIONS

“COMMERCIAL” means businesses and institutions.

“EXTENDED PRODUCER RESPONSIBILITY” (EPR) means a mandatory type of product stewardship that requires the manufacturer of a product to take responsibility for that product and its packaging post-consumer, with government oversight. That responsibility may include financial, management or marketing responsibility, or any combination of these.

“FRAMEWORK” means the legal and relational structure for the Recycling System, including state and local laws, ordinances, policies and practices, contracts, and roles and responsibilities of public and private entities that collectively provide the organizational (governance) structure for the Recycling System.

“FUNCTIONS” means the desired performance for Oregon’s future Recycling System.

“OREGON CONSENSUS (OC)” means the facilitator for the Steering Committee.

“PARTNERS” means members of the Recycling Steering Committee, the Legal/Relational Framework Subcommittee or other stakeholders.

“PRODUCT STEWARDSHIP” means an environmental management strategy where whoever designs, produces, sells, or uses a product takes responsibility for minimizing the product's environmental impact throughout all stages of the product’s life cycle. Stewardship may include policies, incentives or requirements for manufacturers to incorporate environmental considerations into the design of their products and packaging. Stewardship can be either voluntary or required by law.

“RECYCLING SYSTEM” means the Recycling System for materials collected from residential and commercial generators in Oregon. This includes both the physical infrastructure (collection, sorting, processing, marketing materials to brokers or end-markets and the successful use of those collected recyclables by end-markets) and the legal and relational Framework for the Recycling System.

“STEERING COMMITTEE” means members of the Recycling Steering Committee convened to evaluate and recommend changes to update Oregon’s Recycling System.

PART II - TASKS

DEQ will act as a liaison with its Partners and provide direction and background information for the Contractor.

Contractor will perform the following work:

Task 1 - Review Exhibit C to analyze the Functions identified by the Steering Committee that an optimal Recycling System for Oregon should perform. Submit recommendations regarding any additions or amendments to those Functions that should also be considered in the evaluation of Frameworks. This submittal shall take the form of a memorandum (Memo) to DEQ. DEQ will review the Memo and may ask questions about it of the Contractor.

Contractor will revise the Memo as needed and resubmit to DEQ to share with the Steering Committee. The result of subsequent deliberation by the Steering Committee may result in changes to the list of Functions to be used in subsequent tasks; any such changes will be communicated by DEQ to the Contractor.

Task 2 - Develop a draft Multi-Criteria Evaluation Method and proposed format(s) for presenting results of subsequent evaluation of Oregon's existing Recycling System and other Frameworks, both existing (Task 3) and proposed (Task 7).

The Multi-Criteria Evaluation Method will be designed to evaluate Frameworks against their ability to satisfy desired Functions from Task 1. It will use both quantitative and qualitative evaluation methods.

The format(s) for presenting results of evaluation of Frameworks is expected to be a printed "at a glance" summary (around two [2] pages per Framework, for Task 3 and longer for Task 7) that is consistent across all Frameworks, such that, for example, the Task 3 deliverables would include 11 commonly-formatted summary documents (one [1] for each Framework in that task). The evaluation summaries will include, for each Framework: key design parameters (such as how materials flow through the system, key policy and program elements, who has legal responsibility for which elements, and the relationships between key players) and a charted summary of how the Framework meets the desired Functions.

Contractor will submit the draft Multi-Criteria Evaluation Method and proposed format(s) to DEQ for initial review. DEQ will review the deliverables and may ask questions about them, or request changes, of the Contractor. Contractor will revise the deliverables for DEQ to share with Partners for review. DEQ will provide feedback on these revised deliverables to Contractor with partner input. Contractor will make additional revisions and submit the final Multi-Criteria Evaluation Method and proposed format(s) for final DEQ approval.

Task 3 - Contractor will evaluate Oregon's current Recycling System Framework and at least ten (10) additional Frameworks that are exemplified by existing programs and/or a model of an existing program or effort that would be modified to create a hybrid state-level Framework. The Frameworks to be evaluated will be chosen by DEQ, in consultation with Contractor and Partners. The Frameworks will be evaluated for their ability to perform the Functions identified in and in response to Task 1, using the method and presentation formats identified in Task 2.

Contractor will submit a draft of the evaluation results to DEQ. DEQ will review this deliverable and may ask questions or request changes of the Contractor. Contractor will revise the deliverables for DEQ to share with partners at a Steering Committee meeting in Task 5.

Task 4 - Contractor will prepare for its first meeting with DEQ and Partners (First Committee Meeting - Task 5). This preparation will include the submittal to DEQ of two (2) additional deliverables. First, the Contractor will submit to DEQ a memo summarizing its recommendations of five (5) Framework Scenarios for further in-depth consideration in subsequent tasks (Tasks 6 - 10). These five (5) Framework Scenarios may include:

- Existing Frameworks of local, state, or national Recycling Systems.
- Frameworks incorporating a combination of elements drawn from existing Recycling System Frameworks.
- Frameworks that combine elements from existing Frameworks along with new elements not included in existing Frameworks.

The second deliverable in this task will be a draft PowerPoint presentation designed to be used by the Contractor in Task 5.

Contractor will participate in one (1) or more telephone meetings with DEQ for the purposes of discussing these two deliverables. Contractor will also participate in one (1) or more telephone meetings with DEQ and Oregon Consensus for the purpose of developing the agenda and planning additional details of the Steering Committee meeting in Task 5.

Task 5 - Contractor will participate in-person in a meeting with DEQ and Partners. This and all other in-person meetings will be held in Oregon. At this meeting, Contractor will present to DEQ and Partners information about the eleven existing Frameworks (using the evaluation results from Task 3 and the PowerPoint presentation drafted in Task 4 and revised as appropriate). Contractor will answer questions about the existing Frameworks, including the evaluation deliverables from Task 3. Contractor will also introduce its five (5) Framework Scenarios recommended for further evaluation (as developed in Task 4).

Task 6 - Contractor will prepare for and participate, again in-person, in a second meeting with DEQ and Partners (Second Committee Meeting). Preparation will include participating in one (1) or more telephone meetings with DEQ and Oregon Consensus for the purpose of developing the agenda and planning details of this meeting. Preparation will also include preparing answers to any unresolved questions posed by DEQ and Partners either during Task 5 or immediately following (DEQ will consolidate additional questions and forward them to the Contractor). The primary purpose of the Second Committee Meeting is for DEQ and Partners to reach consensus on five Framework Scenarios to be evaluated in greater detail by the Contractor in Task 7. The Framework Scenarios, selected solely by members of the Steering Committee, may be the same as, modifications of, or completely different from the five (5) Framework Scenarios initially recommended by Contractor. Contractor will answer questions during the meeting and support Oregon Consensus and the Steering Committee in confirming and defining Framework Scenarios for further evaluation.

Task 7 - Contractor will evaluate in-depth the five (5) Framework Scenarios as defined by the Steering Committee in Task 6. Again, Framework Scenarios will be evaluated for their ability to perform the Functions identified in and in response to Task 1, using and building on the method and presentation formats identified in Task 2. However, this evaluation will include a greater level of analysis than was performed in Task 3 and result in more detailed evaluation summary documents. Evaluation will also include consideration of key concerns and issues raised by DEQ and Partners during previous meetings (Tasks 5 and 6).

Contractor will submit a draft of these evaluation documents to DEQ. DEQ will review this deliverable and may ask questions or request changes of the Contractor. Contractor will revise the deliverable for DEQ to share with Partners in advance of a Steering Committee meeting in Task 9.

Task 8 - Contractor will prepare for its third meeting with DEQ and Partners (Third Committee Meeting - Task 9). This preparation will include the submittal to DEQ of a draft PowerPoint presentation designed to be used by the Contractor in Task 9. The Contractor will also participate in one or more telephone meetings with DEQ and Oregon Consensus for the purpose of developing the agenda and planning details of the Steering Committee meeting in Task 9.

Task 9 - Contractor will participate, in-person, in the Third Committee Meeting with DEQ and Partners. This meeting will take the format of a larger forum, and will likely include additional partners, many of whom are less familiar with the subject matter developed in previous tasks. The primary purpose of this meeting will be for the Contractor to present the results of its Task 7 evaluation of Framework Scenarios, and to respond to questions regarding that evaluation and those Scenarios.

Task 10 - Contractor will prepare for a fourth meeting, which will be a Steering Committee meeting (Steering Committee Meeting). This preparation will include participation in one (1) or more telephone meetings with DEQ and Oregon Consensus for the purpose of developing the agenda and planning details of the Fourth Steering Committee meeting. In addition, Contractor will also prepare responses to any unresolved questions posed by DEQ and/or Partners either during Task 9 or immediately following (DEQ will consolidate additional questions and forward them to the Contractor).

Contractor will participate, in-person, at the Steering Committee meeting. This meeting will take the format of a workshop, where the Steering Committee will attempt to reach consensus regarding a smaller number of Framework Scenarios to advance for additional consideration. Contractor will answer questions during the meeting and support Oregon Consensus and the Steering Committee in this activity.

Task 11 - Contractor will develop a draft report that includes all of the major elements of deliverables performed to date (Report). The draft Report will include the finalized list of Functions, and revised deliverables from Tasks 3 and 7 (revised further, if appropriate). It is intended to serve as a stand-alone documentation of the existing Frameworks considered as well as potential Framework Scenarios, and the advantages and disadvantages of each in satisfying Oregon's desired Functions. The draft Report will also include Contractor's recommendations regarding potential implementation of those Framework Scenarios that are advanced from Task 10. This draft Report will be submitted to DEQ for review. DEQ may share the draft report with other Partners and if so, will be responsible for consolidating all comments.

Task 12 - Upon receipt of consolidated comments from DEQ, Contractor will revise and finalize the Report.

PART III - BUDGET, DELIVERABLES AND SCHEDULE TABLE

Tasks	Deliverables	Schedule	Budget*	Estimated Running Business Day Total
Task 1 - Review Functions	Draft Memo to DEQ	Due 10 business days from execution of Contract	\$5,300	10
	Revised Memo for Steering Committee*	Due five (5) business days from receipt of DEQ feedback		18
Task 2 - Develop Multi-Criteria Evaluation Method and evaluation presentation formats	Draft Multi-Criteria Evaluation Method and proposed presentation formats to DEQ	Due 10 business days from execution of Contract	\$5,200	10
	Revised Multi-Criteria Evaluation Method and proposed presentation formats for Steering Committee*	Due five (5) business days from receipt of DEQ feedback		18
	Finalized Multi-Criteria Evaluation Method and presentation formats	Due five (5) business days from receipt of DEQ/Steering Committee feedback on deliverables (*) above		38
Task 3 - Evaluate current Frameworks	Draft evaluation results to DEQ	Due the later of: a) 20 business days from completion of Revised Multi-Criteria Evaluation Method (Task 2) or b) same day as completion of finalized multi-criteria	\$22,000	38

Tasks	Deliverables	Schedule	Budget*	Estimated Running Business Day Total
		evaluation method and presentation formats		
	Revised evaluation results for Steering Committee	Due five (5) business days from receipt of DEQ feedback		48
Task 4 - Prepare for First Committee meeting	Recommended Framework Scenarios memo to DEQ	Due five (5) business days from completion of draft evaluation results (Task 3)	\$18,500	43
	Draft PowerPoint presentation to DEQ	Due five (5) business days from completion of draft evaluation results (Task 3)		43
	Phone discussion of Task 4 deliverables and prepare for Task 5 meeting	At least five (5) days prior to Task 5 meeting		46
Task 5 - First Committee meeting	Participate in First Committee meeting	To be determined	\$9,000	51
Task 6 - Prepare for and participate in Second Committee meeting	Phone discussion to prepare for meeting	No more than five (5) days following Task 5 meeting	\$9,000	56
	Participate in Second Committee meeting	To be determined		61

Tasks	Deliverables	Schedule	Budget*	Estimated Running Business Day Total
Task 7 - Evaluate five (5) Framework Scenarios	Draft evaluation results to DEQ	Due 20 business days from completion of Task 6	\$26,000	81
	Revised evaluation results for Steering Committee	Due five (5) business days from receipt of DEQ feedback		89
Task 8 - Prepare for third Committee meeting	Draft PowerPoint presentation to DEQ	At least five (5) days prior to Task 9 meeting	\$6,500	88
	Phone discussion to prepare for Task 9 meeting	At least five (5) days prior to Task 9 meeting		88
Task 9 - Third Committee meeting	Participate in Third Committee meeting	To be determined	\$9,000	93
Task 10 - Prepare for and participate in the Steering Committee meeting	Phone discussion to prepare for Steering Committee Meeting	At least five (5) days prior to Task 10 meeting	\$9,000	102
	Participate in Steering Committee meeting	To be determined		107
Task 11 - Prepare draft Report	Draft Report to DEQ	Due 15 days from completion of Task 10	\$13,300	122
Task 12 - Prepare final Report	Final Report to DEQ	Due five (5) business days from receipt of DEQ feedback	\$5,400	142

Deliverables must meet be approved by DEQ prior to invoice submission.

*Budget may shift between Tasks.

Part IV — Key Persons and Authorized Subcontractors

A. Contractor Authorized Key Persons

Staff last name and title	Role	Hourly Not-to-Exceed (NTE) Rate
Dimino, Senior Consultant	Project Manager	\$ 142
Frey, CEO	Project Advisor	\$ 195
Johnson, Vice President	Research and Analysis	\$ 170
Goodall, Senior Consultant	Research and Analysis	\$ 142
Freeman, Senior Consultant	Research and Analysis	\$ 142
Hesterman, Consultant	Research and Analysis	\$ 127
Dobroski, Analyst	Research	\$ 116

B. Authorized Subcontractors

For purposes of this section, Agency approves the following subcontractors of Contractor to perform the specified Services.

Subcontractor	Subcontractor	Subcontractor	Subcontractor/Advisors
SERA (WBE) – Skumatz; Horton; D’Souza; Santulli	EPI / Lorax – Bell; Carvell; Dobrot	Hickle	Powell; Parta; Stitzahl

Exhibit B

Required Insurance

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit B prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

☒ Required ☐ Not required

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

☒ Required ☐ Not required

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

☒ Required ☐ Not required

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

EXCESS/UMBRELLA INSURANCE:

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and Agency's acceptance of all Services required under this Contract, or, (ii) Agency or Contractor termination of this Contract, or, iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The

Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

The Contractor or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

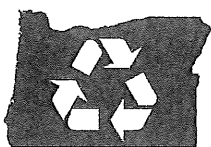
INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by Agency under this Contract and to provide updated requirements as mutually agreed upon by Contractor and Agency.

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this Exhibit B.

EXHIBIT C



Recycling Steering Committee

Modernizing Oregon's recycling system with support from Oregon Consensus

Legal and Relational Framework for Modernizing Oregon's Recycling System, 5/6/19

As noted in the 2050 vision and from previous Steering Committee meetings

System goals:

The Recycling Steering Committee will work together to examine and make recommendations for modernizing Oregon's recycling system, in order to:

- Optimize the environmental benefits of managing materials at the end of life using a life-cycle perspective;
- Create a recovery system that is strong and resilient to changes in supply and demand;
- Restore and maintain public trust in the system through education and engagement with the public.

To help evaluate the legal and relational framework for Oregon's recycling system, the Recycling Steering Committee has identified the following key functions our recycling system needs to perform to achieve these goals and support the 2050 Vision of Materials Management. The Committee will use these function to help guide research, evaluation and recommendations for changes in our current legal and relational framework to support a high-functioning system for the future. Recommendations will be made after research is conducted and with adequate discussion and deliberation by the Steering Committee in late fall 2019.

Overarching functions

Whole-system design

- a. Optimizes the benefits of recycling considering life cycle-impacts and costs¹
- b. Resiliently adapts to changes in material supply and end-market demand²
- c. Provides sustainable and equitable financing for stable operations and capital investments³
- d. Integrates system components to achieve overall system goals⁴
- e. Includes mechanisms to reduce upstream impacts of materials⁵
- f. Designs for equity – examining the burdens and benefits across the state.

Responsibility

- g. Shares responsibility for the system among players including residents and businesses, producers, state and local governments, and recycling industry.

The Recycling Steering Committee is a collaborative of representation from the Assoc. of Oregon Counties, Assoc. of Oregon Recyclers, Assoc. of Plastics Recyclers/Denton Plastics, EFI, Far West Recycling, Lane County, League of Oregon Cities, Metro, NORPAC, Oregon Department of Environmental Quality, Oregon Refuse & Recycling Assoc., City of Portland, Recycling Partnership, Rogue Disposal & Recycling, Waste Connections, and Waste Management. For more information, visit <https://go.ora.gov/xmYYe>.

Additional functions

Goals and measures

- h. Uses goals and metrics to measure progress and support ongoing improvement⁶

Education, outreach and engagement

- i. Educates and encourages residents and businesses to use the system properly⁷
- j. Engages the public to understand the benefits and the costs of recycling, preventing waste and reducing impacts of materials throughout their life-cycles⁸

Materials collected

- k. Identifies beneficial materials acceptable for collection programs⁹

Collection

- l. Collects clean, acceptable materials for processing¹⁰

Processing

- m. Ensures processing facilities receive clean materials and in sufficient volumes¹¹
- n. Produces quality materials that reach end markets¹²

Transparency and accountability

- o. Ensures materials are managed responsibly from collection through end markets¹³
- p. Ensures all players in the system perform responsibly

*From the 2050 Vision

¹ **Benefits of recycling:**

- Public policies support sustainable materials management at product end of life*
- Shares responsibility for reducing full life-cycle impacts*
- Supports highest and best use of discarded materials with stable infrastructure and markets*
- Minimizes health and environmental risks from disposed wastes*
- Balances outcomes achieved with the costs to provide them

² **Resiliency:**

- Responds to markets and economic fluctuations and other system-wide changes
- Fuels unprecedented technological advances and economic vitality in Oregon*

³ **Financing:**

- Shares investment in infrastructure throughout the system and life cycle
- Sets utility rates for system users consistently
- Covers the costs to continuously educate users
- Creates transparency for system costs

⁴ **Integration:**

- Coordinates investment and innovation throughout the life cycle of products to lead to better collection, sorting and processing with upstream packaging decisions*
- Balances efforts to improve the system on all parts*
- Integrates end-market demand with what is collected
- Coordinates roles and expectations among systems players*

⁵ **Upstream impacts**

- Shares responsibility for reducing full life-cycle impacts*

⁶ **Goals and metrics:**

- Sets goals, measures success and learns from experience*
- Uses feedback loops to constantly monitor, share and discuss opportunities*

⁷ **Education and outreach:**

- Consistently communicates with stakeholders and users — using standardized terminology and imagery — what is accepted and what to do with materials that are not accepted

⁸ **Engagement:**

- Shares the costs of the system
- Engages with higher education with opportunities
- Engages Oregonians in making better materials choices for end-of-life management of materials*
- Helps users understand where end-of-life options fit within broader life-cycle impacts
- Provides transparency for market demand

⁹ **Material selection:**

- Complete and transparent information on product contents and life-cycle impacts is readily available*
- Provides a consistent list of materials to focus for on-route collection and depots — locally and statewide
- Uses consistent process to determine how materials are added and removed from acceptable lists
- Ensures facilities have adequate amount of materials

¹⁰ **Collection:**

- Collects materials effectively and efficiently
- Reduces costs for rural access to sorting and processing

¹¹ **Incoming materials:**

- Ensures facilities have adequate amount of materials
- Provides economic incentives for cleaner incoming materials
- Ensures sufficient volume of materials for economic viability

¹² **End markets**

- Accesses economically viable domestic end markets
- Effectively and efficiently sorts and processes materials for end markets

¹³ **Transparency and accountability:**

- Materials have a useful life after discard*
- Tracks materials to final destinations and ensures they are managed responsibly

Exhibit D
Independent Contractor Certification

Contractor certifies he/she meets the following standards:

1. I am registered under ORS chapter 701 to provide labor or services for which such registration is required.
2. I have filed federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, or expect to file federal and state income tax returns, for labor or services performed as an independent contractor in the previous year.
3. I will furnish the tools or equipment necessary for the contracted labor or services.
4. I have the authority to hire and fire employees who perform the labor or services.
5. I represent to the public that the labor or services are to be provided by my independently established business as four (4) or more of the following circumstances exist. **(Please check four or more of the following):**

- X A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.
- X B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership.
- X C. Telephone listing used for the business is separate from the personal residence listing.
- X D. Labor or services are performed only pursuant to written contracts.
- X E. Labor or services are performed for two or more different persons within a period of one year.
- X F. I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature: Brianne Haven **Date:** September 18, 2019