

PROSPECTIVE PURCHASER COST RECOVERY LETTER AGREEMENT

This agreement is between the Oregon Department of Environmental Quality (DEQ) and _____ (BUYER) regarding preparation of a Prospective Purchaser Agreement for the property located at _____
_____.

BUYER requests DEQ assistance in preparing and negotiating a Prospective Purchaser Agreement regarding the above mentioned site. DEQ agrees to review relevant environmental and other documents submitted by BUYER or on BUYER's behalf, necessary to the preparation of a Prospective Purchaser Agreement. This agreement is designed for situations where the site and/or applicant are not already receiving DEQ oversight through the Voluntary Cleanup Program or through other orders or agreements with DEQ.

DEQ requires that party seeking DEQ preparation of a Prospective Purchaser Agreement provide a minimum deposit of \$2,500.00 as an advance against costs which DEQ will incur. The advance deposit must be in the form of a check payable to DEQ. When BUYER signs this Letter Agreement, formalizing the request to begin the project, and the deposit and Application have been received by DEQ, a sub-account of the Hazardous Substances Remedial Action Fund will be established to be drawn upon by DEQ as project costs are incurred from the project start date.

DEQ project costs will include direct costs and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the DEQ and of the Waste Management and Cleanup Division (WMCD). Indirect costs are those allocable to DEQ oversight of the Letter Agreement which are not charged as direct, site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs. Included in indirect costs is the cleanup rule rewrite surcharge. Review and agreement preparation costs shall not include any unreasonable costs or costs not otherwise recoverable by DEQ under ORS 465.255.

DEQ will provide BUYER with a monthly statement, a sample of which is attached. Because of the limited scope of work envisioned under this Letter Agreement, accounting details above the level of the sample attached will not be provided by DEQ. In the event project costs exceed the sub-account balance, DEQ will submit to BUYER an invoice for any costs in excess of the deposit. In the event project costs do not exceed the sub-account balance, DEQ will refund any amount of the deposit remaining in excess of the actual costs, or will apply the remaining amount toward oversight of an administrative agreement if an agreement for further action is necessary (e.g., Voluntary Cleanup Agreement to conduct remediation activities under DEQ oversight).

Either DEQ or BUYER may terminate this Letter Agreement by giving written notice to the other. Only those costs incurred or obligated by DEQ prior to the effective date of any termination of this Letter Agreement shall be recoverable under this Agreement. Termination of this Letter Agreement will not affect any other right DEQ may have for recovery of costs under any applicable law.

BUYER shall hold DEQ harmless and indemnify DEQ for any claims (including, but not limited to, claims of property damage or personal injury) arising from activities conducted under this Letter Agreement.

This Letter Agreement is not and shall not be construed as an admission by BUYER of any liability under ORS 465.255 or any other law or as a waiver of any defense to such liability.

This Letter Agreement is not and shall not be construed as a waiver, release or settlement of claims DEQ may have against BUYER or any other person or as a waiver of any enforcement authority DEQ may have with respect to BUYER or the property. Upon DEQ's request and as necessary to prepare a Prospective Purchaser Agreement under this Letter Agreement, BUYER shall provide DEQ with data and records related to investigation and cleanup activities at the property, excluding any privileged documents identified as such by BUYER.

If the terms of this Letter Agreement are acceptable, please have it executed by an authorized representative in the space provided below and return it to DEQ in order to activate the review of your Application for a Prospective Purchaser Agreement.

Accepted and agreed to this _____ day of _____, 20__.

By: _____ (BUYER)

Title: _____