

**INTERGOVERNMENTAL AGREEMENT
BETWEEN TRIMET AND CITY OF PORTLAND
FOR PORTLAND-MILWAUKIE LIGHT RAIL PROJECT
DESIGN AND CONSTRUCTION SERVICES**

THIS PORTLAND-MILWAUKIE LIGHT RAIL PROJECT DESIGN AND CONSTRUCTION SERVICES AGREEMENT ("Agreement") is between the TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON ("TriMet") and the CITY OF PORTLAND ("City") (collectively hereinafter referred to as "the Parties"), effective this _____ day of _____, 2009 ("Effective Date").

RECITALS

1. TriMet is created and operated under ORS Chapter 267, and owns and operates the public mass transit system serving the tri-county area of Multnomah, Washington, and Clackamas counties. The City is a municipal corporation organized under the laws of the State of Oregon.
2. Pursuant to ORS Chapter 190, the Parties have the authority to enter into this Agreement.
3. On May 9, 2008, Metro, TriMet, and the Federal Transit Administration ("FTA") published the Supplemental Draft Environmental Impact Statement ("SDEIS") for the Portland-Milwaukie Light Rail Project ("Project").
4. In July 2008, the City Councils of the City of Milwaukie, Oregon, the City Commission of Oregon City, Oregon, the City of Portland Council, the Board of County Commissioners of Clackamas County, the Multnomah County Chair, and the Portland Development Commission ("PDC") adopted resolutions or board orders, or issued letters in support of the LPA. On July 9, 2008, the TriMet Board of Directors issued Resolution 08-07-56 recommending the confirmation of the LPA for the Portland-Milwaukie Segment of the South/North Corridor Light Rail Project.
5. Under the authority of House Bill 3478 (Oregon Laws 1996, Chapter 12, hereinafter the "Act"), the Metro Council ("Council") adopted Resolution 08-3964, the 2008 South/North Land Use Final Order ("LUFO") to modify the proposed route of the Portland-Milwaukie Segment of the South/North Light Rail Corridor, relocate proposed light rail stations, establish the light rail route between SE Tacoma Street and SE Park Avenue in Clackamas County, and establish new station locations, park and ride lots, maintenance facilities, and highway improvements. Upon consideration of public comments and local partner resolutions, the Council adopted Resolution 08-3959, approving the 2008 Portland-Milwaukie Light Rail Project LPA and finding consistency with the Metro 2035 Regional Transportation Plan. Resolution 08-3964 and Resolution 08-3959 were adopted on July 24, 2008.
6. The Act defines the relationship between TriMet and other governmental entities following the adoption of the LUFO, and requires the affected cities and counties and

Metro to amend their comprehensive or functional plans and land use regulations to make them consistent with the LUFO. The Act “immediately authorize(s), as permitted uses, the light rail route, stations, lots and maintenance facilities and the highway improvements, including their locations, as identified and approved in a land use final order,” and further requires “appropriate plan and land use regulation amendments so that local land use requirements are consistent with a land use final order.”

7. TriMet completed the preliminary engineering (“PE”) phase on March 5, 2010, and submitted its final design package to FTA on March 31, 2010. TriMet expects to receive FTA’s permission to enter final design in October 2010. Final design is expected to be complete in 2011. Metro is leading the effort to complete the Final Environmental Impact Statement (“FEIS”), and it is expected to be published in June 2010. The project schedule is attached as Exhibit A. The period between the end of PE and the beginning of final design is referred to as the “Extended Preliminary Engineering Design Phase” (“Extended PE”). The Parties recognize that during the Extended PE phase, certain City services will continue to be required to support the FTA’s application review process. The City agrees to provide the same services described in this Agreement for the PE phase during the Extended PE phase, as needed and appropriate.
8. TriMet cannot construct or implement the Project without the use of City right-of-way or property. The City is willing to allow TriMet to use City right-of-way and property without being compensated for such use.
9. The City has a duty to the general public to provide safe and convenient streets and to protect itself from unreasonable financial burdens imposed by TriMet’s use of the streets.
10. The Project is, or will be, subject to budgetary limitations imposed by the FTA and Finance Agreements, and all terms and conditions of the FTA Full Funding Grant Agreement (“FFGA”) will apply to this Agreement.
11. The Parties have identified the following objectives with respect to the Project:
 - a. Build the Project within budget and on-schedule;
 - b. Demonstrate that light rail can be constructed in a cost-effective manner; and
 - c. Develop the best-qualified team for management of the Project.
12. The Parties desire to enter into this Agreement to document each Party’s understandings and agreements relating to the design and construction phases of the Project. The Parties understand that this Agreement will provide a starting point for future modifications or amendments to this Agreement that better define details of final design, construction, and close out of the Project.
13. The Parties shall enter into a continuing control agreement to satisfy FTA’s requirements for a permanent right of TriMet to operate on City right-of-way or property, upon completion of Project construction.

14. Upon completion of Project construction, the Parties plan to enter into a maintenance agreement that will detail each Party's obligations with respect to maintenance of the facilities.

NOW, THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties as follows:

AGREEMENT

ARTICLE I – TERM

The term of this Agreement will be effective from March 30, 2009 through June 30, 2016, unless terminated or extended under the provisions of this Agreement.

ARTICLE II – TRIMET OBLIGATIONS

- A. **Responsibility for the Project.** Except as otherwise provided herein, TriMet shall design, construct, operate, and pay all costs for the Project, in accordance with the Project's funding arrangements. In the execution of the design and construction, except as otherwise provided herein, TriMet shall provide for the public's health, safety, and welfare by providing the proper construction, reconstruction, and modifications to those existing public facilities in the City's public right-of-way that are affected by the Project.
- B. **Construction Standards for the Project.** TriMet shall use current City Standard Construction Specifications and standard drawings, except as amended and approved by the City Engineer, for all portions of the Project that will ultimately be owned and/or maintained by the City.
- C. **City Requests and Payment for Additional Work.** TriMet shall design and construct, at the City's expense, any Betterment (as that term is defined in Article IV, Section S below) identified and requested by the City that enhances the basic Project or public improvements in the vicinity of the light rail alignment.
- D. **Development of Preliminary Engineering Documents.** TriMet will submit to the City copies of the PE design documents for review at the 15%, 25% and 30% stages, and the City will provide comments for resolution, including comments from involved City Bureaus, Council Person, and Advisory Committees in accordance with the Project Milestones and Schedule shown in Exhibit A. TriMet shall provide a response to the City identifying how these comments and issues will be approached during the final design of the Project. TriMet will not submit signed or sealed drawings for review purposes. TriMet will submit signed and sealed drawings only whence all design review is complete.
- E. **Development of Final Plans and Specifications.** TriMet shall work in close cooperation with the City during preparation of final engineered plans and will submit plans and specifications (hereinafter "Plans") for official City review at the deliverable

stages established by the Project, currently anticipated to be the 60%, 90%, and 100% completion points.

The 60% stage is the first draft of final design drawings and specifications. Other City Bureau and Commission review, to the extent required by City Code and not previously satisfied, shall be undertaken based on the 60% stage submission. This stage will include the identification and specification of all major construction work.

The City and TriMet shall cooperate and exercise good faith efforts to provide documents, review, and comment, and resolve comments on plans and specifications so that the Project schedule milestones identified in Exhibit A are met. The Parties agree that should the Project schedule be revised in the future, they shall make best efforts to comply with the updated schedule milestones.

The Parties understand that City review times shall not commence until all elements appropriately included at each stage are incorporated into the submission at a level of detail that allows effective and efficient review by the City. The City shall use its best efforts to minimize the review times, however it is anticipated that a three week City review period will be needed at the 60% and 90% stages.

The review at the 100% stage is intended only to verify that the revisions identified at the 90% stage have been completed. The 100% review shall be accomplished within 15 working days, unless otherwise agreed between City and TriMet. In the event that the City does not respond in a timely manner, the submitted plans and specifications shall be deemed approved as submitted. TriMet shall submit final plans to the City Engineer at the same time its contractor advertises for subcontract bids or prior thereto. City required changes at the 100% stage may be incorporated by addendum into construction documents. TriMet shall maintain records of all comments received from City reviews, including TriMet response and action taken.

- F. **Preliminary List of Anticipated Project Approvals.** TriMet's Project Manager, or its designee, shall work with the City's Project Manager or its designee, to develop an agreed upon list of permits and approvals necessary for Project construction. The list may include but not be limited to: (1) conditional use approvals; (2) zoning adjustments; (3) sign encroachment variances or waivers; (4) design review permits; (5) building and/or construction permits; (6) provisions for parking during construction; (7) provisions for bus relocations during construction; (8) variances; and (9) occupancy permits.
- G. **Issuance of Permits.** TriMet will manage the process to obtain all necessary City permits for the Project, whether the permits are obtained by its consultants or construction contractors. Some permits from the City will be issued as an outcome of a land use, design review, building permit, or other process involving private property. For work in the public right-of-way, following the City Engineer's approval of the final plans for the Project and prior to construction, the City Engineer shall issue a Construction Permit.

- H. **Relocation of Utilities.** The City shall use its best efforts to cause relocation of privately-owned utilities without cost to the City or Project, as provided in Article III, paragraph C below. However, if the City does not have the legal authority or power to cause such relocation, TriMet, without cost to the City, shall effect relocation of existing privately-owned utility facilities as necessary to conform utilities or facilities to the plans for the Project. The cost of relocating in-kind publicly owned utilities for purposes of the Project shall be at TriMet's expense or shared between Parties based on contributions by BES and PWB as provided in this Agreement. The Parties understand that relocation in-kind does not include Betterment(s) of the existing facilities.
- I. **Inspection of Relocated Utilities.** TriMet shall also allow City engineers and/or inspectors or consulting engineers/inspectors to inspect any relocation of utility conduits, lines, poles, mains, pipes, and other facilities (including stray current mitigation measures) in order to determine whether they have been relocated or installed in accordance with the contract documents and the City/TriMet Agreement for the Project.
- J. **Real Property Acquisition/Relocation Assistance.** TriMet shall be solely responsible for the acquisition of real property or interests therein for the Project, including property that will eventually become City right-of-way. For property that will become City right-of-way, TriMet shall use standard City forms, terms, and conditions, and shall obtain review and approval from the City of Portland Bureau of Transportation's real property group. TriMet shall also acquire all other property needed for the Project. TriMet shall be responsible for providing any relocation assistance required for the Project, and such relocation assistance shall be pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act, and other applicable federal, state, and local laws.
- K. **Staffing Plan.** TriMet's Resident Engineer for the Project, under the direction of TriMet's Director of Project Implementation, or its equivalent or designee, and the City's Project Manager, shall create a staffing plan for construction of the Project. Staffing for key positions shall be jointly agreed to by the City's Director of the Bureau of Transportation and TriMet's Executive Director of Capital Projects. These key positions are:
- Field Engineers, including traffic
 - City Project Manager
 - Chief Inspector and Staff Inspector
 - Structural Engineer
- TriMet's Director of Project Implementation, or its equivalent or designee, and the City Project Manager shall assemble key members of the construction management team, including assigned TriMet staff, consultants, and City staff to implement procedures for coordination between the City and TriMet, with the intended goal of communication with the Project's Construction Manager/General Contractor ("CM/GC") and all subcontractors with one common voice, wherever practicable.
- L. **Contractor Selection, Oversight, Payment.** TriMet will prepare procurement and contract documents, make the CM/GC selection, manage and enforce provisions of the

CM/GC contracts, and make payments to the CM/GC. The City Project Manager shall have the opportunity to review and comment on all Project procurement and contract documents prior to issuance by TriMet.

- M. **Development of the Conceptual Design Report.** TriMet shall develop a CDR for City Council to document issues for resolution and the design progression during the PE phase of the Project. TriMet will provide the CDR to City for review and comment per the schedule shown in Exhibit A.
- N. **Community Relations.** TriMet shall perform all community relations functions and keep the City Project Manager apprised of all activities.
- O. **Issue Resolution.** It is understood by both Parties that a project of this size and complexity will raise issues requiring speedy resolution. In the event of any issues or disputes between the City and TriMet, it is understood by both Parties that the dispute shall be referred for resolution as follows:
 - 1. Refer the dispute to the City Project Manager and TriMet's Project Manager, who shall make a good faith effort to resolve it;
 - 2. If unresolved, refer it to the Office of Transportation Director and to TriMet's Executive Director of Capital Projects and Facilities Management;
 - 3. If unresolved, refer it to the City's Commissioner-in-Charge of Transportation and TriMet's General Manager for resolution.

In the event that any of the issues or disputes relating to facilities owned and maintained by City bureaus other than the Office of Transportation, the corresponding bureau Project Manager, Bureau Director, and/or Commissioner-in-Charge will participate in resolving the issue.

P. Changes to the Work.

- 1. Because of the complexity of the work involved in the Project and the restricted amount of time available for the City's review of the plans and specifications, the City and TriMet recognize and acknowledge that there may be a significant number of changes required to the plans and specifications during construction.
- 2. TriMet and the City agree to make timely responses as appropriate and required to keep the work progressing.
- 3. Changes directed by the City. Subject to the terms of this Agreement, TriMet acknowledges that the City, as permitting authority, can order changes to the work being performed in the public right-of-way as it considers necessary, and within the general scope and limits of the Project's street, structural, sewer, and

water construction contracts. In the event that TriMet disagrees with the City's change directive, the issue will be resolved through the Issue Resolution process described above.

4. Changes proposed by TriMet. All changes proposed by TriMet, or others, which would impact work authorized by the Permit or this Agreement will be submitted to the City Project Manager for review and approval. The City Project Manager will coordinate any necessary reviews by City Bureaus, citizen groups, or other interested parties, as appropriate, and return a decision to TriMet as required to meet contract milestones or keep the work progressing.
5. TriMet will handle any claims by the CM/GC for change orders and will not look to the City for reimbursement or compensation for any such changes except when those changes are agreed to be Betterments. Should changes result in added work by the City, the City Project Manager shall submit an estimate of added costs to TriMet. TriMet shall review the estimate and negotiate a modification to this Agreement for added work.

Q. Services to be Provided by TriMet. TriMet shall provide the following services through its own forces or by contract:

- Urban design
- Conceptual design report
- Traffic Analyses and Design
- Traffic Signals Design
- Street lighting Design
- Stormwater management facility design
- Public utility design (sewer and water)
- Regulatory Permitting
- Civil Design
- System Design

In addition, TriMet shall provide the following support services:

1. Review and approve monthly progress payments.
2. Coordinate with City's Project Manager regarding work activities as they impact adjacent properties and businesses.
3. Assist City in its obligation to comply with all federal provisions prescribed for third-party contracts by the FFGA at such time as that agreement is executed.

R. Offices and Furnishings. TriMet shall provide office space, office furnishings, parking spaces for City staff vehicles (but not personal vehicles used in commuting, and not at the field office location unless the Parties mutually agree), support supplies and equipment for the key City staff assigned to administer the permits and inspect the work related to

Project construction. The City staff and TriMet staff shall be co-located in an office adjacent to the Project to facilitate close cooperation and responsiveness.

S. **TriMet Staff.** TriMet shall assign the following personnel to the Project:

- Project Director
- Community Affairs Specialists
- Design support staff
- Construction Manager
- Resident Engineer
- Assistant Resident Engineer
- Inspectors
- Office Engineer

T. **Easements.** TriMet shall obtain construction and permanent easements for all TriMet, private and City facilities, outside of City right-of-way, constructed under the civil, water, and sewer contracts. Permanent easements for City facilities shall use standard City form, terms, and conditions and shall be reviewed and approved by the appropriate City Bureau.

U. **Maintenance Agreement.** TriMet shall, in good faith, prepare and negotiate with the City and others as appropriate a maintenance agreement that defines maintenance responsibilities for the Project.

V. **Continuing Control Agreement.** TriMet shall, in good faith, prepare and negotiate with City a continuing control agreement. The Parties understand and agree that the continuing control agreement will provide for the permanent use of city streets and other city property necessary for construction, operation, and maintenance of those elements within City right-of-way, in accordance with the continuing control requirements of federal law as administered by the Federal Transit Administration.

ARTICLE III -- CITY OBLIGATIONS

A. **Project Design Standard.** The City and TriMet agree that the starting point for the PE phase of the Project will be the Conceptual Design adopted as the LPA. The completed PE documents, together with TriMet response to City comments, and other work products developed between the date of this Agreement and the start of final engineering are anticipated to be the design standard for the Project.

B. **Maintaining Project Schedule.** The City agrees to use its best efforts to assist TriMet in maintaining the Project schedule. To this end, City staff shall assist TriMet with all permit/approval processes including, but not limited to, scheduling all hearings and briefings before City Council, commissions or other City entities.

C. **Relocations in Right-of-Way.** The City shall allow TriMet participation in review of utility relocation plans submitted by public and private utilities for the alignment area.

The City shall also allow TriMet engineers or inspectors or consulting engineers or inspectors to inspect any relocation of utility conduits, lines, poles, mains, pipes, and other facilities in order to determine whether they have been relocated in accordance with the plans of the Project.

The City, at TriMet's expense unless otherwise apportioned in this Agreement, shall relocate, cause to be relocated, or assist in the relocation of all City-owned conduits, lines, poles, mains, pipes, and other facilities, whether located within the public right-of-way or not, as required by the Project. The Project plans and specifications shall include all relocations necessary to conform facilities to the Project. The City shall endeavor to conduct this relocation work in accordance with the Construction Phasing/Scheduling Plan for the Project.

The City shall cause the owners of privately-owned utility conduits, lines, poles, mains, pipes, and other facilities in or on City rights-of-way and/or property to relocate their facilities at the expense of said privately-owned utility as necessary to conform to the Project, to the extent the City has the power to do so. The City shall endeavor to cause this relocation work to be accomplished in accordance with the Construction Phasing/Scheduling Plan for the Project.

- D. **Coordination of City Issues.** The City Project Manager shall coordinate comments from all City bureaus and shall assist in resolution of all Project issues raised by any City bureau.
- E. **Managing Services within Budget.** The City Project Manager shall exercise good faith efforts to manage the City services within the budget specified in this Agreement.
- F. **Permits and Approvals.** The City Project Manager or designee shall assist TriMet in developing a list of the permits or approvals necessary to complete the Project construction and installation.
- G. **Issuance of Construction Permit.** In accordance with the provisions of this Agreement, the City shall issue a Construction Permit for the Project within the City right-of-way, which shall permit Project construction based on the end products referred to in Article VI.
- H. **End Products.** The City agrees to provide the end products identified as its responsibility in Article VI of this Agreement, or a reasonable substitute produce as agreed by the Parties.
- I. **City Staffing.** City shall make available the persons and resources identified in the staffing plan attached as Exhibit B.
- J. **Continuing Control Agreement.** City shall, in good faith, negotiate with TriMet a continuing control agreement. The Parties understand and agree that the continuing control agreement will provide for the permanent use of city streets and other city

property necessary for construction, operation, and maintenance of those elements of the Project within City right-of-way, in accordance with the continuing control requirements of federal law as administered by the Federal Transit Administration.

- K. **Maintenance Agreement.** City shall, in good faith, negotiate with TriMet and others, as appropriate, the TriMet-developed maintenance agreement that defines the maintenance responsibilities for the Project.

ARTICLE IV— CITY SERVICES TO BE PROVIDED TO TRIMET

- A. **City Staffing Plan.** The City shall provide services in conjunction with the Project's PE and Extended PE activities as described in this Article. City shall make available during the PE and Extended PE phases the persons identified in Exhibit B. The Parties recognize that these persons and attendant services will be adjusted and allocated as necessary and reasonable to fulfill the purpose of this Agreement. The Parties agree that this Staffing Plan will be modified to meet the needs during the final design and construction phases of the Project.
- B. **Ensuring No Adverse Effects to City.** The City's services are intended to ensure: (1) that the City's facilities and operations within the public right-of-way are adequately provided for; (2) that the City's facilities and operation outside the public right-of-way are not adversely affected; (3) that vehicular, bicycle and pedestrian traffic is adequately provided for; and (4) that public health, safety, and welfare, including without limitation aesthetic, environmental, and commercial values, are not adversely affected.
- C. **City Services - General.** Each City bureau or agency with Code authority or other responsibility over the Project shall provide to TriMet the following services:
1. Supply copies of all available file data on all existing facilities as requested by TriMet for the Project. The City has found the completeness and accuracy of this file information to be inadequate when used as the sole basis for design and construction purposes and recommends verification before incorporation into any final design. Any reliance on the data by TriMet shall be at its own risk.
 2. Review, require revisions to, and approve the Project plans as provided for in this Agreement.
 3. Cooperate fully with the City's Project Manager, TriMet's Project Manager, and City and TriMet designated representatives as reasonably necessary to assist in the timely and proper completion of the Project.
- D. **Portland Bureau of Transportation ("PBOT").**
1. Bureau of Transportation Engineering and Development. Under the coordination of the City's Project Manager, the Bureau of Transportation Engineering and Development

shall provide services as described below:

- (a) Act as the lead City agency in carrying out the City's obligations and exercising the City's rights under this Agreement.
- (b) Provide as necessary, services of the City's Project Director, Project Manager, and other positions as identified in the Agreement.
- (c) Assist in and coordinate all plan reviews, including structures.
- (d) Assist in resolution of all design and construction issues.
- (e) Coordinate and track compliance with all City permits.
- (f) Provide assistance in City budget development, monitoring, tracking, and billing for all City bureaus and other entities. Prepare budget status reports as required.

2. Traffic Design Section. Under the coordination of the City's Project Manager, the Bureau of Transportation Engineering and Development's Traffic Design Section shall provide services as described below:

- (a) Review, require revisions to, and approve analyses for traffic control performed as part of the FEIS and PE efforts.
- (b) Provide assistance as needed for efforts related to quiet zones and truck studies performed by TriMet.
- (c) Review, require revisions to, and approve preliminary plans for all pavement markings, traffic signs, and other work affecting vehicular, bicycle and pedestrian traffic within City right-of-way developed as part of the PE design. Notify the City's Project Manager of all required revisions, for forwarding to TriMet.
- (d) Assist in resolution of all traffic related design and anticipated construction issues.

3. Bureau of Transportation System Management. Under the coordination of the City's Project Manager, the Bureau of Transportation System Management shall provide services as described below:

- (a) Assign a single Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information covered under this Agreement with the City's Project Manager.
- (b) Review and comment on plans for all traffic signaling devices and other work affecting vehicular, bicycle and pedestrian traffic within City right-of-way. Notify the City's Project Manager of all required revisions, for forwarding to

TriMet. Provide inspection services during construction.

- (c) Review, require revisions to, and approve plans for all City street lighting facilities, as needed. Notify the City's Project Manager of all required revisions, for forwarding to TriMet. Provide inspection services during construction.

4. Transportation Planning Division. Under the coordination of the City's Project Manager, the Transportation Planning Division shall provide services as described below:

- (a) Assign a single Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information covered under this Agreement with the City's Project Manager.
- (b) Coordinate among the various City Bureaus the review and comment on the preparation of the FEIS and forward comments to TriMet and Metro.
- (c) Act as lead for review of proposals related to circulation patterns through the Clinton Triangle area.

E. **Bureau of Environmental Services ("BES")**. Under coordination with the City's Project Manager, BES shall provide services as described below:

- 1. Assign a single Project Coordinator/point of contact for all sewer relocation work performed under this Agreement, and coordinate all said work, budget and information under this Agreement with the City's Project Manager.
- 2. Assign a single Project Coordinator as the point of contact for all work related to implementation of the City's "Stormwater Management" Manual.
- 3. Review and provide comments on plans for all storm, sanitary, and combined sewerage facilities. Notify the City's Project Manager of all required revisions, for forwarding to TriMet.

F. **Portland Water Bureau ("PWB")**. Under the coordination of the City's Project Manager, PWB shall provide services as described below:

- 1. Assign a single Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information under this Agreement with the City's Project Manager.
- 2. Provide assistance in the design of water relocations, improvements, and Betterments included in the Project.
- 3. Review and provide comments on plans for all water facilities. Notify the City's Project Manager of all required revisions, for forwarding to TriMet.

G. Bureau of Development Services (“BDS”). Under the coordination of the City’s Project Manager, BDS shall provide services as described below:

1. Assign a Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information under this Agreement with the City’s Project Manager.
2. Assist in the identification of all Project elements located outside of City of Portland right-of-way requiring a land use approval or building permit. Provide process management advice for processing of the land use approvals and/or building permits for the Project elements needing those approvals and/or permits. Review of these portions of the system shall be conducted according to the requirements of the Oregon State Specialty Codes, appropriate NFPA standards, and pertinent portions of Portland City Code Titles 24, 25, 26, 27, 32, and 33. Review times shall conform to the requirements in the City Code. BDS shall exercise good faith to review Project plans and specifications in a timely manner consistent with the Project schedule. Upon satisfactory completion of this and other reviews required by this Agreement, BDS shall issue necessary construction permit(s).
3. Provide process management advice on design, environmental, historic, design reviews and other land use actions as required.

H. Bureau of Parks and Recreation (“Parks”). Under the coordination of the City’s Project Manager, Parks’ planning and development section shall provide services as described below:

1. Assign a single Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information under this Agreement with the City’s Project Manager.
2. Review plans for street trees and monitor existing street tree removals and new street tree installations.
3. Review plans for landscaping installation in City right-of-way.
4. Review and comment on plan documents for improvements affecting Parks’ properties along the approved alignment.
5. Review plan documents for consistency and coordination with planned and existing trail locations and connections.

I. Bureau of Planning and Sustainability (“BPS”). Under the coordination of the City’s Project Manager, Parks’ Bureau of Planning and Sustainability shall provide services as described below:

1. Assign a single Project Coordinator/point of contact for all work performed under this Agreement, and coordinate all work, budget and information under this Agreement with the City's Project Manager.
2. Assist in the development of transit-oriented development concepts, station area planning, and conceptual station designs.
3. Assist in the development and review of the CDR.
4. Review plan documents for consistency and coordination with the planning for the Central Portland Plan and Portland Plan, including potential changes to zoning codes, urban design plans, and district plans.
5. Technical planning assistance on design and permitting issues associated with:
 - Station design
 - Willamette River Crossing
 - Harbor Drive Crossing
 - Bicycle and pedestrian access
 - Public art and PAAC
 - Greenway connections
 - City of Portland review process

J. City Staff. City shall assign the following personnel to the Project:

1. The City Project Manager
2. City Project Engineer
3. Traffic Engineer
4. Bureau Project Coordinators for PWB, BES, BDS, BPS, and Parks

K. Inspection.

1. The Parties intend to conduct a joint inspection program. If so conducted, the Parties shall develop procedures relating to completion of daily inspection logs or reports, distribution of such reports, and the recommendation of action based on such logs or reports.

L. Others. Other City agencies and City bureaus with Code authority or other responsibilities over the Project shall provide the required services necessary to carry out the responsibilities as identified by the City Code. Compensation shall be under the City Code on a fee basis or as set forth in this Agreement.

M. Compensation.

1. The City's compensation for services provided under this Agreement shall be broken down into at least two (2) parts: (1) the PE and Extended PE phases; (2) the final design, construction, and close out phases.
 2. The City's compensation for services provided during the PE and Extended PE Phases must not exceed One Million, One Hundred and Nine Thousand Dollars and No/Cents (\$1,109,000.00) for the PE phase, and must not exceed Four Hundred and Thirty Six Thousand Dollars and No/Cents (\$436,000.00) for the Extended PE phase unless the Parties execute a modification signed by authorized representatives. Such services shall be provided on a reimbursable cost basis. The Parties agree that line item budgets may be reallocated within this Agreement when approved by the City and TriMet Project Managers, so long as the overall approved budget amount of this Agreement is not exceeded.
 3. The Parties agree that further budgetary limitations will be provided for the final design, construction, and close out phases by amendment or modification to this Agreement.
- N. **Method of Payment and Overhead Costs.** Subject to the limitations stated in this Agreement, TriMet agrees to pay the City's actual costs for the performance of the services required herein. The City has provided a cost estimate for its services under this Agreement, including a projection of overhead rates (rounded up for purposes of this Agreement only) for the following bureaus as follows:
- PBOT: Sixty-six percent (66%).
 - BES: Fifty-three percent (53%)
 - Parks: Forty Nine percent (49%)
 - PWB: One hundred ten percent (110%)
 - BPS: Seventy Eight percent (78%)
- These overhead rates are applicable for the PE and Extended PE phases of the project only.
- Any overhead rates charged to TriMet by the City must meet all federal requirements for federally-funded projects.
- O. **Payment for Permits.** During the design and construction of the Project, the City will provide services related to permits and land use approvals. TriMet will be financially responsible for payment of these services during the design phase of the Project; their contractor will provide payment during construction.
- P. **Invoices.** The City, through the Office of Finance and Administration, shall to the extent possible given limitations in its financial accounting system submit to TriMet monthly billings for reimbursable costs incurred since the previous billings. TriMet shall pay the City the balance due within thirty (30) days of receipt of such billings. Financial reports accompanying requests for reimbursement shall be in accordance with FTA requirements. TriMet shall review records for suitability and provide assistance as necessary to assure compliance with FTA requirements.

1. Invoices must be supported by current time sheets for each month. The Project Managers shall review the invoices and billings against the Project budget to provide real time cost tracking and budget management.
 2. The City Project Manager shall oversee the work of the various City Bureaus or Departments to the end that their work is completed within the staffing budget for that work.
 3. Overtime premium pay (pay in excess of straight time) shall not be invoiced to TriMet unless TriMet's Project Manager has specifically authorized overtime in advance of the work, or in the event of an emergency.
 4. The fringe rate applied to overtime hours must be an adjusted rate such that items are not included in both the regular hour fringe rate and the overtime fringe rate, unless such allocation is approved by TriMet.
- Q. **Additional Services.** TriMet will not pay any claim for additional services not specifically provided for herein, unless agreed to mutually by written modification of this Agreement.
- R. **Status of Contractor.** The City shall perform this Agreement as an independent contractor and its staff, even though they may be assigned full time to the Project, will not be deemed employees of TriMet.
- S. **Betterments/Cost Sharing.** The City agrees to share in certain costs of the Project as identified in this Agreement. In addition, the City agrees that it shall specify and provide or pay costs for any Betterments that are incorporated into the Project at the request of the City. The Parties shall, through modification of this Agreement, negotiate the work scope and cost of such Betterments prior to TriMet proceeding with the design and construction of such Betterments. As used in this Agreement, "Betterment" means replacement of existing infrastructure with new where the infrastructure is beyond its useful life, or replacement with a kind, size or type of infrastructure facility that differs from that existing as of the commencement of this Agreement. If the facility is near the end of its useful life, "Betterment" includes that portion of the cost associated with replacing new that is equivalent to the portion of the expended useful life when compared to the entire useful life.
- T. **Other City Project Costs.** At Project cost, the City shall provide all necessary services to properly coordinate with this Project all design and construction work related to or required by other City projects within or near this Project's contract limits.

Further, the Parties recognize that in some instances it may be more cost effective or result in less public impact for certain other City project work to be performed under this Project. For any such instances, the City and TriMet shall append and incorporate into this Agreement a separate Memorandum of Understanding that documents each

particular cost or work sharing agreement.

TriMet shall not be responsible for any of the final, actual costs for other City project work that are transferred into and performed as part of this Project. Preliminary cost estimates may not accurately reflect final, actual costs for which the City will be responsible.

The Parties agree that costs for other City projects may be appended and incorporated into this Agreement with prior written approval from TriMet during the term of this Agreement.

U. Construction Management. As part of the scope of work under this Agreement, the City will be providing construction management services. Prior to the start of construction, the City will, negotiate in good faith any necessary modifications to provide specificity to this Agreement.

ARTICLE V – TRIMET SERVICES TO BE PROVIDED TO CITY

A. Portland Water Bureau.

At PWB's request, TriMet asked its contractor (HNTB) to evaluate whether it was feasible to add two large diameter water mains on the Project's Willamette River Transit Bridge. The parties agreed that the City would reimburse TriMet to evaluate this request.

TriMet paid HNTB Seven Thousand, Four Hundred Ninety-Eight Dollars and Forty-Five Cents (\$7,498.45) to evaluate this request.

TriMet shall submit to the PWB an invoice for reimbursement of these services. Within thirty (30) days of the receipt of this invoice, PWB shall pay the balance owed of Seven Thousand, Four Hundred Ninety-Eight Dollars and Forty-Five Cents (\$7,498.45).

B. PBOT.

On April 2, 2010, TriMet and PBOT entered into a Letter of Intent (LOI) for geotechnical investigation on the Southwest Parallel Interceptor ("SWPI"), a 72-inch diameter, reinforced concrete utility pipe beneath Moody Avenue. The LOI is attached hereto as Exhibit C and incorporated by this reference. The parties agreed that PBOT would reimburse TriMet for fifty percent (50%) of the cost of the work.

Pursuant to the LOI, TriMet asked its contractor (CH2M Hill) to perform the pipeline evaluation of the SWPI. TriMet paid CH2M Hill Nineteen Thousand, Two Hundred and No/Dollars (\$19,200.00).

TriMet shall submit to the PBOT an invoice for reimbursement of these services. Within thirty days (30) days of the receipt of this invoice, PBOT shall pay the balance owed of Nine Thousand, Six Hundred Dollars (\$9,600.00).

ARTICLE VI – END PRODUCTS

- A. This Agreement is intended to enable TriMet, with City assistance, to perform all tasks necessary to ensure the successful design, construction, operation, and maintenance of the Project. Additionally, it allows for integration of Project facilities into the City's existing public and private improvements in a manner that ensures protection of the public healthy, safety, and welfare. TriMet and the City acknowledge that amendments to this Agreement may be necessary to reflect changing conditions.

The purpose of this Article is to identify the end products that TriMet and the City cooperatively must produce or accomplish to accommodate construction of the Project. The list of end products identified in this Article is not all-inclusive. The City or TriMet may identify other required end products during final design. The Parties may produce or accomplish individual end products at any time between the date this Agreement becomes effective and the City's issuance of the Construction Permit. Prior to issuance of the Construction Permit, the City will require the production or accomplishment and approval of all end products identified herein or added hereto.

- B. **End Products.** The lead agency for the following end products shall have primary responsibility for initiating and accomplishing those end products. It is understood, however, that the accomplishment to the end products will require cooperative efforts of both Parties and TriMet and the City agree to utilize their best efforts to this end.

1. Detailed Final Plans and Specifications

Lead Agency: TriMet

- (a) Baseline Project
- (b) Water, Sanitary and Storm Sewers relocation plans and specifications
- (c) Public Utility Relocations Plans. Private utility plan and specifications will be completed by the private utilities themselves
- (e) City Requested Extra Work/Betterments. Plans, specifications and bid documents for any such extra work shall be structured so that actual bid prices, construction costs, extra billings, post construction claims, and any and all other cost items are clearly separated from the baseline Project costs.

2. Approval of Final Design

Lead Agency: City

Within the framework established by the Act, design and permit approvals involving:

- (a) City Bureaus with City Charter or City Code Responsibility
- (b) Sewer, Water, Utility Relocations
- (c) Improvements within City right-of-way unrelated to Project
- (d) Private property improvements unrelated to Project
- (e) City Council

3. Construction Phasing/Scheduling Plan

Lead Agency: TriMet

- (a) Project Overall
- (b) Sewer, Water, Utility Relocations windows
- (c) Improvements within City right-of-way unrelated to Project
- (d) Private property improvements unrelated to Project

- 4. Public Information/property owner liaison plan Lead Agency: TriMet
- 5. Conduct of Construction Plan Lead Agency: TriMet

To be completed on a per work-task basis, as needed.

- (a) Protection of public and private property provisions
- (b) Dirt/Debris Mitigation Provisions
- (c) Construction Drainage and Erosion Control provisions
- (d) Construction Zone Traffic Control Provisions
 - Traffic Control
 - Parking
 - Temporary street closures
 - Emergency vehicle access
 - Construction staging
- (e) Construction Zone Private Property Access Provisions
 - Through pedestrian traffic
 - Building-pedestrian access
 - Driveway/Loading Zone Access
- (f) Provisions to assure the protection of pedestrians and vehicles using the LRT corridor
- (g) Provisions for days of the week, hours of the day construction activity may proceed
- (h) City Noise Control Variance Provisions
- (i) Provisions for Construction Restrictions during special civic events
- (j) Provisions for conflict resolution between Project contractors and contractors performing public or private work unrelated to the Project

- 6. Property owner/TriMet/City three-party agreements, if necessary Lead Agency: TriMet

- 7. Liability/Insurance Agreement Lead Agency: TriMet

- (a) During Construction
- (b) Between construction completion and City acceptance of the Project and assumption of its ongoing maintenance responsibilities

- 8. Amendments to City Code provisions Lead Agency: City

Amendments to City Code provisions, if necessary, to extend to Project the same terms and conditions related to the use and control of City right-of-way, and adjacent

development, as were developed for the construction and operation of the existing light rail system.

9. Maintenance Agreement

Lead Agency: TriMet

Execution of City/TriMet light rail maintenance agreement for the Project, based on terms and conditions and division of responsibilities generally reflected in the existing agreements for the existing light rail system.

10. Conditional use and other land use approvals

Lead Agency: TriMet

Conditional use and other land use approvals to be applied for by TriMet, for any TriMet facilities on private property within the City that are not allowed outright under City zoning regulations.

11. Record drawings

Lead Agency: TriMet

Record drawings will be produced by TriMet and distributed to the City Bureaus within 120 days after completion of the work.

12. Continuing Control Agreement

Lead Agency: TriMet

Execution of City/TriMet continuing control agreement providing for the permanent use of city streets and other city property necessary for construction, operation and maintenance of those elements of the Project within City right-of-way, in accordance with the continuing control requirements of federal law as administered by the FTA.

ARTICLE VII -- PROJECT POLICY AND MANAGEMENT

- A. **Steering Committee.** The Steering Committee will be retained through design phase of the Project as described in the FFGA, as it may be amended from time to time.
- B. **Project Management Group (PMG).** The PMG shall be responsible for the overall administration and direction of the Project and this Agreement. It will be responsible for the resolution of issues related to the design of the Project within the City and will recommend and forward any unresolved issues, or issues of regional significance, to the Policy Group for consideration. The PMG will consist of representatives from TriMet, City of Portland, City of Milwaukie, City of Oregon City, Multnomah County, Clackamas County, ODOT, PDC and Metro.
- C. **Project Team Leaders (PTL).** The PTL shall be responsible for the coordination of the Project and will seek to resolve technical details, process issues and policy questions to the degree possible. Unresolved issues will be forwarded to the PMG. This group will meet weekly and will consist of representatives from TriMet, City of Portland, City of Milwaukie, City of Oregon City, Multnomah County, Clackamas County, ODOT, PDC and Metro.

D. Management.

1. Managers. TriMet designates Dave Unsworth as its Project Manager and the City designates Teresa Boyle as its Project Manager (collectively, "Managers"). The Managers shall be responsible for coordinating all aspects of their respective work scopes for the Project and all the respective employees, consultants and contractors assigned to the Project. The Managers shall ensure that the Project and tasks related thereto are completed expeditiously and economically, shall be the contact persons through whom TriMet and the City officially communicate, and shall have the authority to make decisions and resolve disputes relating to the Project. In the event that a disagreement or dispute occurs between the Managers, it shall be resolved in accordance with Article II, Section O, Issue Resolution.
2. City Project Engineer. The City shall assign a Project Engineer, reporting to the City's Project Manager, with the required engineering experience, ability, and skills necessary to perform the following tasks:
 - (a) Have access to the City Engineer, City Project Manager, and TriMet's Construction Manager.
 - (b) Inform the City Engineer and City Project Manager of TriMet's Project staff's decisions.
 - (c) Inform Project staff of progress of required City approvals and work on end products.
 - (d) Assist TriMet in coordinating utility relocations.
 - (e) Prepare a schedule interfacing City or City-permitted work with Project work.
 - (f) Assist TriMet in gathering information in a timely manner from City staff and assist TriMet's Project staff in understanding the information.
 - (g) Assist TriMet in obtaining required end products and approvals.
 - (h) Advise TriMet of documentation necessary to obtain City approvals and permits.
 - (i) Advise and assist TriMet in accomplishing City issuance of the Construction Permit.
 - (j) Assist assigned TriMet design lead persons as necessary so that final design is accomplished in accordance with Project schedule milestones, budget and identified quality standards.
 - (k) Provide field and/or office engineering functions during construction, as needed by TriMet.
 - (l) Report to the assigned TriMet design or construction lead and interface with

Project consultants or subconsultants only as permitted by the assigned TriMet lead person.

- E. **Decision-Making.** Whenever either party's decision, determination, approval or consent (each a "decision") is required on the subject matter in this Agreement, the party will promptly exercise judgment and grant or deny the matter for which a decision was requested in a reasonable manner. Any consent or approval granted by a party shall not constitute a waiver of the requirement for consent or approval in subsequent cases. No change in the rights of the Parties or the term of this Agreement shall be required as a condition to granting of approval or consent. Any denial of consent or approval will include in reasonable detail the reason for denial or aspect of the request that was not acceptable. Consent and approval required under this Agreement shall not be unreasonably withheld, delayed, or conditioned.

ARTICLE VIII -- GENERAL PROVISIONS

- A. **Liability.** TriMet shall hold harmless and indemnify the City and its officers, agents, and employees against any and all liability, settlements, losses, costs, and expenses in connection with any action, suit, or claim arising out of TriMet work under this Agreement within the maximum liability limits set forth under the Oregon Constitution and the Oregon Tort Claims Act. The City shall hold harmless and indemnify TriMet and its officers, agents, and employees against any and all liability, settlements, losses, costs, and expenses in connection with any action, suit, or claim arising out of City work under this Agreement within the maximum liability limits under the Oregon Constitution and the Oregon Tort Claims Act.
- B. **Interest of Members of Congress.** No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.
- C. **Interest of Public Officials.** No member, officer, or employee of the City or TriMet during his or her tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof
- D. **Disadvantaged Business Enterprise.** In connection with the performance of this Agreement, the City will cooperate with TriMet in meeting TriMet's commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. TriMet and the City may desire to enter into an agreement whereby the City provides technical assistance for the DBE efforts. In the event an agreement is reached on the scope and budget for this work, the Parties will modify this Agreement to provide for such scope and budget.
- E. **Equal Employment Opportunity.** In connection with the execution of this Agreement, neither the City nor TriMet shall discriminate against any employee or

applicant for employment because of race, religion, color, sex, age, or natural origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; raise or pay or other forms of compensation; and selection for training, including apprenticeship.

- F. **Termination for Convenience.** The City or TriMet may terminate this Agreement in whole or in part at any time by written notice to the other Party. In the event of such termination, TriMet shall pay the City's costs, including any costs necessarily incurred by the City in terminating its work or the work of others under contract to City. The City promptly shall submit its termination claim to be paid by TriMet. If either party has any property in its possession belonging to the other Party (Owner), the party having possession will account for it and dispose of it in the manner as the Owner directs.
- G. **Termination for Default.** If the City fails to perform in the manner called for in the Agreement, or if the City fails to comply with any other provisions of the Agreement, TriMet may terminate this Agreement for default. Termination for default shall be effected by serving a notice of termination on the City setting forth the manner in which the City is in default. The City will be paid only the Agreement price for authorized services performed prior to termination in accordance with the manner of performance set forth in this Agreement.

If it is later determined by TriMet that the City has an excusable reason for not performing, such as a strike, fire, flood, or events which are not the fault of, or are beyond the control of the City, TriMet shall establish a new performance schedule, and allow the City to continue work, or treat the termination as a termination for convenience.

In the event TriMet fails to pay the City for its services provided under this Agreement, such failure shall be deemed a material breach for which the City may seek any remedy available to it under the law, including but not limited to, termination of contract or suspension of its services.

- H. **Maintenance of Records.** The City shall maintain records to show actual time involved in accomplishment of the Project and the cost incurred for the period of time specified. The City shall cooperate in good faith with TriMet and the FTA to provide records in a form satisfactory to FTA. TriMet shall take the lead and provide assistance to the City as necessary for compliance with FTA requirements.
- I. **Audit and Inspection of Records.** The City shall permit the authorized representatives of TriMet, the United States Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the City relating to its performance under this Agreement. TriMet shall be responsible for all auditing costs incurred by TriMet to conduct its audits under this Agreement.
- J. **Documents.** All records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models that are prepared or developed in

connection with this Project shall become public property. All design drawings and documents prepared by the City staff under this Agreement shall be property of TriMet. Nothing herein shall prevent the City from retaining original design drawings and providing reproducible copies to TriMet.

- K. **Successors; No Assignment.** The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties. The rights and obligations of each party under this Agreement may not be assigned in whole or in part without the prior written consent of the other party.
- L. **Choice of Law; Place of Enforcement.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
- M. **Waivers.** No waiver by either party of any provision of this Agreement shall be of any force or effect unless in writing. Except as otherwise provided herein, no waiver made by a party with respect to the performance, or manner or time thereof, or obligation of the other party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the party making the waiver or a waiver by the other party not joining in such waiver, and no such waiver shall be construed to be a continuing waiver.
- N. **No Third Party Beneficiaries.** The Parties intend that the rights, obligations, and covenants in this Agreement shall be exclusively enforceable by the Parties. There are no third party beneficiaries to this Agreement, either express or implied.
- O. **Severability/Survivability.** If any clause, sentence, or portion of the terms and conditions of this Agreement becomes illegal, null, or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law. All provisions concerning indemnity survive the termination of this Agreement for any cause.
- P. **Interpretation of Agreement.** This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
- Q. **Integration, Modification, and Administrative Changes.** This Agreement includes the entire agreement between the Parties on the subject matter contained in this Agreement and supersedes any and all prior or contemporaneous written or oral understandings, representations, or communications of every kind. No course of dealing between the Parties and no usage of trade will be relevant to supplement any term used in this Agreement. This Agreement may only be modified in writing by a modification that has been signed by individuals authorized to bind each of the Parties contractually. The Parties shall not make changes to this Agreement through the issuance of permits, approvals, or other administrative requirements or processes.
- R. **Compliance with Law.** Each party agrees to comply with all local, state, and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

- S. **Public Contracting Requirements.** To the extent applicable, the provisions of ORS Chapter 279 are incorporated by this reference as though fully set forth.
- T. **No Partnership.** Each Party is an independent contractor with regard to each other party. No party is an agent or employee of any other party.
- U. **No Participation.** No Party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- V. **Amendments to this Agreement.** This Agreement embodies the full agreement between the Parties with regard to the subject matters set forth herein, unless amended. City Bureau directors may authorize modifications to this Agreement, without specific Council approval, that affect the total financial commitment of that Bureau under its Agreement, for amounts up to twenty-five percent (25%) of the original amount. Charges in excess of 25% shall require a specific Council ordinance amending this Agreement.

Exhibit List

Exhibit A- Project Schedule

Exhibit B- City Staffing Plan

Exhibit C – Letter of Intent between TriMet and PBOT Regarding SWPI

City of Portland

Tri-County Metropolitan Transportation
District of Oregon

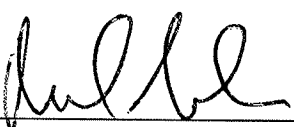
By: _____
Commissioner of _____

By: _____
TriMet General Manager

Dated: _____

Dated: _____

APPROVED AS TO FORM

By:  _____
City Attorney

By: _____
TriMet Deputy General Counsel

183924

Exhibit A: Project Schedule

Activity	Date (1)
Select Locally Preferred Alternative	July 2008
Entry into Preliminary Engineering	March 2009
Complete Preliminary Engineering	March 2010
FTA Issues Final Environmental Impact Statement	July 2010
FTA Issues Record of Decision	September 2010
FTA Approval to Start Final Design, and Letter of No Prejudice, Construction Starts under LONP	October 2010
Final Design 60% Complete	April 2011
Full Funding Grant Agreement Executed by FTA	June 2012
Local Funds Deposited in Project Account	September 2012
Construction Complete	May 2015
Operations Starts	September 2015

(1) Subject to change based on Preliminary Engineering, Final Design, FFGA, and FTA requirements.

Portland-Milwaukie LRT
IGA City services PE and extended PE
6/10/2010

Exhibit B

<u>Bureau</u>	<u>PE Phase</u>	<u>Extended PE Phase</u>	<u>Total PE/Extended PE Budget</u>
BES	229,600	21,700	251,300
Parks	15,600	0	15,600
Planning and Sustainability	55,200	26,400	81,600
Transportation	705,700	367,100	1,072,800
Water	<u>101,200</u>	<u>18,300</u>	<u>119,500</u>
total	\$1,107,300	\$433,500	\$1,540,800

note: PE Phase is 3-30-09 through 3-31-10. Extended PE Phase is 4-1-10 through 10-31-10

**Milwaukie Light Rail Extension
Project Staffing Plan (6/10 Update)
Through end of PE (3/31/10)
BES Project # E09163**

BES Employee	Preliminary Design Phase		
	Hours	Rate*	Totals
Dave Nunamaker	100	\$61.45	\$6,145.00
Susan Hjorten	79	47.74	3,771.46
Rob Cozzi	16	69.98	1,119.68
Don Wolsborn	131	69.11	9,053.41
Rick Washington	32	45.09	1,442.88
Nick Naval, Jr.	21	73.30	1,539.30
Blair Bean	36	73.41	2,642.76
Sr. Inspector	0	51.72	0.00
Inspector I	0	46.24	0.00
Alicia Rawlins	9	38.35	345.15
Mike Szwaya	45	72.28	3,252.60
Contract/Invoices			
Construction Mgmt.			3,060.00
CCTV Pipe Insp.			181,922.00
Total w/o OH	469		\$214,294.24
Total w/ OH **			\$229,560.05

* Labor + Benefits + Leave Accrual

** BES Rate FY 2010 @ 52.08%

**Milwaukee Light Rail Extension
Project Staffing Plan for Extended PE
(4/10 through 10/10)
BES Project # E09163**

BES Employee	Preliminary Design Phase		
	Hours	Rate*	Totals
Dave Nunamaker	30	\$61.45	\$1,843.50
Susan Hjorten	30	47.74	1,432.20
Rob Cozzi	40	69.98	2,799.20
Don Wolsborn	30	69.11	2,073.30
Nick Naval, Jr.	40	73.30	2,932.00
Blair Bean	20	73.41	1,468.20
Inspector I	5	46.24	231.20
Alicia Rawlins	20	38.35	767.00
Contract/Invoices			
Construction Mgmt.			1,000.00
Total w/o OH	215		\$14,546.60
Total w/ OH **			\$21,601.67

* Labor + Benefits + Leave Accrual

** BES Rate FY 2010 @ 52.08%

183924

Parks and Recreation
Milwaukie to Portland LTR
TR00940002

Employee Name	Data	Total	Hourly Rate	Overhead	Total including Overhead
Brett Horner	Sum of Hours	160			
	Sum of Amount	10352.01	\$64.70	5035.22	15387.23
Joseph Hintz	Sum of Hours	2			
	Sum of Amount	85.83	\$42.92	41.75	127.58
Total Sum of Hours		162			
Total Sum of Amount		\$10,437.84		\$5,076.97	\$15,514.81

Park Indirect Cost Rate 48.64%
 Overhead added at time of billing

Portland-Milwaukie LRT Project
 BPS budget - PE | 6/4/2010

Bureau of Planning and Sustainability				
PE Expenses			Hours	Total
Mark Raggett	Senior Planner	\$ 47.63	87	\$ 4,144
Troy Doss	Senior Planner	\$ 52.43	302	\$ 15,833
Matt Wickstrom	City Planner II	\$ 41.68	179	\$ 7,461
Leslie Lum	Associate Planner	\$ 31.23	40	\$ 1,249
Tom Armstrong	City Planner II	\$ 48.87	55	\$ 2,688
Total			663	\$ 31,375
Overhead Rate				75.77%
Total OH				\$ 23,773
Total with Overhead				\$ 55,147

Portland Milwaukie LRT project
 BPS - extended PE 6/4/2010
 40312

Task 1: Review and Adoption of PMLRT Concept Design Report

Staff:	Hours	Rate	Total
Mark Raggett	25	\$ 47.63	\$ 1,190.75
Matt Wickstrom	75	\$ 41.68	\$ 3,126.00
Troy Doss	5	\$ 52.43	\$ 262.15
Leslie Lum	0	\$ 31.23	\$ -
Total	105		\$ 4,578.90

Task 2: Community Communication

Mark Raggett	0	\$ 47.63	\$ -
Matt Wickstrom	20	\$ 41.68	\$ 833.60
Troy Doss	0	\$ 52.43	\$ -
Leslie Lum	0	\$ 31.23	\$ -
Total	20		\$ 833.60

Task 3: Technical Planning Assistance on design issues, permitting issues:

Mark Raggett	25	\$ 47.63	\$ 1,190.75
Matt Wickstrom	30	\$ 41.68	\$ 1,250.40
Troy Doss	30	\$ 52.43	\$ 1,572.90
Leslie Lum	10	\$ 31.23	\$ 312.30
Total	95		\$ 4,326.35

Task 4: Station Area Planning

Mark Raggett	20	\$ 47.63	\$ 952.60
Matt Wickstrom	75	\$ 41.68	\$ 3,126.00
Troy Doss	5	\$ 52.43	\$ 262.15
Leslie Lum	30	\$ 31.23	\$ 936.90
Total	130		\$ 5,277.65

	Hours	Rate	Total	Overhead Rate	Overhead	Total
Mark Raggett	70	\$ 47.63	\$ 3,334.10	75.77%	\$ 2,526.25	\$ 5,860.35
Matt Wickstrom	200	\$ 41.68	\$ 8,336.00	75.77%	\$ 6,316.19	\$ 14,652.19
Troy Doss	40	\$ 52.43	\$ 2,097.20	75.77%	\$ 1,589.05	\$ 3,686.25
Leslie Lum	40	\$ 31.23	\$ 1,249.20	75.77%	\$ 946.52	\$ 2,195.72
Total	350		\$ 15,016.50		\$ 11,378.00	\$ 26,394.50

6/10/2010

PORTLAND TO MILWAUKIE LRT PROJECT
Transportation Budget Estimate - PE and Post PE

	PRELIMINARY ENGINEERING (actual) 03/09 - 3/10 T00138.V			POST PE 4/10 - 10/10 Proj #			Total PE and Post PE 03/09 - 10/10		
	hours	rate	total	hours	rate	total	hours	rate	total
PDOT									
Project Management									
Teresa Boyle	1130	80.05	90,457	1027	83.17	85,388	2157		175,844
Art Pearce	1383	71.19	98,456	770	74.27	57,188	2153		155,644
Jody Yates	19	83.71	1,549						1,549
Shoshannah Oppenheim	10	50.84	483						483
Other Project Management		27.20							0
Project Management Subtotal	2541		\$ 190,944	1797		\$ 142,576	4310		\$ 333,520
Transportation Planning									
Patrick Sweeney	258	56.83	14,634	40	59.10	2,364	298		16,998
Roger Geller	30	64.76	1,910	8	67.35	539	38		2,449
April Bertelsen	60	59.80	3,558	8	62.19	498	68		4,056
Nivedita Doljode	65	55.94	3,614				65		3,614
Grant Morehead	2	44.94	90				2		90
Ningsheng Zhou	40	67.08	2,683	40	68.12	2,725	80		5,408
Others							0		0
Transportation Planning Subtotal	453		\$ 26,489	96		\$ 6,125	549		\$ 32,614
Traffic Investigations									
Scott Balson	24	82.84	1,967				24		1,967
Clifford Bolling	3	44.66	112				3		112
Rithy Chean	19	46.89	891				19		891
Tom Jensen	2	64.88	130	4	67.48	270	6		400
Other Traffic Investigations							0		0
Traffic Investigations Subtotal	47		\$ 3,100	4		\$ 270	51		\$ 3,370
Street Lighting and Traffic Signals									
Lisa Elbert	79	80.36	6,369	50	83.57	4,179	129		10,547
Dave Hatch	99	75.50	7,437	50	78.52	3,926	149		11,363
Paul Zebell	111	65.05	7,221	100	67.65	6,765	211		13,986
Other Street Lighting							0		0
Street Lighting Subtotal	289		\$ 21,026	200		\$ 14,870	489		\$ 35,896
Parking									
Ramon Corona	42	67.54	2,837				42		2,837
Other Parking							0		0
Parking Subtotal	42		\$ 2,837	0		\$ -	42		\$ 2,837
Civil Design									
Linda Williams - Permits	1165	70.32	81,923	257	74.08	19,014	1422		100,937
Brett Kesterson	2	81.13	162				2		162
Neal Robinson	34	71.87	2,408				34		2,408
Other Civil Design							0		0
Civil Design Subtotal	1201		\$ 84,493	257		\$ 19,014	1457		\$ 103,507
Traffic Design & Engineering									
Lewis Wardrip	546	78.90	43,040	140	80.72	11,301	686		54,341
Michelle Dewey	489	72.35	35,379	140	72.12	10,097	629		45,476
Jenny Tower	206	60.17	12,395	140	64.52	9,033	346		21,428
Other Traffic Design							0		0
Traffic Design Subtotal	1241		\$ 90,814	420		\$ 30,430	975		\$ 121,245

PE and Post PE

P2M - PDOT BUDGET for PE and post PE 5-17-10.xls

6/10/2010

PORTLAND TO MILWAUKIE LRT PROJECT
Transportation Budget Estimate - PE and Post PE

PRELIMINARY ENGINEERING (actual) 03/09 - 3/10 T00138.V				POST PE 4/10 - 10/10 Proj #				Total PE and Post PE 03/09 - 10/10			
PDOT				hours				hours			
Construction Inspection				rate				rate			
total				total				total			
Gary Hopkins				0	71.44		0	0			0
Robin Kinnaird				12	51.71		621	12			621
Other Construction Inspection				0			0	0			0
Construction Inspection Subtotal				12			621	12			621
Bridges and Structures											
David O'Longelgh				14	90.94		1,273	38			3,543
John Glasgow				1	75.14		75	1			75
Steve Yates				43	73.05		3,141	51			3,749
Other Structures				0			0	0			0
Structures Subtotal				58			4,489	90			7,367
Right of Way											
Lance Lindahl				5	44.74		224	21			988
Dee Walker				6	57.14		343	46			2,720
David Kuhnhausen				1	32.63		33	1			33
Other Right of Way				0			0	0			0
Right of Way Subtotal				12			599	68			3,721
Materials & Services											
Misc. M&S											
M&S Total											
PDOT SUBTOTAL											
Overhead											
Overhead Rate for PDOT (except BOM)											
FY 09-10				FY10-11				FY 09-10			
65.88%				65.88%				65.88%			
PDOT TOTAL FOR PE											

PE 3/09 - 3/10
Post PE 4/10 - 10/10
FE 11/10 - 1/12
Post FE 2/12 - 5
CON 6/11 - 9/15
CLOSEOUT 10/15 - 3/16

# mo in phase	#hrs in phase	prod hrs/yr
13	1907	1760
7	1027	
14	2053	

PE and Post PE

P2M - PDOT BUDGET for PE and post PE 5-17-10.xls

PORTLAND TO MILWAUKIE LIGHT RAIL PROJECT
 Portland Water Bureau (PWB) Project Staffing Plan for PE Design Phase (Feb. 2009 - March 2010)
 PWB IBIS Project #1182 and SAP Cost Objects W00913.PE and W01348.PE

FY 2008/2009 and FY 2009/2010 - ACTUAL COSTS FROM 3/1/2009 THRU 3/31/2010								
Labor (PWB Employee--Name or Classification)	Task	Actual Hours		Gross Pay	Add Fringe Benefits @ 64.20%	Fully Burdened Pay	Add Indirect OH 109.78%	Total Billable Amount
		IBIS (1)	SAP (2)					
		A		B	C	D = B+C	E = D x Rate	F = D+E
Cherri Warnke (3/01 to 6/30/2009)	TAC and misc. meetings	70.5		2,839.10	1,822.70	4,661.80	5,117.72	9,779.52
Cherri Warnke (3/01 to 6/30/2009)	PLA impact assessment		17.5			1,162.89	1,276.62	2,439.51
Cherri Warnke (7/01 to 1/06/2010)	TAC and misc. meetings		108.5			7,411.75	8,136.62	15,548.37
Cherri Warnke (1/07/2010 to 3/31/2010)	TAC and misc. meetings		29.0			2,013.32	2,210.22	4,223.54
Cherri Warnke (1/07/2010 to 3/31/2010)	Transit Bridge		14.0			871.95	1,067.00	2,038.95
Steve Yeung (3/01 to 6/30/2009)	TAC and misc. meetings	29		1,139.12	731.32	1,870.44	2,053.37	3,923.81
Steve Yeung (7/01 to 1/06/2010)	TAC and misc. meetings		77.0			5,130.60	5,632.37	10,762.97
Steve Yeung (1/07/2010 to 3/31/2010)	TAC and misc. meetings		11.5			766.26	841.20	1,607.46
Steve Yeung (1/07/2010 to 3/31/2010)	Transit Bridge		7.5			489.73	548.60	1,048.32
Stu Greenberger (3/01/2009 to 6/30/2009)	TAC and misc. Meetings	18		804.06	516.21	1,320.27	1,449.39	2,769.66
Stu Greenberger (7/01/2009 to 1/06/2010)	TAC and misc. Meetings		4.0			303.10	332.74	635.84
Lloyd Miller (3/01/2009 to 6/30/2009)	SW Moody Ave	18		709.38	455.42	1,164.80	1,278.72	2,443.52
Lloyd Miller (3/01/2009 to 6/30/2009)	Transit Bridge		28.0			1,820.64	1,998.92	3,819.76
Lloyd Miller (7/01/2009 to 1/06/2010)	Plan Review		52.0			3,475.68	3,815.60	7,291.28
Lloyd Miller (1/07/2010 to 3/31/2010)	Plan Review		31.5			2,105.46	2,311.37	4,416.83
Holly Walla (3/01/2009 to 6/30/2009)	Transit Bridge	6		272.82	175.15	447.97	491.78	939.75
Holly Walla (3/01/2009 to 6/30/2009)	Transit Bridge		2.0			150.06	164.74	314.80
Holly Walla (7/01/2009 to 1/06/2010)	Transit Bridge		12.0			925.44	1,015.95	1,941.39
Holly Walla (1/07/2010 to 3/31/2010)	Transit Bridge		4.0			308.48	338.65	647.13
Marvin Weber (3/01/2009 to 6/30/2009)	SW Moody Ave	1		46.91	30.12	77.03	84.56	161.59
Marvin Weber (3/01/2009 to 6/30/2009)	Transit Bridge		2.0			161.14	176.90	338.04
Marvin Weber (7/01/2009 to 1/06/2010)	Transit Bridge		15.5			1,280.48	1,405.71	2,686.19
Dave Evonuk (3/01/2009 to 6/30/2009)	SW Moody Ave	19		822.70	528.17	1,350.87	1,482.98	2,833.86
Dave Evonuk (7/01/2009 to 1/06/2010)	Plan Review		21.5			1,590.96	1,746.56	3,337.52
Others								
Michael Saling (3/01/2009 to 6/30/2009)	SW Moody Ave	6		297.48	190.98	488.46	536.23	1,024.69
Michael Saling (3/01/2009 to 6/30/2009)	Transit Bridge		2.0			163.62	179.62	343.24
Michael Saling (7/01/2009 to 1/06/2010)	Transit Bridge		5.0			420.50	461.62	882.12
Robert Goldie (3/01/2009 to 6/30/2009)	SW Moody Ave	3		129.72	83.28	213.00	233.83	446.83
Stephen Ngai (3/01/2009 to 6/30/2009)	TAC and misc. meetings	6		167.47	107.62	274.99	301.88	576.87
Stephen Ngai (7/01/2009 to 1/06/2010)	Transit Bridge		7.0			331.38	363.79	695.17
Roderick Allan (3/01/2009 to 6/30/2009)	Transit Bridge		4.0			306.92	336.94	643.86
Roderick Allan (7/01/2009 to 1/06/2010)	Transit Bridge		11.5			907.02	995.73	1,902.75
Dana Henshaw (7/01/2009 to 1/06/2010)	Plan Review		16.5			462.85	508.12	970.97
Daniel Hogan (7/01/2009 to 1/06/2010)	Transit Bridge		7.5			431.63	473.84	905.47
Daniel Hogan (1/07/2010 to 3/31/2010)	Transit Bridge		4.0			241.76	265.40	507.16
Vu Mai (1/07/2010 to 3/31/2010)	Plan Review		45.5			3,031.70	3,328.20	6,359.90
Gregory Drechsler (3/01/2009 to 6/30/2009)	Transit Bridge		0.5			47.26	51.88	99.14
Gregory Drechsler (7/01/2009 to 1/06/2010)	Transit Bridge		1.0			97.16	106.66	203.82
Stan VanDe Bergh (7/01/2009 to 1/06/2010)	Transit Bridge		2.0			194.30	213.30	407.60
TOTAL LABOR		476.5	541.0	7,228.76	4,640.87	11,869.63	13,015.39	24,885.02

Note (1): IBIS Project 1182 hours are from 3/1 through 6/11/2009 (pre-SAP)

Note (2): SAP Cost Objects W00913.PE & W01348.PE from 6/12/2009 through 3/31/2010

LETTER OF INTENT

DATE: April 2, 2010

SUBJECT: Geotechnical investigation for the 72" SWPI pipe located in SW Moody Avenue.

The purpose of this Letter of Intent (LOI) between City of Portland Bureau of Transportation (PBOT) and TriMet is to define responsibilities and funding associated with the geotechnical testing at specified locations near the 72" SWPI pipe.

AGREEMENT

TriMet and PBOT agree to work cooperatively on the required geotechnical testing in SW Moody Ave. TriMet will contract for and pay for the work identified in Exhibit A, Scope of Work, and PBOT will reimburse TriMet for 50 percent of the cost of the work outlined in task order, not to exceed \$38,400.

The reimbursable costs for this work will be included in the Intergovernmental Agreement (IGA) between PBOT and TriMet for the Final Engineering phase of the Portland-Milwaukie Light Rail Project. In the event the IGA is not fully executed by December 31, 2010, TriMet will be reimbursed for this work from the TIGER funds for the SW Moody Ave project.

Communication

All communication and deliverables under this Letter of Intent shall be directed to the following:

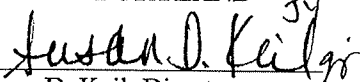
For TriMet:

Sean Batty, Corridor Design Manager
TriMet
710 NE Holladay
Portland, OR 97232
Phone: (503) 962-2261
Email: battys@trimet.org

For PBOT:

Chris Armes, Project Manager
City of Portland
Transportation Project Management Division
1120 SW Fifth Avenue, Room 800
Portland, OR 97204
Phone: (503) 823-7051
Email: chris.arnes@portlandoregon.gov

CITY OF PORTLAND


Susan D. Keil, Director
Portland Bureau of Transportation

Date: 4-5-10

TRIMET


Neil McFarlane, Executive Director
TriMet Capital Projects Division

Date: 4-7-2010

T.O. #5C: 72" SWPI at Moody Portland to Milwaukie Light Rail Project

Overview

The proposed alignment for the new TriMet PMLR West alignment crosses Moody Avenue near the ZRZ Property. The new alignment calls for an embankment approximately 14 feet high where it crosses Moody. Among the utilities in Moody Avenue is the City of Portland BES Southwest Parallel Interceptor (SWPI). The SWPI is a 72-inch diameter, reinforced concrete pipe that was installed by micro-tunneling.

BES is concerned that the additional load due to the fill installation will cause negative effects to the pipe resulting from additional load on the SWPI pipe, including possible settlement of the pipe or failure of the pipe itself. This scope of work is for CH2M HILL to perform an assessment including geotechnical investigation in the area of the pipe crossing to determine the settlement potential of the pipe, determination of the additional loading on the pipe, and a determination of whether the additional loading and settlement will negatively impact the pipe.

This task order scope of work is based on discussions with staff of TriMet (referred to herein as OWNER) and CH2M HILL (referred to herein as CONTRACTOR) and from documents provided by BES.

Schedule

This task will commence January 25, 2010 and continue through March 19, 2010.

Standards

1. TriMet Light Rail Design Criteria
2. TriMet Drafting Standards
3. ODOT Geotechnical Design Manual
4. American Association of State Highway and Transportation Officials (AASHTO) Bridge Design Specifications
5. Relevant BES Standards

Assumptions

1. OWNER shall provide pipe drawings of 72" SWPI to CONTRACTOR
2. CONTRACTOR to lay out the 6 bore locations and verify with BES and the OWNER that the locations meet design intent.
3. Drill locations to be made outside existing Moody roadway if possible without negatively affecting the quality of the assessment or BES staff acceptance of the applicability and veracity of the results to minimize impact to traffic. Drill locations will be verified by BES staff.
4. Initial bore log data shall be forwarded from BES to CONTRACTOR.
5. Traffic control plans will be prepared for PBOT's review to obtain required permits.

Exclusions

1. No hazardous materials sampling or disposal will be performed as part of this Task Order. Task order includes non-hazardous drill cuttings disposal.

2. Limited traffic control costs have been included for loading/unloading.
3. No field instruments or monitoring will be performed.

5.01 QA/QC

QA/QC oversight and plan review for the Geotechnical exploration, reporting and submittal package

5.01.1 Quality Documentation

Production and checking of work will be documented per the Quality Control procedures developed for the OWNER's Quality Assurance Program Manual (QAPM) under Task 1. Documentation will include redlined reports and calculations produced as part of the QC Reviews. The design check redlines will be maintained and filed at the CONTRACTORS office and be available for review by OWNER.

5.01.2 Geotechnical QC Review

CONTRACTOR shall perform internal QC review/checking of Geotechnical work products including inter-discipline coordination review and incorporate QC review.

Deliverable(s):

- QC redlines (maintained at CONTRACTOR's office)

5.02 Pipeline Evaluation at Moody

This task includes providing a report that indicates the ability of the pipeline to carry the load due to the additional fill, and if settlement is an issue, whether the pipeline can tolerate the settlement caused by the additional fill. As part of the report, determine whether no action is required, or whether mitigation will be required and order of magnitude cost estimates of each mitigation option. Mitigation options include but are not limited to pipe lining or other pipe treatment, constructing the embankment out of lightweight fill, or providing ground improvement to mitigate either the settlement or the load due to the new fill.

1. Perform 6 borings near the PMLR crossing at locations laid out by CONTRACTOR and verified with BES and OWNER that the locations meet design intent.
2. Collect split spoon samples from the boring for field classification and laboratory analyses. Where appropriate, collect Shelby tube samples from the borings for laboratory analysis.
3. Perform geotechnical laboratory tests on the samples including 1-2 consolidation tests per boring (up to a maximum of 8), up to 12 Atterberg Limits, up to 40 moisture contents, and up to 6 p200.
4. Perform evaluation of the additional load and settlement of the pipeline due to placement of the PMLR fill.

Deliverable(s):

- Coordination with Tom Pfeiffer/BES regarding boring locations, geotechnical information and existing pipeline and geotechnical information
- Draft and Final Report on the analysis of the pipeline including possible mitigation measures and order of magnitude cost estimates.