

**INTERGOVERNMENTAL AGREEMENT  
FOR LAKE OSWEGO TO PORTLAND TRANSIT PROJECT –  
PAYMENT FOR LOCALLY PREFERRED ALTERNATIVE (LPA) WORK**

THIS AGREEMENT is made by and entered into between the TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON, a mass transit district of the state of Oregon, hereinafter referred to as “TriMet”, and THE CITY OF PORTLAND, a municipal corporation of the state of Oregon acting by and through its Elected Officials, hereinafter referred to as “City”. Collectively, TriMet and the City are referred to as the “Parties.”

**RECITALS**

1. Metro is currently conducting the NEPA process for the Lake Oswego to Portland Transit Project (“Project”), which is studying transit alternatives between Lake Oswego and Portland along the Highway 43 transit corridor.
2. The Parties are signatory to a multi-party agreement (TriMet contract number GH090371LE) related to the Project that was also signed by the City of Lake Oswego, Metro, and Clackamas County (“Multi-Party Agreement”). The purpose of that agreement was to set out the signatories’ obligations with regard to the Project through the New Starts application process and into preliminary engineering (“PE”).
3. As part of the Multi-Party Agreement, the City agreed to pay \$57,000 to Metro by April 15, 2009 to support the Refinement Study and \$83,000 (\$23,000 payment and \$60,000 in-kind services) for the DEIS and FTA application as match for MTIP funding of \$1,227,327. The DEIS payment was due on November 1, 2009.
4. The City has budgeted \$183,000 in the current year (FY 2010-11) to fund the City’s portion of the Locally Preferred Alternative (LPA) phase of the Project.

**NOW THEREFORE**, it is agreed by and between the parties hereto as follows:

**TERMS OF AGREEMENT**

1. The City shall pay TriMet \$183,000 to fund the City’s portion of the Locally Preferred Alternative phase of the Project. Such payment shall be made within 30 days of execution of this Agreement.
2. TriMet and the City each agree to continue to perform all obligations set forth in the Multi-Party Agreement, and this Agreement shall not be construed to alter any rights or responsibilities of the Parties set forth in the Multi-Party Agreement.

3. Each party has designated a project manager as its formal representative for purposes of this Project:

Joe Recker  
TriMet  
710 NE Holladay St.  
Portland, OR 97232  
Phone: (503) 962-2893  
Fax: (503) 962-2281  
Email: reckerj@trimet.org

Paul Smith  
City of Portland  
1120 SW 5<sup>th</sup> Avenue, Suite 800  
Portland, OR 97204  
Phone: (503) 823-7736  
Fax: (503) 823-7609  
Email: Paul.Smith@portlandoregon.gov

### General Provisions

4. **Relationship of the Parties.** Each of the parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one party shall be deemed to be an employee, agent or contractor of the other party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each party hereby specifically disclaims any such relationship.
5. **No Third-Party Beneficiary.** Except as set forth herein, this Agreement is between the parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third-parties unless third-persons are expressly described as intended to be beneficiaries of its terms.
6. **Compliance with Laws.** The parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement. If a Party is not in compliance with any law, regulation, executive order or ordinance, it shall take immediate steps to gain compliance.
7. **Federal Funding Limitation.** The parties hereto understand that federal funds will be used to pay for a portion of the Project. To the extent applicable to each of the respective parties, this Agreement is subject to all federal provisions prescribed for third-party contracts by the federal grant agreement.
9. **Effective and Termination Dates.** This Agreement shall be effective on the date all required signatures are obtained, and shall remain in effect until the completion of all obligations created by this Agreement, unless the parties both agree in writing to extend it.
8. **Remedies.** The remedies provided under this Agreement shall not be exclusive. The parties also shall be entitled to any other equitable and legal remedies that are available.
9. **Oregon Law, Dispute Resolution and Forum.** This Agreement shall be construed according to the laws of the State of Oregon. TriMet and City shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the parties are unable to

resolve any dispute within fourteen (14) calendar days, the parties are free to pursue any legal remedies that may be available. Any litigation between City and TriMet arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah City Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.

10. **Assignment.** Neither TriMet nor City shall assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the other.
11. **Severability/Survivability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken. All provisions concerning indemnity survive the termination of this Agreement for any cause.
12. **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. The Section headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Intergovernmental Agreement effective the date hereinafter written.

**TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON**

By \_\_\_\_\_

Daniel W. Blocher, P.E., Executive Director

Date \_\_\_\_\_

**CITY OF PORTLAND,** by  
and through its elected officials

By \_\_\_\_\_

Mayor Sam Adams

Date \_\_\_\_\_

By \_\_\_\_\_

Auditor

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY FOR TRIMET**

By: \_\_\_\_\_

Lance Erz, Deputy General Counsel

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY FOR CITY**

By: \_\_\_\_\_

City Attorney

Date \_\_\_\_\_