

## INTERGOVERNMENTAL AGREEMENT

City of Portland, Tryon and Stephens Headwaters Neighborhood Street Plan

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation ("ODOT" or "Agency"), and City of Portland ("City" or "Grantee").

### RECITALS

1. The Transportation and Growth Management ("TGM") Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.
2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.
3. This TGM Grant (as defined below) is financed with federal Moving Ahead for Progress in the 21<sup>st</sup> Century ("MAP-21") funds. Local funds are used as match for MAP-21 funds.
4. By authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.
5. City has been awarded a TGM Grant which is conditional upon the execution of this Agreement.
6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### SECTION 1. DEFINITIONS

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

- A. "City's Matching Amount" means the amount of matching funds which City is required to expend to fund the Project.

B. "City's Project Manager" means the individual designated by City as its project manager for the Project.

C. "Direct Project Costs" means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

D. "Federally Eligible Costs" means those costs which are Direct Project Costs of the type listed in Exhibit D and include those costs approved in City's Federally Approved Indirect Cost Plan incurred by City during the term of this Agreement.

E. "Grant" or "City's Amount" means the total amount of financial assistance disbursed under this Agreement to City.

F. "ODOT's Contract Administrator" means the individual designated by ODOT to be its contract administrator for this Agreement.

G. "Project" means the project described in Exhibit A.

H. "Termination Date" has the meaning set forth in Section 2.A below.

I. "Total Project Costs" means the total amount of money required to complete the Project.

J. "Work Product" has the meaning set forth in Section 5.I below.

## SECTION 2. TERMS OF AGREEMENT

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. This Agreement terminates on June 30, 2015 ("Termination Date").

B. City's Amount. The City's Amount shall not exceed \$106,032.

C. City's Matching Amount. The City's Matching Amount is \$14,459 or 12% of the Total Project Costs.

### SECTION 3. DISBURSEMENTS

A. Subject to submission by City of such documentation of costs and progress on the Project (including deliverables) as are satisfactory to ODOT, ODOT shall reimburse City only for Direct Project Costs that are Federally Eligible Costs that City incurs after the execution of this Agreement up to the City's Amount. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.

B. City shall present reimbursement requests, cost reports, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. City shall submit reimbursement requests for 100% of City's Federally Eligible Costs, and shall be reimbursed at 88% up to the City's Amount.

C. ODOT shall make interim payments to City for deliverables identified as being City's responsibility in the approved statement of work set out in Exhibit A within 45 days of satisfactory completion (as determined by ODOT's Contract Administrator) of such deliverables.

D. ODOT reserves the right to withhold payment equal to ten percent (10%) of each disbursement until 45 days after ODOT's Contract Administrator's approval of the completion report described Section 5.K(2), at which time the balance due to City under this Agreement shall be payable.

E. Within 45 days after the latter of the Termination Date of this Agreement or City's compliance with Section 5.K. below, ODOT shall pay to City the balance due under this Agreement.

F. ODOT shall limit reimbursement of travel expenses in accordance with current State of Oregon Accounting Manual, General Travel Rules, effective on the date the expenses are incurred.

### SECTION 4. CITY'S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION

A. City represents and warrants to ODOT as follows:

1. It is a municipality duly organized and existing under the laws of the State of Oregon.

2. It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of City.

4. This Agreement has been executed and delivered by an authorized officer(s) of City and constitutes the legal, valid and binding obligation of City enforceable against it in accordance with its terms.

5. The authorization, execution and delivery of this Agreement by City, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which City or its property is bound.

6. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of City.

B. As federal funds are involved in this Grant, City, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

#### **SECTION 5. GENERAL COVENANTS OF CITY**

A. City shall be responsible for the portion of the Total Project Costs in excess of the City's Amount. City shall complete the Project.

B. City shall, in a good and workmanlike manner, perform the work on the Project, and provide the deliverables described in Exhibit A.

C. City shall perform such work described in Exhibit A as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. City shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126(2). Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall require each of its subcontractors, if any, to comply with, and shall ensure that each of its subcontractors, if any, complies with these requirements.

E. City shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

F. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

G. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, City expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

H. City shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this Agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

City shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this

Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

I. (1) All of City's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and City intend that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. City forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT grants a royalty-free, perpetual, world-wide, non-exclusive, and irrevocable license to use any Work Product for any governmental purpose, including, but not limited to, the right to reproduce Work Product for distribution upon request to members of the public.

(3) City shall ensure that any work products produced pursuant to this Agreement include the following statement:

"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21<sup>st</sup> Century ("MAP-21"), local government, and State of Oregon funds.

"The contents of this document do not necessarily reflect views or policies of the State of Oregon."

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its "home page".

J. Unless otherwise specified in Exhibit A, City shall submit all final products produced in accordance with this Agreement to ODOT's Contract Administrator in the following form:

(1) two hard copies; and

(2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

K. Within 30 days after the Termination Date, City shall

(1) pay to ODOT City's Matching Amount less Federally Eligible Costs previously reported as City's Matching Amount. ODOT may use any funds paid to it under this Section 5.K (1) or any of the City's Matching Amount that is applied to the Project pursuant to Section 3.A to substitute for an equal amount of federal MAP-21 funds used for the Project or use such funds as matching funds; and

(2) provide to ODOT's Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:

- (a) The permanent location of Project records (which may be subject to audit);
- (b) A summary of the Total Project Costs, including a breakdown of those Project costs that are reimbursable hereunder and those costs which are being treated by City as City's Matching Amount;
- (c) A list of final deliverables; and
- (d) City's final disbursement request.

## SECTION 6. ODOT'S REPRESENTATIONS AND COVENANTS

A. ODOT certifies that, at the time this Agreement is executed, sufficient funds are authorized and available for expenditure to finance ODOT's portion of this Agreement within the appropriation or limitation of its current biennial budget.

B. ODOT represents that the statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.

C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement, including the monitoring of City's work and the review and approval of City's work, billings and progress reports.

## SECTION 7. TERMINATION

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. City fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.

C. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A or B above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

## SECTION 8. GENERAL PROVISIONS

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or City at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's



Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and City are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(H), 5(J), 5(K) and 8 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. The parties agree as follows:

(a) Contribution.

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or Grantee ("Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which ODOT is jointly liable with the Grantee (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of

expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

(b) Choice of Law; Designation of Forum; Federal Forum.

(1) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

(2) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(3) Notwithstanding Section 8.E (b)(2), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 8.E(b)(3) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 8.E(b)(3) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

(c) Alternative Dispute Resolution.

The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or

written, not specified herein regarding this Agreement. No modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments from the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK. No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

G. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives are duly authorized, have read this Agreement, understand it, and agree to be bound by its terms and conditions.

City

*City of Portland*

By: \_\_\_\_\_  
(Official's Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

Date: \_\_\_\_\_

ODOT

STATE OF OREGON, by and through  
its Department of Transportation

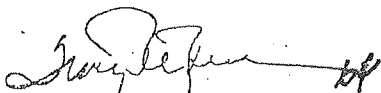
By: \_\_\_\_\_  
Jerri Bohard, Division Administrator  
Transportation Development Division

Date: \_\_\_\_\_

**Contact Names:**

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CITY ATTORNEY 6/8/14 - 11 -

APPROVED AS TO FORM

**EXHIBIT A**  
**Statement of Work**  
**City of Portland**  
**Tryon and Stephens Headwaters Neighborhood Street Plan**

**Background, Study Area and Transportation Relationship and Benefit:**

As a result of historical development patterns and barriers formed by terrain, highways, streams and other natural features, Southwest Portland's local street system is poorly connected and lacks safe facilities for active transportation modes (walking and bicycling), and provides insufficient management of stormwater runoff. The Tryon and Stephens Headwaters Neighborhood Street Plan ("Street Plan") is an area planning effort to integrate transportation networks, including motor vehicle, pedestrian and bicycle networks, access to transit, safe routes to schools and SW urban trails, along with stormwater system improvements.

The primary purpose of the Street Plan is to enhance the system of local streets by identifying feasible multimodal transportation improvements to safely accommodate pedestrians, bicyclists, as well as motor vehicles, and to manage stormwater. In 2001 the City adopted a TGM-funded Master Street Plan for Southwest, but limited private (re)development and public investment have failed to produce a connected network of improved and accessible streets and pathways.

SW Barbur Boulevard, which runs through the center of the Study Area, is the recommended corridor for a future regional investment in High Capacity Transit with four potential station locations under consideration within the Study Area.

The Portland Bureau of Transportation ("PBOT") and Bureau of Environmental Services (BES) will partner together on this project to evaluate and develop implementation measures to address infrastructure deficiencies in the Study Area. Application of new residential street (Street by Street) standards in this part of the city, which suffers from poorly infiltrating soils and deficient stormwater infrastructure, first requires addressing pressing stormwater issues. The Street Plan will provide a common framework for PBOT and the BES to coordinate investments in the Study Area.

The attached Study Area map defines boundaries for this street plan in the neighborhoods east and west of SW Barbur Boulevard situated between Capitol Highway (western limit) and Taylors Ferry Road (eastern limit).

**Project Objectives:**

- Develop local street improvement (including stormwater) design options to implement community prioritized local street improvements and enhance local street connectivity and multi-modal access and safety
- Identify street system deficiencies, including unpaved streets and vacant rights-of-way, (documenting where planned connections and improvements have and have not been made since

2001), evaluate alternatives and select implementation measures for realizing new or improved connections in the future where appropriate.

- Address deficiencies in the street and active transportation network to improve safety for pedestrians and cyclists of all ages and abilities and allow for better access to existing and future transit stops
- Reduce reliance on the State Highways, I-5 and Barbur Blvd, for short local trips, while maintaining and improving access to transit and destinations along Barbur Blvd.
- Integrate transportation and stormwater management systems by coordinating planned investments and by applying newly approved improvement options for substandard streets in residential areas (*Street by Street Initiative*, Nov 2012) and innovative stormwater strategies identified in the Stephens Creek Stormwater System Plan (Jan 2013)
- Explore community's interest in utilizing unimproved (unpaved) streets and vacant rights-of-way for non-motor vehicle community uses
- Assure adequate and meaningful public participation opportunities to ensure development of solutions endorsed by the community
- Assure coordination internally among City bureaus and externally with other agency stakeholders
- Comply with and implement applicable federal, state, regional and local plans and policies

## **Task 1: Project Management and Agency and Public Involvement**

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### **Objectives**

- Assure the Project is effectively managed
- Ensure adequate, meaningful public participation and input

### **Methodology**

1. **Project Management** - City shall manage and coordinate overall planning process and be responsible for on time, on budget completion of deliverables described in this Intergovernmental Agreement ("IGA"). City shall prepare and submit to the TGM Grant Manager Bi-Monthly Status Reports and invoices and the Project Close-out report as specified in the IGA. Project Management performance issues must be resolved in a timely manner through communication between the City PM and ODOT TGM Grant Manager as needed.

City shall maintain effective communication and participation with Portland Bureau of Transportation, Bureau of Planning and Sustainability, Bureau of Environmental Services, Oregon Department of Transportation ("ODOT"), Metro, Tri-Met and other agencies throughout the Project through participation on the Project Working Group ("PWG"), through phone conversations, emails and deliverable reviews.

City shall coordinate public involvement program with other related activities in the general vicinity.

2. **PWG Roster** - City shall establish and coordinate PWG of relevant local staff and community representatives to review and comment on project deliverables and participate at project events. City shall prepare roster with contact information.
3. **Community Outreach and Engagement Plan** – City shall develop a Community Outreach and Engagement Plan tailored to the specific community composition in and near the Study Area to meet Title VI, Civil Rights goals. Community Outreach and Engagement Plan must identify community composition, environmental justice and social equity considerations, including concentration of transportation disadvantaged communities and non-native English speaking populations and their native language. Community Outreach and Engagement Plan must identify outreach strategies specific to these communities, including community newspapers and other media outlets, community associations, groups or congregations, meeting locations and contacts.
4. **Community Outreach Status Report** – City shall complete a Community Outreach Status
5. Report at end of Project documenting outreach efforts and accomplishments.

#### City Deliverables

- A. Project Management, Status Reports.
- B. PWG Roster
- C. Community Outreach and Engagement Plan
- D. Community Outreach Status Report

**City Budget:** \$14,790

#### Task 2: Existing Conditions

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##### Objectives

- Inventory current transportation and stormwater systems
- Review public policies, plans, street design standards, regulatory requirements and previous studies/data that pertain to the Study Area, to document relevant issues and conditions
- Collect data on traffic conditions and current level of improvement, with particular attention to streets classified as local service
- Confirm community perspectives on and aspirations for improved local streets and local connectivity

##### Methodology

#### 1. Study Area Base Map and Inventory

City shall prepare Study Area Base Map in an ArcInfo-compatible Geographic Information System (“GIS”) format. The Base Map must depict existing street connectivity, street classifications, property lines, contour lines (2-foot), soil types, substandard streets, sidewalks, improved bikeways, marked crosswalks, curbs, signals, bus routes and access to bus stops; and planned bicycle and pedestrian improvements including any regional Active Transportation Plan bicycle parkways, bikeways and districts, and pedestrian parkways, corridors, connectors, and districts; planned local roadway improvements and 2035 federal and state Regional

Transportation Plan projects lists. A Stormwater Base Map must depict the existing stormwater system, including all known pipes, ditches, drainageways, and open stream channels. Maps must also depict existing zoning and land uses, building footprints, lots in contiguous ownership, and significant pedestrian and bicycle destinations such as bus stops, schools, parks, senior centers, and shopping areas. City may determine if one or multiple maps are developed in order to distinguish existing and planned improvements.

2. **Community Kickoff Roll and Stroll** – City shall lead a Roll and Stroll to learn community concerns and future ideas. A Roll and Stroll is a Study Area walking/bicycling tour accessible to all modes, including wheelchairs. City shall document community input received in a summary that must include photos and illustrations.
3. **Existing Conditions Memo** – City shall prepare an Existing Conditions Memo discussing transportation and stormwater features and conditions in the Transportation Study Areas, as well as plans, policies and previous studies pertaining to the Study Area. At a minimum Existing Conditions Memo must review and summarize applicable provisions of the Metro 2035 Regional Transportation Plan and 2014 RTP Update project lists, Draft Regional Active Transportation Plan, SW Corridor Plan Active Transportation Evaluation Report and Phase 1 Steering Committee Recommendation, Tri-Met Pedestrian Network Analysis, and City's 1999 Barbur Streetscape Plan (TGM), 2001 SW Street Master Plan (TGM), SW Trails Plan, 2012 Street by Street Initiative, 2013 Working Draft Comprehensive Plan and Citywide Systems Plan, Transportation System Plan, 2012 Cully Commercial Corridor and Local Street Plan, 2013 Barbur Concept Plan, Stephens Creek Stormwater System Plan, Fanno and Tryon Creek plans, and zoning code. Regional and City street classifications for all modes, street connectivity (policy and existing conditions) and street design standards must also be reviewed. In addition, Existing Conditions Memo must document existing transportation system data including current traffic volumes, including for streets with higher-than-average cut-through traffic, and street surface conditions on major city streets, collectors and local streets within the Study Area. Existing conditions Memo must document topography, geo-hydro (soil) conditions, stormwater infrastructure and system deficiencies in the Study Area. City shall revise Existing Conditions Memo based on comments from the PWG at PWG Meeting #1.
4. **PWG Meeting #1** – City shall facilitate PWG Meeting #1 to present maps, and Existing Conditions Memo. City shall present deliverables and document participant comments.

#### **City Deliverables**

- A. Study Area Base Map (2.1)
- B. Community Kickoff Roll and Stroll (2.2)
- C. Draft and Final Existing Conditions Memo (2.3)
- D. PWG Meeting #1 (2.4)

**City Budget:** \$36,332

**Task 3: Needs, Opportunities and Constraints****Objectives**

- Identify opportunities to address transportation needs in the Study Area, including transportation system connectivity, multimodal access to retail, transit, and neighborhood activity centers and stormwater needs associated with improvements in the right of way.
- Identify constraints to transportation and stormwater improvements, and where possible, potential strategies to overcome constraints
- Identify tools and best practices that may help achieve project objectives
- Understand factors that may influence transportation and stormwater solutions
- Identify and evaluate potential solutions for improving the transportation and stormwater systems, and the advantages, disadvantages and trade-offs of each solution

**Methodology**

1. **Needs, Opportunities, Constraints and Tools Memo** – City shall prepare a Needs, Opportunities, Constraints and Tools Memo discussing factors to be considered in developing local street and stormwater solutions in the Study Area. The Needs, Opportunities, Constraints and Tools Memo must:
  - identify needs and deficiencies in the local street system and stormwater system, and opportunities and constraints for improving substandard local streets and unimproved rights-of-way. Deficiencies may include known deficiencies in the existing system, a lack of infrastructure (e.g., no stormwater system), and deficiencies in existing policies.
  - document in map format planned future connections in the Southwest Master Street Plan (2001) which have and have not been built to date.
  - identify and describe tools for local street design and implementation to address identified street network and stormwater infrastructure needs and deficiencies.
  - identify and describe right-of-way improvements, non-roadway and interim uses, and maintenance options for unimproved streets where right-of-way is excessive or is not needed for vehicle circulation or access.
  - discuss the applicability, pros, cons and trade-offs for each tool, and establish criteria for evaluating and selecting local street and stormwater solutions in the subsequent task.

City shall revise the Needs, Opportunities, Constraints and tools Memo to reflect comments from the PWG and Open House #1.

2. **PWG Meeting #2** - City shall facilitate PWG Meeting #2 to present findings of the Needs, Opportunities, Constraints, and Tools Memo. City shall document participant comments.
3. **Open House #1** - City shall facilitate Open House #1 to present a summary of the Existing Conditions Memo, and findings of the Needs, Opportunities, Constraints and Tools Memo. City shall present deliverables and document participant comments.

**City Deliverables:**

- A. Draft and Final Needs, Opportunities, Constraints and Tools Memo (3.1)
- B. PWG Meeting #2 (3.2)
- C. Open House #1 (3.3)



City Budget: \$35,481

#### Task 4: Developing Solutions

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##### Objectives

- Develop and evaluate a set of local street connectivity and improvement solutions that seek to complete the bicycle and pedestrian transportation systems, improve bicycle, pedestrian, transit and local vehicular access and integrate appropriate stormwater solutions.
- Develop a typology system to classify local streets according to their functions, and identify appropriate street design and stormwater features for each classification.

##### Methodology

1. **Local Street Solutions Memo** - Based on information in the Needs, Opportunities, Constraints and Tools Memo, City shall prepare a Local Street Solutions Memo. The Local Street Solutions Memo must:
  - Develop a street and pathway plan to provide improved facilities and network connectivity in the Study Area, and recommended street improvement design options to address implementation challenges such as construction cost, right-of-way needs, engineering standards and stormwater requirements.
  - Develop a set of improvement options with planning-level cost estimates (at a concept level) that include the range of roadway, pathway, stormwater options and considers the compatibility of alternative (non-motor vehicle) uses of excess right-of-way.
  - Identify stormwater management tools for addressing runoff from improvements in the right-of-way
  - Establish a local street typology and guidance for determining which specific design options are appropriate on neighborhood streets considering their type and function (local service and neighborhood collector), as well as for unimproved rights-of-way based upon street context (land use/geographic setting), the surrounding street network, and local street function, integrating stormwater solutions
  - Designate the primary active transportation network and determine investment priorities based on expressed community desires, access to transit, local businesses and neighborhood destinations, and opportunities to leverage planned stormwater investments

City shall revise Local Street Solutions Memo based on comments from the PWG and Open House #2.
2. **PWG Meeting #3** - City shall facilitate PWG Meeting #3 to present findings from the Local Street Solutions Memo and document participant comments.
3. **Open House #2** - City shall facilitate Open House #2 to present the Local Street Solutions Memo. City shall present the Task 4 deliverables and document participant comments.

**City Deliverables:**

- A. Draft and Final Local Street Solutions Memo (including Local Street Typology)(4.1)
- B. PWG Meeting #3 (4.2)
- C. Open House #2 (4.3)

City Budget: \$45,417

**Task 5: Final Plan and Implementation**

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**Objectives**

- Refine the preferred solutions into a set of implementation strategies that meet the project objectives and reflect community input

**Methodology**

1. **Implementation Report** – City shall prepare an adoption-ready Implementation Report. The Implementation Report implements the recommended transportation and stormwater solutions for the Study Area, and must consist of:
  - Findings and recommendations for Transportation System Plan amendments, including revisions to street classifications, master street plan and TSP project lists
  - Street plan and stormwater recommendations and guidance on applying street improvement options for improving multimodal access through roadway and frontage improvements, managing stormwater, and enabling community use and maintenance of unpaved streets
  - Designation of the active transportation network and prioritization of roadway and pathway improvements serving routes to schools, parks, transit, commercial areas and other community destinationsImplementation Report must be revised based on comments from the PWG.
2. **PWG Meeting #4** - City shall facilitate PWG Meeting #4 to present the findings and recommendations of the Implementation Report. City shall present the deliverables and document participant comments.

**City Deliverables:**

- A. Draft and Final Implementation Report (5.1)
- B. PWG Meetings #4 (5.2)

City Budget: \$25,062

**CITY BUDGET**

## TGM Budget by Task

<i>Task</i>		<i>TGM Budget</i>	<i>Local Match</i>	<i>Total Budget</i>
1	<b>Project Management and Public Involvement</b>	\$11,013	\$3,777	\$14,790
2	<b>Existing Conditions</b>	\$25,754	\$10,578	\$36,332
3	<b>Needs, Opportunities and Constraints</b>	\$22,685	\$12,796	\$35,481
4	<b>Developing Solutions</b>	\$30,103	\$15,314	\$45,417
5	<b>Final Plan/Implementation</b>	\$16,477	\$8,585	\$25,062
	<b>TGM TOTAL</b>	<b>\$106,032</b>	<b>\$51,050*</b>	<b>\$157,082</b>

\*The City is overmatching the required match amount in paragraph C of Section 2 of (Terms of Agreement) by \$36,591.

## City Budget by Staff Position

- PBOT Supervisor, 39 hrs, \$161.25/hr \$ 6,289
  - PBOT Transportation Planner (Lead), 559 hrs, \$107.16/hr \$ 59,902
  - PBOT Transportation Planner, 154 hrs, \$106.07/hr \$ 16,335
  - PBOT Intern, 357 hrs, \$39.67/hr \$ 14,162
  - PBOT Engineer, 63 hrs, \$148.32/hr \$ 9,344
- TGM Grant Total: \$ 106,032**

- BES Environmental Specialist (Willamette), 170 hrs, \$116.95/hr \$ 19,882
- BES Environmental Specialist (Willamette/Fanno-Tryon), 105 hrs, \$116.95/hr \$ 12,280
- BES Engineer (Stormwater System Program - SSP), 43 hrs, \$146.29/hr \$ 6,291
- BES Program Coordinators (Willamette/Fanno-Tryon), 4 hrs, \$114.48/hr \$ 458
- BES Environmental Technician II, 32 hrs, \$96.17/hr \$ 3,077
- BES Sr. Engineering Associate (Fanno/Tryon), 24 hrs, \$113/hr \$ 2,712
- BES Sr. Environmental Program Managers (Willamette/SSP), 29 hrs, \$147.45/hr \$ 4,276
- BES Sr. Engineer (Design Services), 13 hrs, \$159.53/hr \$ 2,074

**Local Match Total: \$ 51,050**

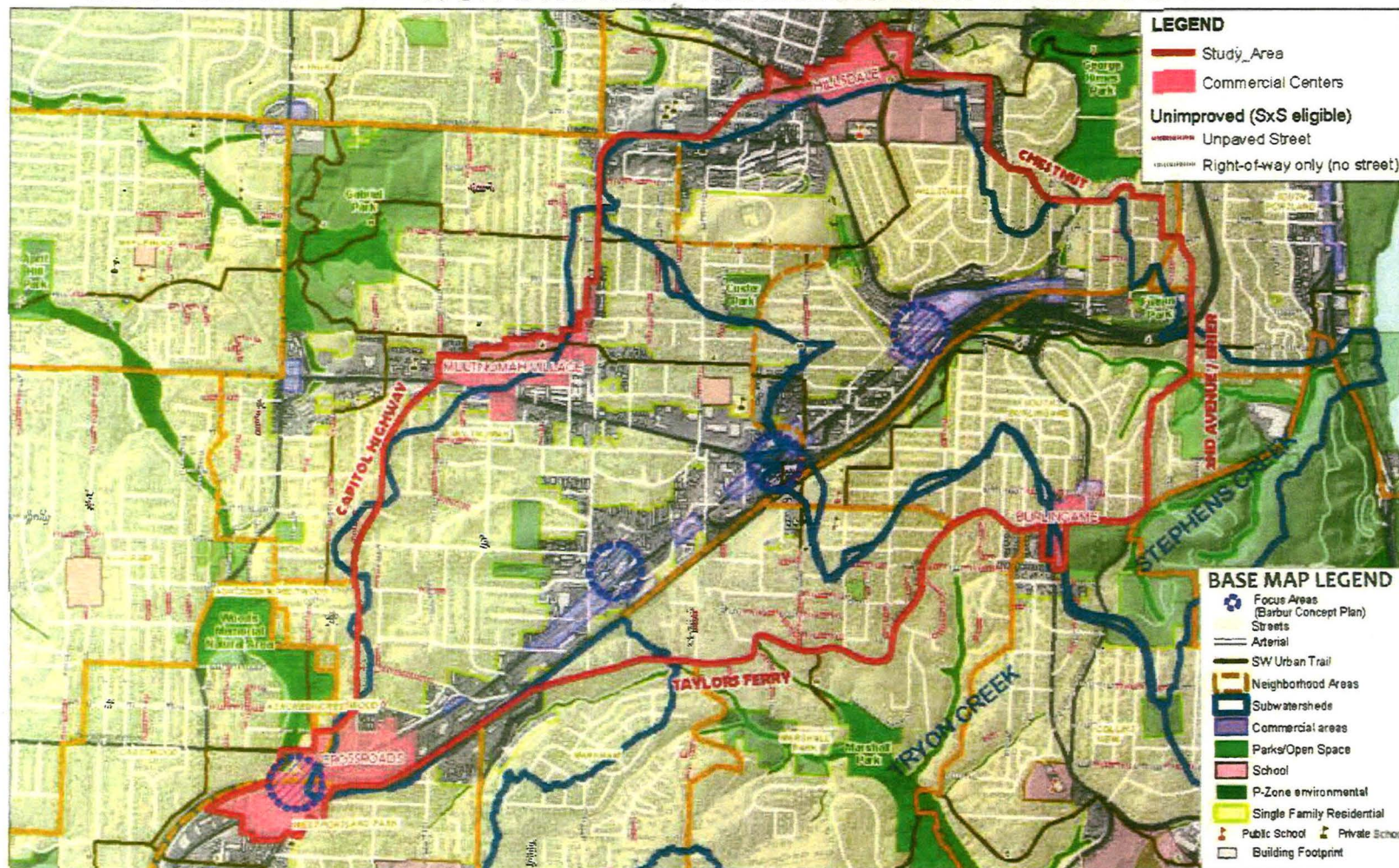
**PROJECT TOTAL: \$ 157,082**

**PROJECT SCHEDULE**

<i>Task</i>	<i>Completion (Months from Notice to Proceed)</i>
<b>Project Management and Agency &amp; Public</b>	
1 <b>Involvement</b>	Ongoing
2 <b>Existing Conditions</b>	4
3 <b>Needs, Opportunities and Constraints</b>	6
4 <b>Developing Solutions</b>	9
5 <b>Final Plan/Implementation</b>	12

TGM Grant Agreement No. 29904  
 TGM File Code IF-13  
 EA # TG14LA05

## 2013 TGM GRANT: TRYON-STEPHENS NEIGHBORHOOD STREET PLAN





TGM Grant Agreement No. 29904  
 TGM File Code 1F-13  
 EA # TG14LA05

### EXHIBIT B (Local Agency or State Agency)

#### CONTRACTOR CERTIFICATION

Contractor certifies by signing this contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

#### AGENCY OFFICIAL CERTIFICATION (ODOT)

Department official likewise certifies by signing this contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

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### EXHIBIT C

#### Federal Provisions Oregon Department of Transportation

#### I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this contract that to the best of its knowledge and belief, it and its principals:

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;</li> <li>2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a</li> </ol> | <p>criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;</p> |
|---|--|

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

#### EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this contract, the Contractor is deemed to have signed this certification.

#### II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.

4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

### III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

#### **Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

##### Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be

entitled to rely on the accuracy, competence, and completeness of Contractor's services.

**V. NONDISCRIMINATION**

During the performance of this contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment,



without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
  - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such

direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

#### VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

#### DBE POLICY STATEMENT

**DBE Policy.** It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this contract.

**Required Statement For USDOT Financial Assistance Agreement.** If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

**DBE Obligations.** The Oregon Department of Transportation (ODOT) and its contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither ODOT nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

**Records and Reports.** Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

**DBE Definition.** Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

#### CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

#### VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to

influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FOR INQUIRY CONCERNING ODOT'S  
DBE PROGRAM REQUIREMENT  
CONTACT OFFICE OF CIVIL RIGHTS  
AT (503)986-4354.

EXHIBIT D	
ELIGIBLE PARTICIPATING COST	
DESCRIPTION	
<b>PERSONNEL SERVICES</b>	
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.	
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.	
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.	
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.	
<b>SERVICES AND SUPPLIES</b>	
<b>In-State Travel - Per Rates Identified in State Travel Handbook</b>	
<i>Meals &amp; Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.	
<i>Lodging &amp; Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon.	
<i>Fares, Taxi, Bus, Air, Etc.</i>	
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.	
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.	
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.	
<b>Office Expense</b>	
<i>Direct Project Expenses Including:</i>	
<i>Photo, Video &amp; Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.	
<i>Printing, Reproduction &amp; Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.	
<i>Postage</i> - Payment for direct project postage.	
<i>Freight &amp; Express Mail</i> - Payment for direct project freight services on outgoing shipments.	
<b>Telecommunications</b>	
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.	
<b>Publicity &amp; Publication</b>	
<i>Publish &amp; Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.	
<i>Conferences</i> (costs to put on conference or seminars)	
<b>Equipment \$250 - \$4,999</b>	
NOT ELIGIBLE	
<b>Employee Training, Excluding Travel</b>	
NOT ELIGIBLE	
<b>Training In-State Travel</b>	
NOT ELIGIBLE	
<b>CAPITOL OUTLAY</b>	
NOT ELIGIBLE	