

INTERGOVERNMENTAL AGREEMENT
Willamette River (Sellwood) Bridge (Bridge #06879)
Project Specific Mentor-Protégé Program
Multnomah County

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and Multnomah County, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) [190.110](#), state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. Program activities covered under this Agreement focus on the Sellwood Bridge construction project in participation with Oregon Department of Transportation (ODOT). Multnomah County will coordinate the creation of the mentor-protégé teams and will conduct the oversight, monitoring, and any other related services unless otherwise specified within this agreement.

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

TERMS OF AGREEMENT

1. Under such authority, State wishes to retain the services of Agency to perform the work of coordinating specific beneficial relationships between willing prime firms working on the project (the "mentors") and the willing sub-contracted firms (the "protégés"), including subsequent facilitation of ongoing mentor-protégé relationships for the duration of the project. The specific roles and obligations of the Parties shall be as set forth in the Statement of Work, attached and identified as Exhibit A. Payment for said services shall not exceed a maximum amount of \$50,000 in state funds.
2. The State will participate as further set forth in Exhibit A in mentor-protégé team (MPT) meetings and will coordinate and authorize private support services for the benefit of the protégé firms. Payment for said outside protégé support services shall be paid by the Agency, and shall be fully reimbursed by the State.
3. The budget for protégé support services allowed through this Agreement will be determined by the State according to the needs identified for each protégé.
4. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on **June 30, 2014**, unless extended by an amendment to this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the services and tasks assigned to Agency as set forth in Exhibit A.
2. Agency shall invite the States' Emerging Small Business (ESB) Program Manager, or designee, to participate in all MPT meetings held throughout the duration of the project.
3. Agency shall provide support service requisition form(s) to each MPT. The form shall provide for the MPT to explain the need for specific support services, detailed cost-per-unit, and scope of work and / or description of services requested and may include other relevant information in support of the request. To be accepted for consideration of the requested support services, the requisition form shall have the signatures of each team member, the Agency representative, and the States' Emerging Small Business (ESB) Program Manager, or designee.
4. Agency shall keep accurate cost accounting records. Agency shall prepare and submit monthly itemized invoices directly to State's Emerging Small Business (ESB) Program Manager, listed below under State Obligations, for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice number, account number, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed **\$50,000**, including all expenses during the term of this Agreement. Travel expenses will not be reimbursed.
5. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from State.
6. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
7. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.

8. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
9. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
10. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
11. Agency's Project Manager for this Project is Jill Wolf, Sellwood Bridge Project, 2100 SW River Parkway, Portland, OR 97201, 503-307-1297, jill.a.wolf@multco.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. The State shall perform the services and tasks assigned to State as set forth in Exhibit A.
2. In consideration for the services performed by Agency, State agrees to pay Agency within forty-five (45) days of receipt by State of the Project invoices up to a maximum amount of **\$50,000**. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed.
3. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
4. State's Project Manager for this project is John Downing, Emerging Small Business Program Manager, ODOT Office of Civil Rights 955 Center St. NE, Salem, OR 97301, 503-986-3016, john.f.downing@odot.state.or.us, or assigned designee upon individual's

absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by either party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. 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 State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. 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 State or Agency with respect to which the 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State 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 Agency in such proportion as is appropriate to

reflect the relative fault of State on the one hand and of Agency 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 State on the one hand and of Agency 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency 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 State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State 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 Agency on the one hand and of State 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. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this 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.
8. 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.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. 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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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

MULTNOMAH COUNTY, by and through
its elected officials

By _____
Chair

Date _____

By _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Agency Counsel

Date _____

Agency Contact:

Jill Wolf
Sellwood Bridge Project
2100 SW River Parkway
Portland, OR 97201
503-307-1297
jill.a.wolf@multco.us

State Contact:

Michael Cobb
Office of Civil Rights Manager
ODOT- Office of Civil Rights
955 Center St. NE, Room 471
Salem, OR 97301-2557
503-986-5753
michael.a.cobb@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Chief of Staff, Joan Plank

Date _____

APPROVAL RECOMMENDED

By _____
Office of Civil Rights Manager
Michael Cobb

Date _____

By _____
Emerging Small Business Program
Manager, John Downing

Date _____

By _____
Region 1 Manager

Date _____

EXHIBIT A STATEMENT OF WORK

A. Introduction

The purpose of this Statement of Work is to identify the task and services to be performed by the Oregon Department of Transportation, hereinafter referred to as “State” and Multnomah County, hereinafter referred to as “Agency” to implement a Mentor/Protégé Team Program (MPT Program) for the Sellwood Bridge Project (the Project).

B. Background Information

1. The Mentor / Protégé Assistance Program consists of:
 - a. Eligible sub-contractors on the Project who elect to participate in the MPT Program and include: architects, engineers & others actively engaged as sub-contractors on the Sellwood Bridge Project, and are currently certified by OMWESB as an Emerging Small Business. Furthermore, participating subcontractors must be certified in NAICS codes capable of performing work on ODOT projects. ODOT Emerging Small Business Program manager will determine eligibility as required.
 - b. The MPT Program is funded in part by the State.
 - c. Mentors will consist of contractors on the Project who agree to participate in the MPT Program, as directed by Agency.
 - d. Each Mentor/Protégé Team (MPT) on the Project shall include the State Emerging Small Business Program (ESB) Manager, an Agency representative, the mentor and the protégé.
 - e. To the extent allowed under the Oregon Public Records Laws, information and documentation submitted by mentors and protégés under this Agreement shall be confidential.

C. Phase I Assessment during Design ~ Mentor / Protégé Teams (MPT)

1. During the design phase of the project, the Agency shall request and coordinate the Mentors evaluation and assessment of the participating Protégés’ business operations, with the goal to identify specific areas where the support under the MPT Program would be the most valuable.
2. After the initial Mentor evaluations undertaken in C1, the Agency will schedule an initial meeting with each MPT to assess Protégé needs, prioritize key imperatives, and review a roster of expert advisors available to the team.
3. The Agency will assist each MPT identify the top two (2) or three (3) key imperatives to be addressed via mentoring, training and/or follow-up counseling.
4. Each MPT shall develop a strategic mentoring plan that includes specific support/assistance activities to be addressed in subsequent meetings and performance improvement metrics (negotiated with the Protégé) to measure successful implementation of the mentoring plan.

D. Phase I Assessment during Construction ~ Mentor / Protégé Teams (MPT)

1. During the construction phase, the State will provide business assessments to participating Protégé firms utilizing the Oregon Small Business Development Center Network (the Network) with the goal to identify specific areas where the support under the MPT Program would be the most valuable.
2. After the initial assessment undertaken in D1, the State through the Network will schedule an initial meeting with the MPT to assess protégé needs, prioritize key imperatives, and review a roster of expert advisors available to the team.
3. The Protégé and the Mentor will complete a Network Request for Counseling form which requires signatures by all parties.
4. The State, through the Network will assist each MPT identify the top two (2) or three (3) key imperatives to be addressed via mentoring, training and/or follow-up counseling.
5. Each MPT shall develop a strategic mentoring plan that includes specific support/assistance activities to be addressed in subsequent meetings and performance improvement metrics (negotiated with the Protégé) to measure successful implementation.

E. Phase II Assessment ~ Development of budget and scope of work

1. The Agency (during project design), and Network (during project construction) will develop a budget and preliminary scope of work to support the MPT initiative beyond Phase I and submit for State written approval.
2. The Agency will compile all approved program-related expenses for support services to protégés, and submit invoices to State for reimbursement per the terms of this Agreement.

F. TASKS and DELIVERABLES ~ Design

1. Tasks – Agency shall:

- a. With the assistance of the Mentors, coordinate the assessments of the protégés and prepare a written strategic mentoring plan for each mentor-protégé team.
- b. Schedule regular meetings for each MTP.
- c. Prepare monthly reports.
- d. Based on the information gathered at the initial MPT meetings, determine Protégé support services, and forward to State for approval.
- e. Monitor and track protégé development throughout the duration of the mentor-protégé team relationship.

2. Deliverables – Agency shall deliver the following:

- a. Written strategic mentoring plan for each mentor-protégé team.
- b. Initial and regular tracking reports submitted to State for review.
- c. Budget a preliminary scope of work for each mentor-protégé team to support the MPT initiative beyond Phase I and submit for State approval.
- d. Provide final report summarizing the MPT's efforts.

G. TASKS and DELIVERABLES ~ Construction

1. Tasks – Agency shall:

- a. Identify and coordinate each MPT.
- b. Assist the Network to schedule regular meetings for each MPT.
- c. Participate in MPT to assist the Network assess the Protégé support services requested, and forward to State for approval.

Deliverables – Agency shall deliver the following:

- a. Participate in developing strategic mentoring plan for each MPT.
- b. Initial and regular tracking reports submitted to State for review.
- c. Initiate and assist MPT reimbursement requests for State review and approval.

H. Invoices

Agency shall submit invoices for reimbursement for services as provided herein, on a monthly or as needed basis, in conformance with the form of invoice set forth as Exhibit B.

Exhibit B
SAMPLE INVOICE

	Bill To:
Multnomah County 501 SE Hawthorne Blvd., Suite 400 Portland, OR 97214	Oregon Department of Transportation – Region 1 Attn: Riad Alharithi, PE, Local Agency Liasion 123 NW Flanders Street Portland, OR 97209 (503) 731-8276

Federal Tax ID xx-xxxxxxx

INVOICE: (Invoice Number)

Amount due this invoice: \$0.00
 For services performed from: (date) to (date)
 Project name: Sellwood Bridge: Project Specific Mentor-Protégé Program
 Date of invoice: (date prepared)
 Intergovernmental Agreement #xxxxxx
 Contract Project Manager Sophia Cavalli 503-988-5111 ext 26106
 Contact for billing questions (name and phone)
 Total agreement amount \$xxx,xxx
 Total invoice to date \$0.00
 Amount remaining \$xxx,xxx

Expense Item	Original Budget	Revised Budget	Previous To Date	Current Invoice	Project to date Costs	Budget Remaining
Support Service #__	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Support Service #__	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Remit to:
 Vendor Name
 Address
 City, State ZIP

For ODOT Use Only				
EA	Subjob	Activity	Obj Detail	Amount
Approved:			Date:	