

INTERGOVERNMENTAL AGREEMENT
Multnomah County, Westside Rural Multnomah County
Transportation System Plan Update

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 the Multnomah County ("County" 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 21st Century ("MAP-21") funds. Local funds are used as match for MAP-21 funds.
4. By authority granted in ORS 190.110, 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. County 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. "County's Amount" means the portion of the Grant Amount payable by ODOT to County for performing the tasks indicated in Exhibit A as being the responsibility of County.

B. "County's Matching Amount" means the amount of matching funds which County is required to expend to fund the Project.

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

D. "Consultant" means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

E. "Consultant's Amount" means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

F. "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.

G. "Federally Eligible Costs" means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by County and Consultant during the term of this Agreement.

H. "Grant Amount" or "Grant" means the total amount of financial assistance disbursed under this Agreement, which consists of the County's Amount and the Consultant's Amount.

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

J. "PSK" means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

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

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

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

N. "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. Grant Amount. The Grant Amount shall not exceed \$42,300.

C. County's Amount. The County's Amount shall not exceed \$0.

D. Consultant's Amount. The Consultant's Amount shall not exceed \$42,300.

E. County's Matching Amount. The County's Matching Amount is \$7,465 or 15% of the Total Project Costs.

SECTION 3. COUNTY'S MATCHING AMOUNT

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

B. County shall present cost reports, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. County shall submit cost reports for 100% of County's Federally Eligible Costs.

C. Travel expenses may be used by County as part of the County's Matching Amount if they comport with current State of Oregon Accounting Manual, General Travel Rules, effective on the date the expenses are incurred.

SECTION 4. COUNTY'S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION

A. County represents and warrants to ODOT as follows:

1. It is a municipality, as defined in ORS 367.010(10), 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 County.

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

5. To the best of County's knowledge, the authorization, execution and delivery of this Agreement by County, 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 County 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 County.

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

SECTION 5. GENERAL COVENANTS OF COUNTY

A. County shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. County shall complete the Project; provided, however, that County shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant.

B. County shall, in a good and workmanlike manner, perform the work on the Project, and provide the deliverables for which County is identified in Exhibit A as being responsible.

C. County shall perform such work identified in Exhibit A as County's responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. County 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 County, 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. County 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. County 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. County agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, County agrees to:

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

G. County 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, County 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. County shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records pertinent to this Agreement in such a manner as to clearly document County's performance. County 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 County that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

County 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 County's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and County 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", County 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. County shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. County 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 hereby grants to County a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) County 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 21st 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, County 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, County shall

- (1) pay to ODOT County's Matching Amount less Direct Project Costs that are Federally Eligible Costs previously reported as County's Matching Amount. ODOT may use any funds paid to it under this Section 5.K (1) or any of the County'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 being treated by County as County's Matching Amount;
 - (c) A list of final deliverables

SECTION 6. CONSULTANT

If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than County is the party to the PSK with the Consultant, ODOT and County agree that as between themselves:

- A. Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of County;
- B. ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from County;

- C. County shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (A) and (B) above; and
- D. County will appoint a Project Manager to:
 - (1) be County's principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
 - (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and County personnel, as necessary;
 - (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
 - (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

SECTION 7. 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 and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.
- D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

SECTION 8. 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 County, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. County 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. Consultant fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, 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.

C. 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.

D. 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, B, C or D 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 9. 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 County 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 County 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 (including but not limited to any Consultant) 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(I), and 9 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. 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 9.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 9.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 9.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 mediation or 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.

County

Multnomah County

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:

Joanna Valencia
Multnomah County
1600 SE 190th
Portland, OR 97233
Phone: 5039883043
Fax: 503-988-3321
E-Mail: joanna.valencia@multco.us

Ross Kevlin, Contract Administrator
Transportation and Growth Management Program
123 NW Flanders
Portland, OR 97209-4037
Phone: 503-731-8232
Fax: 503-731-3266
E-Mail: ross.p.kevlin@odot.state.or.us

Exhibit A
Statement of Work
1H-13
Multnomah County
Westside Rural Multnomah County Transportation System Plan Update

Name: Address: Phone: Fax: Email:	<u>Agency Project Manager (APM)</u> Terra Lingley ODOT Region 1 123 NW Flanders St Portland, OR 97209-4037 503-731-8232 503-731-3266 terra.m.lingley@odot.state.or.us	Name: Address: Phone: Fax: Email:	<u>Consultant Project Manager</u> Susan Wright Kittelson & Associates, Inc. 610 SW Alder St, Suite 700 Portland, OR 97205 503-228-5230 503-273-8169 Swright@kittelson.com
Name: Address: Phone: Fax: Email:	<u>County Project Manager</u> Joanna Valencia Multnomah County 1600 SE 190th Portland, OR 97233 503-988-3043 503-988-3321 Joanna.valencia@multco.us		

This statement of work describes the responsibilities of all entities involved in this cooperative project.

The work order contract (for the purposes of the quoted language below the “WOC”) with the work order consultant (“Consultant”) shall contain the following provisions in substantially the form set forth below:

“PROJECT COOPERATION

This statement of work describes the responsibilities of the entities involved in this cooperative Project. In this Work Order Contract (WOC), the Consultant shall only be responsible for those deliverables assigned to the Consultant. All work assigned to other entities are not Consultant’s obligations under this WOC, but shall be obtained by Agency through separate intergovernmental agreements which contain a statement of work that is the same as or similar to this statement of work. The obligations of entities in this statement of work other than the Consultant are merely stated for informational purposes and are in no way binding, nor are the

named entities parties to this WOC. Any tasks or deliverables assigned to a subcontractor shall be construed as being the responsibility of the Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity as described in this statement of work shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to Oregon Department of Transportation (Agency) Work Order Contract Project Manager (WOCPM) of any deliverables that may be delayed due to lack of cooperation by other entities referenced in this statement of work.
2. If ODOT receives a written notice of non-cooperation by the Consultant as against the County, the WOCPM shall timely provide the County a copy of the notice and allow the County a reasonable time to respond to the claimed non-cooperation. Upon receipt of the County response, the WOCPM shall consider the County's response to assess whether in fact the claimed non-cooperation has occurred.
3. If the after due consideration of the County's response, the WOCPM finds that the claimed non-cooperation has occurred, the WOCPM shall contact the non-cooperative entity or entities to discuss the matter and attempt to correct the problem and expedite items determined to be delaying the Consultant.

If Consultant has followed the notification process described in item 1, and Agency finds that delinquency of any deliverable is a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in this statement of work, the Consultant will not be found in breach of contract; nor shall Consultant be assessed or liable for any damages arising as a result of such delinquencies. Neither shall ODOT be responsible or liable for any damages to Consultant as the result of such non-cooperation by other entities. WOCPM will negotiate with Consultant in the best interest of the State, and may amend the delivery schedule to allow for delinquencies beyond the control of the Consultant."

Definitions

Agency/ODOT – Oregon Department of Transportation

APM – Agency Project Manager

County – Multnomah County

PAC – Project Advisory Committee

Project – Westside Rural Multnomah County Transportation System Plan Update

TSP – Transportation System Plan

Purpose

Westside Rural Multnomah county Transportation System Plan Update project (Project) will update the Westside Rural Multnomah County Transportation System Plan (TSP) adopted in 1998, with a primary focus on the rural plan area for Sauvie Island and the Multnomah Channel. This Project will build on scoping work conducted by Multnomah County (County) in 2013 involving extensive public outreach that identified land use and transportation visions and issues for the area. The update to the TSP will establish baseline conditions, identify projects, and identify planning and implementation opportunities to address concerns regarding the increasing number of visitors to the area and related issues concerning traffic. Needs to be addressed in the TSP update include traffic conflicts between modes on Sauvie Island and Multnomah Channel roads, particularly between bicycles and motorists, but also including farm equipment and pedestrians. The lack of road shoulders and/or multimodal use paths was a common theme raised. Additionally, the TSP update will include a review of the 1998 TSP document to identify text and maps that should be revised, for example to reflect where planned projects have now been built, or amended.

Project Area

The Project Area is bordered by U.S. Highway 30 on the west, Columbia County on the north, the Columbia River on the east, and the Willamette River and the city of Portland on the south. The area is dominated by agricultural land uses but also includes a wildlife refuge, public beaches, various water-related uses on and along the Multnomah Channel, residential areas, and a few businesses. The Project Area includes about 15,400 acres of land (mostly on the island) and several thousand additional acres of water. Roads in the area consist of rural local access roads and rural collector roads that provide a sort of loop serving the island. Along the Multnomah Channel, Highway 30 is an Oregon Department of Transportation (ODOT) facility with County rural local access roads serving the Channel.

The Project Area is a subset of the area covered in the 1998 TSP and corresponds to the 1997 Sauvie Island/Multnomah Channel Rural Area Plan.

Background

In 1997, the Sauvie Island/Multnomah Channel Rural Area Plan was adopted for the rural, unincorporated area of Sauvie Island and Multnomah Channel. Over the last 16 years, much of the community has stayed the same, but several new issues have emerged and some issues present in 1997 have not been resolved. Sauvie Island in particular has seen considerable growth in the number of visitors from the Portland metropolitan region. In response to the growing number of issues raised by citizens and stakeholders in the Project Area, County staff began a scoping effort in order to identify land use and transportation issues that may need to be addressed in a future update to the Sauvie Island/Multnomah Channel Rural Area Plan.

Of Sauvie Island's total area, approximately 11,800 of those acres are designated in the Comprehensive Plan as Exclusive Farm Use, with the remainder designated as Multiple Use

Agriculture. Approximately 1,300 residents live in roughly 450 dwelling units on the island; there are approximately 200 permanent residents in the channel/Highway 30 area.

The entire Project Area is located outside of the Portland metro area's Urban Growth Boundary and has been designated a Rural Reserve by the County. The Rural Reserve Designation prevents the Urban Growth Boundary from expanding into the area for at least the next 50 years and generally limits plan and zoning amendments that would add more intensive uses than allowed when the designation was adopted in May 2010.

Beginning in February 2013, County staff, in collaboration with CH2M Hill, conducted a scoping process. The process consisted of a public outreach effort in the form of public open houses, stakeholder meetings, focus groups, and questionnaires (mailed and online). That scoping process asked the community, both residents and businesses on Sauvie Island and Multnomah Channel, government agencies, and other organizations or interested individuals, how they envisioned the area would look in 20 years and what issues are important to them. The outreach process identified a number of issues and concerns across a wide spectrum. These issues and concerns have been organized into a scoping report that outlines the results from this community conversation including the issues and visions, as well as recommendations for next steps in resolving the identified issues.

Primary themes identified in the scoping effort that pertain to this Project are:

- Need for strategies that reduce traffic conflicts between modes on Sauvie Island roads, particularly between bicycles and motorists, but also including farm equipment and pedestrians. There is a strong desire for better accommodations for bicycles and pedestrians. The lack of road shoulders and/or multi-use paths is a common theme.
- Concern regarding the increasing numbers of visitors to Sauvie Island and related issues, such as increased traffic and increased demand on emergency service providers.

Project Objectives

- Review 1998 TSP to identify which sections remain sufficient for the current plan horizon, and which sections must be amended with updated information.
- Develop solutions to identified transportation issues, including bicycle, farm equipment and seasonal event vehicular traffic on Sauvie Island.
- Ensure solutions are vetted by community and the technical stakeholders, which shall be government agencies.
- Ensure public outreach to disadvantaged and minority citizens complies with Title VI requirements.

Deliverables Overview

- County shall provide meeting logistics including provide meeting locations and meeting notification. County shall prepare meeting agenda and facilitate meetings. Consultant shall present and lead discussion on technical materials to be discussed at each meeting.
- All draft materials must be submitted to the County project manager and Agency Project Manager (APM) at least one week prior to the meeting at which they are to be presented. Draft deliverables must be professionally written and substantially complete and that any changes or revisions needed to address comments will be minor.
- Consultant shall prepare originals or materials to be distributed or presented at meetings, and County shall be responsible for reproductions. Consultant shall provide originals to County in hard copy and electronic form at least two days prior to the meeting at which they will be used, except for color reproductions, which will require one week lead time for preparation.
- Except as specified, Consultant shall provide three hard copies of all products, as well as an electronic file (in Word format for all written products and in PDF format for graphic products).
- Adoption ready: All deliverables must be prepared as final policy statements of the local government and must not include language such as “it is recommended ...” or “County should” New and amended code language must be prepared as final regulatory statements of County. Final plan, plan amendments, code, and code amendments must include all necessary amendments or deletions to existing County plans or code to avoid conflicts and enable full integration of proposed plan with existing County documents.
- The following text must appear in the final version of all final deliverables:
 - 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 21st Century (MAP-21), local government, and the State of Oregon funds.*
 - The contents of this document do not necessarily reflect views or policies of the State of Oregon.*
- Final plans, headers and footers, graphics, etc. must not include Consultant names and logos, Transportation and Growth Management Program or ODOT logos or project codes, etc. These items must only be on the acknowledgement page.

Task 1: Public Involvement and Interagency Coordination

Objectives

- Ensure an open planning process that solicits and considers input from direct stakeholders and community members.

- Ensure that Project materials and recommendations are technically vetted.
- Ensure the Project is coordinated with affected local jurisdictions and organizations.

Methodology

- 1.1 PAC Roster - County shall identify and appoint representatives to comprise a Project Advisory Committee (PAC) and prepare PAC Roster. The PAC is a technical and community forum to provide review and comment on project materials, so that the project's outcome is technically sound, acceptable to affected stakeholders and jurisdictions, and reflects community values and desires. The PAC must include representatives from the Sauvie Island –Multnomah Channel Community Advisory Committee and Technical Advisory Committee.
- 1.2 Adjacent Parties List - County shall prepare Adjacent Parties List identifying all property owners and tenants, both business and residential, in the Project Area. List must include contact information.
- 1.3 Project Publicity - County shall prepare Project Publicity, materials to publicize the project to the community. Project Publicity must include a Letter to Adjacent Parties List, which describes the Project Objectives, public involvement opportunities, and encourages public input. County shall mail the Letter to Adjacent Parties List, and furnish information and public involvement opportunities to interested Bicycle & Pedestrian groups.
- 1.4 Organizational Meeting - County shall arrange and ODOT shall cause Consultant to conduct an Organizational Meeting to coordinate schedules for meetings, workshops, and project publicity. Attendees are to include ODOT, County and Consultant representatives. Subsequent to, and as part of meeting, Consultant shall prepare Refined Project Schedule.
- 1.5 Site Visit – County Project Manager shall accompany Consultant on a site visit of the Project Area to help identify areas of known deficiencies, opportunities, and constraints.
- 1.6 Web Page - County shall maintain an updated Web Page on the County Website to provide an online resource for interested parties.

County Deliverables:

- 1A PAC Roster
- 1B Adjacent Parties List
- 1C Project Publicity
- 1D Organizational Meeting
- 1E Site Visit
- 1F Web Page

Consultant Deliverables:

- 1.A Organizational Meeting/Revised Project Schedule
- 1.B Site Visit

Task 2: Document Existing Conditions

Objectives

- Identify and describe existing physical features, plans, policies, transportation and regulatory concerns that affect the Project Area, and which could affect transportation solutions.
- Assess the 1998 TSP to identify any outstanding transportation needs not yet addressed, so that either outstanding needs may be addressed in subsequent tasks, or findings of sufficiency may be developed as part of the final Project task.

Methodology

- 2.1 Base maps - County shall prepare draft and revised scaleable base maps depicting roadways, travel lanes, shoulders, topography (including dikes), wetlands, property lines, major trip attractors such as recreation areas, community centers and businesses, and other transportation system elements such as paths and trails. Size of base maps must be sufficient for use at community workshops and similar public presentations, as determined by the County project manager. Base maps must be revised in response to PAC comments
- 2.2 Traffic Data Technical Memo - County shall prepare draft and revised Traffic Data Technical Memo summarizing traffic data for the Project Area including volumes (average, peak days and peak hours), speeds (average, 85% and maximum) and crash data. County shall conduct interviews with up to 15 stakeholders to anecdotally document concerns with bike, farm vehicle and seasonal automobile traffic in the Project Area and summarize anecdotal information in Traffic Data Technical Memo. Traffic Data Technical Memo must be revised in response to comments from PAC Meeting #1 below.
- 2.3 Draft Existing Plans and Policies Memo – Consultant shall prepare draft and revised Existing Plans and Policies Memo to:
 - 1. review and summarize the 1998 TSP and development codes pertaining to transportation
 - 2. compare needs, deficiencies and projects identified in 1998 TSP to current conditions
 - 3. determine which needs and deficiencies have and have not been resolved
 - 4. review 1998 TSP policies and development code requirements to determine if they need to be updated to meet current requirements and needs
 - 5. identify regulatory and other requirements of stakeholder agencies that may impact the applicability or feasibility of transportation solutions (e.g. US Fish/Wildlife regulations)

for wildlife and recreation areas, Sauvie Island Drainage District regulations for dike).

ODOT and the County shall share existing materials with the Consultant their research or preliminary findings from efforts to date related to applicable sections of the development code, 1998 TSP projects or policies known to be completed or out of date, and a list of known regulatory requirements and stakeholder agencies that may impact solutions.

Draft Existing Plans and Policies Memo must be revised in response to comments from PAC Meeting #1 below. County shall provide direction for any conflicting comments.

- 2.4 PAC Meeting #1 – County shall arrange and conduct PAC Meeting #1 for review and comment of base maps, Traffic Data Technical Memo, and Existing Plans and Policies Memo. Consultant shall attend and present Draft Existing Plans and Policies Memo. Consultant shall record PAC comments.

County Deliverables:

- 2A Base Maps
- 2B Traffic Data Technical Memo
- 2C PAC Meeting #1

Consultant Deliverables:

- 2.A Draft Existing Plans and Policies Memo
- 2.B PAC Meeting #1

Task 3: Needs, Opportunities, Constraints and Tools

Objectives

- In consideration of traffic data included in the Traffic Data Technical Memo, describe transportation needs the Project must address, as well as other requirements that must be addressed (e.g. regulatory requirements for improvements in wetland and wildlife areas).
- Describe regulatory, physical and other conditions that present constraints and opportunities to the development of solutions that meet Project Objectives.
- Identify and describe tools that could be applied to address identified needs, and their pros, cons, applicability and trade-offs.

Methodology

- 3.1 Needs, Opportunities, Constraints and Tools Memo –Consultant shall prepare draft and revised Needs, Opportunities, Constraints, and Tools Memo discussing the needs that must be addressed in developing solutions to meet Project Objectives, and summarizing the physical and environmental features, regulatory requirements and other factors that must be considered, and that present opportunities or constraints to the development of solutions. Needs, Opportunities, Constraints and Tools Memo is not intended to reiterate

information contained in Base Maps, but to highlight factors that, in the Consultant's professional opinion, should be considered in the development of solutions. Needs, Opportunities, Constraints and Tools Memo must also discuss tools – potential means to address transportation needs, including the pros, cons, applicability, and trade-offs they entail. Tools must include both “build” solutions (e.g. widened shoulders to provide bike lanes, traffic-calming roadway design) and “non-build” solutions (e.g. transportation demand management, transit, educational campaigns to promote multi-modal safety). Needs, Opportunities, Constraints and Tools Memo must discuss general costs to implement tools, and recommend criteria by which solutions should be evaluated and selected. Needs, Opportunities, Constraints and Tools Memo must be revised in response to comments from PAC Meeting #2. County shall provide input with respect to comments received, including any conflicting comments.

ODOT and the County shall share with the Consultant any needs, opportunities, constraints, or tools that have been identified by or discussed with stakeholders through the Comprehensive Plan Update or other process. Consultant shall independently evaluate these in addition to those identified by the Consultant.

- 3.2 PAC Meeting #2 - County shall arrange and Consultant shall conduct PAC Meeting #2 to present and discuss Needs, Opportunities, Constraints and Tools Memo. Consultant shall record PAC members' comments.

County Deliverables:

- 3A PAC Meeting #2

Consultant Deliverables:

- 3.A Needs, Opportunities, Constraints and Tools Memo
3.B PAC Meeting #2

Task 4: Plan Development Workshops

Objectives

- Present stakeholders with information gathered in prior tasks, including needs, opportunities and constraints to achieving Project Objectives.
- Enable workshop participants to understand transportation issues in the Project Area, and potential solutions, their advantages and disadvantages, and how they affect multi-modal circulation and adjacent development.
- Facilitate the development and refinement of consensus-based solutions, consistent with Project Objectives, and supported by technical and community stakeholders.
- Conduct an engaging public process that encourages community participation.

Methodology

- 4.1 Plan Development Workshops #1 and #2 / Plan Development Workshop Report - County shall arrange and Consultant shall conduct two public Plan Development Workshops, as determined by the Project Manager in consultation with APM, to present project background, existing conditions, needs, opportunities, constraints, tools and criteria, and to conduct a facilitated discussion to arrive at a solution for each identified need.

Workshop #1 must include presentation of information and discussions (facilitated by Consultant with assistance and support from the County staff) to gather participants' input on the topics presented. Consultant shall document participants' input, including opinions on criteria and objectives, and ideas and opinions on potential transportation solutions, and shall identify participants' prevailing preferences to consider in developing solutions to incorporate in the updated TSP.

Workshop #2 must include presentation of the Draft Plan Development Workshop Report from Workshop #1, providing recommended solutions to address each identified transportation need, with text and graphics sufficient in the Consultant's professional opinion to describe the solution, how it responds to criteria, general costs, and necessary implementation measures, such as phasing. Draft Workshop Report must be revised in response to comments from Workshop #2 participants.

- 4.2 Contingent Task: No work under this contingent task shall be done without the prior written approval (e-mail acceptable) of APM.

Contingent: Plan Development Workshop #3 / Revised Plan Development Workshop Report – If needed (as determined by City Project Manager and subject to APM approval), County shall arrange and Consultant shall conduct Plan Development Workshop #3. Workshop #3 is expected to focus on discussion of transportation solutions with more significant impacts, in which case Consultant shall facilitate a discussion aimed at resolving issues with these solutions. Consultant shall note participant comments, including opinions of and recommended changes to the Plan Development Workshop Report. The process will be designed to achieve community consensus in support of an acceptable design consistent with project objectives. Consultant shall revise Plan Development Workshop Report in response to comments from Workshop #3 participants.

County Deliverables:

- 4A Plan Development Workshops #1 and #2
- 4B Contingent: Plan Development Workshop #3

Consultant Deliverables:

- 4.A Plan Development Workshops #1
- 4.B Draft Plan Development Workshop Report

- 4.C Plan Development Workshop #2
- 4.D Revised Plan Development Workshop Report
- 4.E Contingent: Plan Development Workshop #3 / Revised Plan Development Workshop Report

Task 5: Prepare Implementation Materials

Objective

- From information developed in prior tasks, provide County with text and maps to update 1998 TSP after Project conclusion.

Methodology

- 5.1 TSP Text Update – Consultant shall prepare a TSP Text Update including additions (e.g. transportation solutions identified in Task 4), deletions (e.g. 1998 TSP planned projects that are now complete), and findings to document why unchanged portions of 1998 TSP are sufficient and do not require updating. Additions and deletions must be provided using underline/overstrike.

Consultant shall provide TSP Text Update to County and APM both in hard copy and electronically (both .pdf and Word). County shall receive one CD and 25 hard copies; APM shall receive 3 hard copies and 2 CDs.

- 5.2 TSP Map Update – County shall produce TSP Map Updates (e.g. to delete planned projects that are now built, to add newly planned projects). TSP Map Updates must be suitable for inclusion in the TSP update to be taken to adoption subsequent to this Project.
- 5.3 Community Outreach Summary Report – County shall complete a Community Outreach Summary Report documenting outreach efforts, public feedback, and measures taken to comply with Title VI civil rights goals.

County Deliverable:

- 5A TSP Map Update
- 5B Community Outreach Summary Report

Consultant Deliverable:

- 5.A TSP Text Update

Project Schedule

<i>Task</i>	<i>Description</i>	Months from Notice to Proceed
1	Public Involvement and Interagency Coordination	1
2	Document Existing Conditions	2
3	Needs, Opportunities, Constraints, and Tools	5
4	Plan Development Workshops	7
5	Prepare Implementation Materials	9

County BUDGET SUMMARY

Task	Match
1	\$4,755
2	\$7,555
3	\$3,533
4	\$4,244
5	\$5,154
TOTAL	\$25,241*

* The County's required match amount is \$7,465. Any amount over \$7,465 is considered overmatch.

County Staff	Task					\$ / hr	Total hrs	TOTAL
Senior Transportation Planner	20	20	15	15	20	84.79	90	7631
County Engineer	10	15	10	15	10	144.86	60	8692
Engineering Tech 3	5	35	5		5	82.51	50	4126
Transportation Planner	15	10	5	10	20	79.86	60	4792
								25,241

CONSULTANT AMOUNTS PER DELIVERABLE

<i>Task</i>	<i>Description</i>	<i>Total Fixed Amount Payable to Consultant Per Deliverable</i>	<i>Total Amount Per Task</i>
1	Public Involvement and Interagency Coordination		\$1,970
1.A	Organizational Meeting/Revised Project Schedule	\$1,170	
1.B	Site Visit	\$800	
2	Document Existing Conditions		\$8,670
2.A	Draft Existing Plans and Policies Memo	\$7,280	
2.B	PAC Meeting #1	\$1,390	
3	Needs, Opportunities, Constraints and Tools		\$12,730
3.A	Needs, Opportunities, Constraints and Tools Memo	\$11,340	
3.B	PAC Meeting #2	\$1,390	
4	Plan Development Workshops		\$9,240
4.A	Plan Development Workshop #1	\$3,370	
4.B	Draft Plan Development Workshop Report	\$2,020	
4.C	Plan Development Workshop #2	\$2,890	
4.D	Revised Plan Development Workshop Report	\$960	
4.E	Contingent: Plan Development Workshop #3/ Revised Plan Development Workshop Report	NA	
5	Prepare Implementation Materials		\$6,280
5.A	TSP Text Update	\$6,280	
Total Non-Contingency			\$38,890
Contingency Deliverables			\$3,410
4.E	Contingent: Plan Development Workshop #3/ Revised Plan Development Workshop report	\$3,410	
Total Contingency		\$3,410	
Total Non-Contingency + Contingency		\$42,300	

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.

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:

- | | |
|--|---|
| 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency; | 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; |
| 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 | |

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 Contractors, 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	
PERSONNEL SERVICES	
<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.	
SERVICES AND SUPPLIES	
In-State Travel - Per Rates Identified in State Travel Handbook	
<i>Meals & Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.	
<i>Lodging & Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon.	
Fares, Taxi, Bus, Air, Etc.	
<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.	
Office Expense	
<i>Direct Project Expenses Including:</i>	
<i>Photo, Video & Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.	
<i>Printing, Reproduction & Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.	
<i>Postage</i> - Payment for direct project postage.	
<i>Freight & Express Mail</i> - Payment for direct project freight services on outgoing shipments.	
Telecommunications	
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.	
Publicity & Publication	
<i>Publish & 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)	
Equipment \$250 - \$4,999	
NOT ELIGIBLE	
Employee Training, Excluding Travel	
NOT ELIGIBLE	
Training In-State Travel	
NOT ELIGIBLE	
CAPITOL OUTLAY	
NOT ELIGIBLE	

