

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: June 18, 2013

Approx Start Time: 10:00 a.m.

Approx Length: 30 minutes

Presentation Title: Clackamas County Active Transportation Plan IGA, continued.

Department: Department of Transportation and Development (DTD) – Engineering Division

Presenters: Mike Bezner, Engineering Manager, Karen Buehrig, Transportation Planning Supervisor and Scott Hoelscher, Senior Planner

Other Invitees: Lori Mastrantonio, Senior Planner

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

We are asking the Board of County Commissioners (BCC) to place the following as a consent item on the June 20, 2013 Business Meeting, for approval:

The Intergovernmental Agreement (IGA) between the Oregon Department of Transportation (ODOT) and Clackamas County to develop a Clackamas County Active Transportation Plan

EXECUTIVE SUMMARY:

At a May 14, 2013 BCC Study Session, the purpose of the Active Transportation Plan for Clackamas County was discussed. It was highlighted that:

- In June 2012 the BCC supported the Transportation and Growth Management (TGM) grant application and passed Resolution 2012-69,
- In October 2012 DTD was awarded a TGM grant from ODOT to develop an Active Transportation Plan and incorporate it into the County's Comprehensive Plan,
- Since that time, DTD has been working with ODOT to prepare an IGA and the scope of work for the project. Attached is the final IGA, which includes the scope of work.

DTD staff have met with the BCC to discuss their concerns regarding the IGA language and the proportion of funds that are being spent on Active Transportation projects.

FINANCIAL IMPLICATIONS (current year and ongoing):

The total cost for the Active Transportation Plan is \$117,980. The proposed budget is as follows:

- TGM Grant Amount: \$105,000
- County Match: \$12,980 (in-kind staff time)
- Approximately 50% of the project funds will be for a consultant and 50% for county staff working on the project.

The project will begin in July 2013 and continue through the end of June 2014. The project has been included in the 2013-14 Road Fund budget. Since the project is funded through a grant, no additional County funds are needed and there are no other fiscal impacts to the County.

LEGAL/POLICY REQUIREMENTS:

The IGA for the TGM grant is a legal contract between the Oregon Department of Transportation and Clackamas County. The IGA has been reviewed and approved by County Counsel. This project is not subject to any other legal standards.

From a policy perspective, any Comprehensive Plan changes, Zoning and Development Ordinance amendments or other regulatory amendments resulting from the project will be brought before the BCC. Study sessions with the Planning Commission and BCC will be scheduled when policy direction is needed.

PUBLIC/GOVERNMENTAL PARTICIPATION:

The scope of work for the Active Transportation Plan includes a stakeholder involvement strategy to inform and solicit public participation through a project webpage, virtual open house, public comment periods, fact sheets and information sharing with Community Planning Organizations, Hamlets and Villages, and other methods.

In addition, the County will establish a Public Advisory Committee (PAC) to review and comment on project materials. PAC members will be recruited and appointed by the County to provide a geographic balance of the project area and to represent various active transportation perspectives, including bicycling, walking and equestrian.

OPTIONS:

1. Place the Intergovernmental Agreement on a Business Meeting agenda as a consent item for Board approval.
2. Place the Intergovernmental Agreement on a Business Meeting agenda as a discussion item for Board approval.

RECOMMENDATION:

The DTD Engineering Division respectfully requests the Intergovernmental Agreement be placed on the June 20, 2013 Business Meeting agenda as a consent item for BCC approval.

ATTACHMENTS:

TGM Intergovernmental Agreement and Scope of Work for the Active Transportation Plan

SUBMITTED BY:

Division Director/Head Approval

Department Director/Head Approval

County Administrator Approval

M. B. Castmill 6-12-13

For information on this issue or copies of attachments, please contact Scott Hoelscher
@ 503-742-4524

INTERGOVERNMENTAL AGREEMENT
Clackamas County, Active Transportation Plan

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation ("ODOT" or "Agency"), and Clackamas 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, 2014 ("Termination Date").

B. Grant Amount. The Grant Amount shall not exceed \$105,000.

C. County's Amount. The County's Amount shall not exceed \$44,300.

D. Consultant's Amount. The Consultant's Amount shall not exceed \$60,700.

E. County's Matching Amount. The County's Matching Amount is \$12,980 or 11% of the Total Project Costs.

SECTION 3. DISBURSEMENTS

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 be reimbursed by ODOT for, or may use as part of the County's Matching Amount, as the case may be, only Direct Project Costs that are Federally Eligible Costs that incurs after the execution of this Agreement up to the County's Amount. 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 reimbursement requests, cost reports, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. County shall submit reimbursement requests, cost reports for 100% of County's Federally Eligible Costs, and shall be reimbursed at 77.34% up to the County's Amount.

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

D. ODOT reserves the right to withhold payment equal to ten percent (10%) of each disbursement until 45 days after ODOT's Contract Administrator's approval of the

completion report described Section 5.K(2), at which time the balance due to County under this Agreement shall be payable.

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

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

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

A. County represents and warrants to ODOT as follows:

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

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

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of 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. 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. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. County shall ensure that each of its contractors 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 steering committee (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 and Section 504 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 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 reimbursable hereunder and those costs which are being treated by County as County’s Matching Amount;

- (c) A list of final deliverables; and
- (d) County's final disbursement request.

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. 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. The ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.

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

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

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

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

(3) Notwithstanding Section 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 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.

On December 1, 2010 the Director of the Oregon Department of Transportation approved DIR-06, in which authority is delegated from the Director of the Oregon Department of Transportation to the Operations Deputy Director and Transportation Development Division Administrator, to approve agreements with local governments, other state agencies, federal governments, state governments, other countries, and tribes as described in ORS 190 developed in consultation with the Chief Procurement Officer.

County

Clackamas 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:

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Oregon City, OR 97045
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Fax: 503-742-4349
E-Mail: scotthoe@clackamas.us

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Transportation and Growth Management Program
123 NW Flanders
Portland, OR 97209-4037
Phone: 503-731-8206
Fax: 503-731-3266
E-Mail: Gail.E.Curtis@odot.state.or.us

**Exhibit A
Statement of Work
TGM 1E-12
Clackamas County
Active Transportation Plan**

Name: Address: Phone: Fax: Email:	<u>Agency Work Order Contract Project Manager (WOCPM)</u> Gail Curtis ODOT Region 1 123 NW Flanders St Portland, OR 97209-4037 503-731-8206 503-731-3266 Gail.E.Curtis@odot.state.or.us	Name: Address: Phone: Fax: Email:	<u>Consultant Project Manager</u> Susie Wright Kittelsohn & Associates, Inc. 610 SW Alder St Portland, OR 97205 503.535.7432 (direct) 503-273-8169 swright@kittelsohn.com
Name: Address: Phone: Fax: Email:	<u>County Project Manager</u> Scott Hoelscher Clackamas County 150 Beaver Creek Rd Oregon City, OR 97045 503-742-4524 503-742-4349 scotthoe@clackamas.us		

Abbreviations

Agency/ODOT	Oregon Department of Transportation
AT	Active Transportation
ATP	Active Transportation Plan
County	Clackamas County
CTAC	Clackamas County Transportation Advisory Committee
PAC	Public Advisory Committee
PAT	Principal Active Transportation
PM	Project Manager
PMT	Project Management Team
TAC	Technical Advisory Committee
TSP	Transportation System Plan
WOCPM	Work Order Contract Project Manager

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. 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."

Project Purpose and Transportation Relationship and Benefits

This Project will result in designated Principal Active Transportation (PAT) Routes identifying bicycle and pedestrian routes that link major destinations, cities and other communities within

Clackamas County (County). It is anticipated that PAT Routes will include 8-12 key routes or "active transportation corridors." PAT Routes will be distinguished from the Transportation System Plan (TSP) bicycle and pedestrian routes due their unique role in linking destinations that have County-wide significance. Major destinations include cities, regional centers, town centers, rural communities, major employment centers, Light Rail Transit stations, major transit stops, schools and parks in the County. Due to the rural nature of the County, the Project will also document existing and planned public trails and trailheads including multi-use trails that allow for equestrians.

Project Area

The Clackamas County Active Transportation Plan project area covers all of unincorporated Clackamas County. The Project will focus on rural areas of the County to identify destinations, determine the appropriate improvement and to prioritize the potential routes. For the urban areas of the County, the Project will build off Metro's identified recommended, regional bicycle and pedestrian connections. While bicycle and pedestrian connections within city jurisdictional boundaries are included in the Project Area, final decisions about these routes will be made by the local cities separately, but in coordination with this plan.

Project Overview

Active transportation is transportation powered by human energy. A local, regional, and national emphasis on Active Transportation (AT) has emerged in recent years, focusing on the fiscal, environmental, and public health benefits of non-motorized travel.

The County's AT network is the system of bicycle and pedestrian facilities, well-connected to the public transportation system, which allows people to travel without a car within the County and the region. Public transportation is also active travel because it usually involves walking and provides an essential connection to bicycling and walking facilities, thus allowing for longer trips without a car.

In many areas of the County, benefits associated with active travel are limited because it does not feel safe to walk or ride a bicycle. Improved safety, convenience and accessibility of cycling and walking facilities are known needs. In addition, through the TSP update process we have learned that there is a need to provide facilities accessible to equestrian users. Note: Grant resources do not include planning for equestrian routes and trails. Outside of this Project, the County will identify which PAT Route rural segments, if any, can feasibly be planned and designed to accommodate equestrian users.

Identifying the principal County AT network and establishing County project priorities will help the County secure federal, state, regional and local funding to expand AT options.

Metro is developing a Regional Active Transportation Plan (ATP) which has regional background information to help identify the County's principal AT routes. The urban portion of

the County's ATP must be coordinated with the Regional ATP. By the time this Project begins, the County will have updated bicycle and pedestrian-related TSP policies, existing conditions, planned Bicycle and Pedestrian Networks, projects, cost estimates, and implementation guidance that will serve as a framework and background for the County's ATP.

PROJECT OBJECTIVES

- Adopt ATP into the County's 2035 TSP; and at a minimum, amend the County's 2003 Pedestrian Master Plan and 2003 Bicycle Master Plan and TSP maps.
- Gain public input throughout plan process including with the assistance of a citizen committee.
- Identify and prioritize the County's principal AT network to serve as many types of users as possible from the reluctant to the fearless to enable safe bicycling and walking in urban and rural areas between communities and major destinations of county-wide significance including major employment centers, Light Rail Transit stations, major transit stops, schools, parks and the regional AT system within the County.
- Develop Facility Types (e.g. bicycle lanes, cycle tracks, shoulder widening, separated paths) for different types of conditions.
- Determine needed infrastructure improvements (e.g. trails, bicycle facilities, and paved shoulders, where secure parking or other amenities are needed) for the prioritized PAT corridors.
- Map existing public equestrian trailheads in rural Clackamas County; and identify which PAT Route segments are appropriate to accommodate equestrian users.
- Identify the type of PAT Route signage desired and key signage locations using the "Intertwine" signage guidelines.
- Develop AT project-level costs for the County's TSP and Capital Improvements Plan.
- Include both on and off-street (i.e. trails) bicycling and walking facilities in network to connect to the PAT as time and funding allows.
- Identify and coordinate with other related Clackamas County jurisdictional planning projects.

PROJECT REQUIREMENTS

Project Management

County shall identify a Project Manager (PM) to provide day-to-day and overall project administration and management. The County PM shall form the Project Management Team (PMT) consisting of the County PM, County Multi-Model Planner, Oregon Department of Transportation's (ODOT) Work Order Contract Project Manager (WOCPM), Consultant PM and County Public & Government Affairs representative. The PMT will meet as described in the tasks. The County shall send meeting materials to members one week in advance and make available meeting summaries for members to review one week after the meeting takes place.

Unless otherwise noted in the tasks, the County shall be responsible for

- convening and facilitating all project meetings,
- preparing agendas,
- assembling meeting materials,
- coordinating and arranging presentations and briefings to stakeholder groups, advisory committees, and other related jurisdictional planning efforts.
- taking and distributing PMT, Public Advisory Committee (PAC) and public meeting summary notes within two weeks of the meeting; and providing PAC members the opportunity to make changes to the summary notes. Typically there will be only one set of meeting notes unless corrections are needed.

Stakeholder Coordination

County shall establish a PAC to obtain public comment on the ATP. The purpose of the PAC is to review and comment on Project materials, providing input through PAC meetings. The County will coordinate the PAC, including setting meeting schedules, creating agendas, preparing materials, and writing and distributing meeting summaries. The PAC will include the members of the Clackamas County Pedestrian/Bikeway Advisory Committee, an existing committee formed to review and advise on pedestrian and bicycle related projects county-wide. In addition, four to six additional PAC members will be recruited and appointed by the County PM with input from the PMT to provide a geographic balance of the project area and to represent bicycling, walking, access to transit and equestrian perspectives. The four to six additional members must include one representative each from the Clackamas County Parks Board; the Tourism Development Council and the Bicycle Transportation Alliance as well as other organizations to be determined. The County PM shall ensure that materials for meetings are sent to members one week in advance and that meeting summaries are available for members to review one week after the meeting takes place.

Partner Agency Coordination

The County shall establish a Technical Advisory Committee (TAC) to guide the technical development of the ATP. The purpose of the TAC is to provide policy and technical guidance; review and comment on materials, and provide input on recommendations. The TAC will consist of the WOCPM, ODOT engineer, and representatives from the following County departments/divisions: Transportation Engineering, Planning and Zoning, Tourism and Cultural Affairs, County Parks and North Clackamas Parks and Recreation, as well as other AT stakeholders from Metro, TriMet, and the Oregon Department of Land Conservation and Development). The TAC will meet at least three times during the Project to provide technical guidance and to ensure the project progresses in a manner consistent with the Statement of Work, schedule and budget.

Additionally, the County will use the Clackamas County Transportation Advisory Committee (CTAC) to review or coordinate the technical review of deliverables as jointly determined by the PMT throughout the project life. (CTAC is an existing group of City, Metro and ODOT representatives from urban Clackamas County.) Because there is no equivalent standing

committee for the rural portion of the County, the County will coordinate with the Community Planning Organizations in the rural areas of the County.

County shall send materials for meetings to members one week in advance and provide meeting summaries to members to review two weeks after the meeting takes place.

TASKS

Task 1: Project Start and Stakeholder Involvement

Objectives

- Develop and implement a public involvement process that generates input from a cross-section of stakeholders involved with and impacted by AT.
- Set the stage for efficient development of an ATP by providing key ATP base data early in the process.

Subtasks

- 1.1 Existing Conditions Report** - County shall prepare and make available an Existing Conditions Report within one week following the Notice to Proceed. At a minimum, the Existing Conditions Report must include the following products:
- a. Glossary of AT Definitions – Words, terms and phrases that define and describe street and route types associated with AT to help Project participants understand terms and definitions relating to AT.
 - b. Existing Plans and Regulations Inventory – Inventory and review of existing County plans and regulations impacting the Project. Inventory and review must address the County's Comprehensive Plan and Zoning and Development Ordinance as they relate to pedestrian and bicycle policies and regulations.
 - c. AT Documents – AT studies and documents including *Connecting Clackamas*, TSP existing conditions; County sidewalk inventory and *Bicycle Tourism Studios*. In addition, County shall conduct inventory of rural multi-use trails and bicycle facilities and obtain Metro data for existing trails and bicycle facilities in the urban area; and map existing public equestrian trailheads in rural Clackamas County.
 - d. Bicycle and Pedestrian Network Inventory Update – Copy of Metro's regional inventory of the existing regional bicycle, pedestrian and trail network; and other available bicycle route information from other sources such as cities and the U.S. Forest Service.
 - e. Roadway Conditions- Where available, specifications on county-maintained roads for existing or TSP-recommended bicycle and pedestrian routes:
 - Crash data in order to identify the high crash locations
 - Posted road speeds.
 - Vehicle volumes.

- Functional classification.
 - Right-of-way width.
 - Pavement width.
 - System gaps and deficiencies for TSP designated bicycle and pedestrian routes.
 - Comprehensive Plan Designations map showing TSP designated or recommended bicycle and pedestrian routes.
- 1.2 Project Schedule** – Consultant shall prepare a draft project schedule with potential dates for meetings, draft and final deliverables, and identifying review times. The Project schedule must be in Excel format. County shall maintain the Project schedule throughout the project.
- 1.3 Stakeholder Involvement Strategy**– County shall prepare draft and final Stakeholder Involvement Strategy. PMT shall review Stakeholder Involvement Strategy at PMT Meeting #1. Consultant shall incorporate PMT comments into final Stakeholder Involvement Strategy. All parts of the draft and final Stakeholder Involvement Strategy must be written for the public to easily understand and be included in final ATP and include a AT project vision statement, project timeline of major deliverables for website posting; methods to inform and engage stakeholders, including existing public County advisory committees not reflected in this statement of work. Expected Stakeholder Involvement Strategy methods shall include a project webpage, virtual open house, public comment periods, fact sheets, postings on social media, information-sharing with Community Planning Organizations, Hamlets and Villages.
- 1.4 PAT Destinations Inventory and Map** – County shall prepare a draft and final inventory and map of potential PAT destinations for PMT and PAC committee review and agreement (under Subtasks 1.10 and 2.5). The Metro ATP has identified and will largely guide the PAT destinations within the County’s Metro urban area. The potential PAT must include both Clackamas County Regional Centers and seven town centers unless there is a compelling reason to not include the town centers; additional County Metro cities may be included. Rural PAT destinations may include rural cities and unincorporated rural communities. County may make revisions to the map throughout the project life as decisions are made and refined or reflect the decisions in subsequent deliverables. County’s revisions to the map may be limited to noting recommended changes in a memo to the PAC based on County PM discretion versus revising the whole document.
- 1.5 Project Template** – Consultant shall prepare a draft and final Project Template to be used by the County and Consultant to provide a standard layout of project deliverables. Final version must incorporate PMT comments.

- 1.6 Project Website** – Consultant shall prepare a Project website that can be used to post meeting dates, project announcements, and draft and final deliverables. The Consultant shall provide training in how to post information to the Project website for up to two County staff with administrative website privileges; and County shall maintain the website throughout the Project.
- 1.7 PAT Corridor Selection Criteria** - Consultant shall prepare preliminary draft, draft, and final PAT Corridor Selection Criteria. The PAT Corridor Selection Criteria must provide a framework for evaluating and prioritizing AT corridors and projects. PAT Corridor Selection preliminary criteria must consider, but are not limited to, the following:
- Has county-wide significance, connects communities and provides access to “community attractors”. A working definition of Community Attractors must be included in the AT Glossary. “Community attractors” may include parks, schools, historical sites, employment centers, Light Rail Transit stations, trail heads, camp grounds and major transit stops.
 - Is safe or can reasonably be made safe considering user, user comfort, route posted speed and high, medium and low cost of safety or facility improvement;
 - Road routes with lower vehicle traffic volume have priority over road routes with higher traffic volume roads;
 - Serves a variety of types of users;
 - Communities and routes that provide access to “community attractors” of potential interest to users have priority over communities or routes with fewer attractors.
 - More scenic routes have priority over less scenic routes; and
 - Consideration of barriers such as ownership of the connection, presence of significant natural resources (based on data provided by the County).
- PMT shall review the preliminary draft PAT Corridor Selection. Consultant shall make revisions prior to Task 2 TAC and PAC review. The final version shall be developed following PAC Meeting #1 and reflect PAC comments. County shall post the final version on the Project Website.
- 1.8 ATP Introduction and Table of Contents** –County shall develop a preliminary draft and draft ATP Introduction and Table of Contents in consultation with Consultant for PMT review and approval. The ATP Introduction must include the goals and purpose of the ATP; purpose of the PAT corridors; benefits of AT, and descriptions of the different types of AT network users. The Table of Contents must list the intended maps and generally be based on the Project deliverables. County shall provide preliminary draft ATP Introduction and Table of Contents to the PMT at least one week prior to PMT Meeting #1. The draft version shall also be subject to the PMT’s review and approval. Up to one additional draft ATP Introduction and Table of Contents may be needed as determined by the PMT. County shall post the final draft version on the project website.

Note: ATP Introduction and Table of Contents may be further modified as part of Consultant's preparation of Draft ATP but for the purposes of this subtask it becomes final following the PMT's review of the second, final draft version.

1.9 Initial Meeting Agendas – County shall develop draft and final agendas for the first TAC and PAC meetings. PMT shall review the draft TAC and PAC meeting agendas. County shall incorporate PMT comments in final Initial Meeting Agendas. The agendas and meeting materials must at a minimum include:

- Roster of committee members and contact information;
- PAT Destinations Inventory and Map
- Project Template
- Policy framework as background from “*Existing Conditions / Plans Review*”;
- Draft PAT Corridor Selection Criteria
- Draft ATP Introduction and Table of Contents

1.10 PMT Meeting #1 – County shall organize and conduct PMT Meeting #1, expected to last two to three hours. County shall brief the PMT on the Existing Conditions Report (developed prior to contract) and Task 1 draft deliverables. Consultant shall attend and participate as a PMT member. County shall provide meeting materials two weeks prior to the PMT Meeting #1 and summary notes within two-weeks of meeting.

County Deliverables

- 1A Existing Conditions Report (Subtask 1.1)
- 1B Project Schedule - updates (Subtask 1.2)
- 1C Stakeholder Involvement Strategy (Subtask 1.3)
- 1D PAT Destinations Inventory and Map (Subtask 1.4)
- 1E Project Website - maintenance (Subtask 1.6)
- 1F PAT Corridor Selection Criteria – data needed by Consultant (Subtask 1.7)
- 1G ATP Introduction and Table of Contents (Subtask 1.8)
- 1H Initial Meeting Agendas (Subtask 1.9)
- 1I PMT Meeting #1 (Subtask 1.10)

Consultant Deliverables

- 1a Draft Project Schedule (Subtask 1.2)
- 1b Project Template (Subtask 1.5)
- 1c Project Website (Subtask 1.6)
- 1d PAT Corridor Selection Criteria (Subtask 1.7)
- 1e PMT Meeting #1 (Subtask 1.10)

Task 2: Facility Design

Objectives

- To identify AT facility types early in the process for PAC review to ensure facility types meet user needs and respond to the Existing Conditions Report.
- Develop design guidelines for multi-use trails and other AT facilities.

Subtasks

2.1 Draft PAT Facility Type Report – Consultant shall develop a preliminary draft and draft PAT Facility Type Report to provide a catalog of facility types for various route functions or conditions; and ultimately, to be used to show citizens the type of facility for given segments of the PAT Corridor. The PAT Facility Type Report must include:

- PAT facility types for bicyclists and pedestrians in order to provide a range of facility types that can be applied to a range of conditions from low-volume to high-volume roads;
- A written summary describing the design and illustration with dimensions for each Facility Type.
- Sources of background information must include the Oregon Bicycle and Pedestrian Design Guide (2011), National Association of City Transportation Officials Urban Bikeway Design Guide (2011), Washington County Bicycle Toolkit, and City of Ashland Bicycle and Pedestrian Facility Design Toolkit;
- Design guidance on innovative AT facilities; and

During development of PAT Facility Type Report, Consultant shall meet with County Traffic Engineering and TAC members as necessary to gain their input and support or to note differences of opinion as each version of the PAT Facility Type Report is developed.

The preliminary draft PAT Facility Type Report must be reviewed at PMT Meeting #2. The draft PAT Facility Type Report must incorporate the PMT's comments.

2.2 PMT Meeting #2 – County shall arrange and Consultant shall conduct PMT Meeting #2 to gather PMT input on the preliminary draft version of the PAT Facility Type Report and to review and comment on TAC and PAC draft meetings agendas. County shall provide meeting material at least one-week prior to the meeting and meeting summary notes within one week of the PMT Meeting #2.

2.3 TAC Meeting #1 – County shall arrange and Consultant shall conduct TAC Meeting #1 to gather TAC input on the PAT Destinations Inventory and Map, draft PAT Corridor Selection Criteria, Draft Facility Type Report and to brief the TAC on the existing conditions. County shall provide meeting material at least one-week prior to the meeting and meeting summary notes within one week after TAC Meeting #1.

- 2.4 Final Draft Facility Type Report** – Consultant shall develop the Final Draft Facility Type Report for the PAC incorporating TAC comments. Consultant shall provide the County with a reproducible version of the Draft Facility Type Report for the County to copy and distribute.
- 2.5 PAC Meeting #1** – County shall arrange and co-conduct with Consultant PAC Meeting #1 to gain input on the PAT Destinations Map (from Subtask 1.3), draft PAT Corridor Selection Criteria (revised under Subtask 1.3), and Final Draft Facility Type Report and to brief the PAC on the existing conditions as applicable to the discussion. County shall provide meeting material including an agenda at least two-weeks prior to PAC Meeting #1. County shall provide and distribute meeting summary notes within one week after PAC Meeting #1.

County Deliverables:

- 2A PMT Meeting #2 - logistics and summary notes (Subtask 2.2)
2B TAC Meeting #1- logistics and, summary notes (Subtask 2.3)
2C PAC Meeting #1 - logistics and summary notes (Subtask 2.5)

Consultant Deliverables:

- 2a Draft PAT Facility Type Report (Subtask 2.1)
2b PMT Meeting #2 (Subtask 2.2)
2c TAC Meeting #1 (Subtask 2.3)
2d Final Draft Facility Type Report (Subtask 2.4)
2e PAC Meeting #1 (Subtask 2.5)

Task 3: Draft Principal AT Corridors

Objectives:

- Identify key AT corridors in Clackamas County that connect communities and key destinations based on the selection criteria.
- Gain feedback from the project committees and public on where they think the PAT Corridors would best be located in order to meet the Project Objectives and Corridor Selection Criteria.

Subtasks

- 3.1 Preliminary PAT Corridor Map Brainstorm/Worksession** – County shall conduct a brainstorm/worksession with the Consultant and County (may include more than the PMT). The purpose of the PAT Corridor Map Brainstorm/Worksession is for participants to collaborate and provide the County input to craft the preliminary PAT Corridor Map including routes and facility types using in part, the route selection criteria developed under Subtask 1.7. The County shall provide the draft PAT Corridor Map developed

under Subtask 1.4 or create an updated version for the worksession as determined by the County PM.

- 3.2 Draft PAT Corridor Map** – County shall develop a preliminary draft and Draft PAT Corridor Map for TAC review. Corridors must be based on the final PAT Corridor Selection Criteria. PAT Corridor Map must show proposed PAT corridors with routes, indicate the Facility Types (possibly through color-coding) and any existing AT facilities along the corridors. If feasible, and as determined by the County PM, potential local connectors should be shown. County shall revise the preliminary version into the draft version based on and within three weeks of TAC Meeting #2.
- 3.3 TAC Meeting #2** – County shall arrange and conduct TAC Meeting #2 to present the final PAT Corridor Selection Criteria (as background) and present and gather input on the preliminary draft PAT Corridor Map and Memo. County shall provide meeting material at least one-week prior to TAC Meeting #2 and distribute meeting summary notes within one week after TAC Meeting #2.
- 3.4 PAC Meeting #2** - County shall arrange and conduct PAC Meeting #2 to present and gather input on the Draft PAT Corridor Map. County PM shall provide meeting material at least one week prior to PAC Meeting #2. County PM shall provide and distribute meeting summary notes within one week of PAC Meeting #2.
- 3.5 Public Review Draft PAT Corridor Map** – County shall revise Draft PAT Corridor Map into a draft version for public review based on input from TAC Meeting #2 and PAC Meeting #2.
- 3.6 Virtual Open House Survey Outline**- County shall develop a draft and final Virtual Open House outline, questions or survey. The purpose of the draft and final Virtual Open House outline, questions or survey is to define for the Consultant what specific type of public input is to be solicited through the Virtual Open House. The citizen input sought must include comments on the Public Review Draft PAT Corridor Map and additional ATP products as determined by the County PM. A draft version of the Virtual Open House outline and questions or survey must be sent to (hard copy or electronically) and reviewed by the PMT and their comments reflected in the final version.
- 3.7 Virtual Open House** - Consultant shall develop a virtual open house that the Consultant links to the project website to explain the Project and to solicit feedback from the public consistent with the survey outline developed by the County under Subtask 3.6 to gain public feedback on the Draft PAT Corridor Map and additional ATP products as determined by the County. The Consultant shall provide public comments and data obtained by the Virtual Open House to the County and the County shall summarize public feedback obtained from the Virtual Open House in the form of a memorandum and

County shall distribute to PMT, TAC and PAC members to inform them for potential project refinements. County shall distinguish the public feedback by citizen comments and staff comments and staff recommended project changes.

- 3.8 Refined PAT Corridor Map** – County shall revise Public Review Draft PAT Corridor Map to incorporate public comment and post on Project website. County may seek PMT, TAC or PAC input via email if further direction on route refinement is needed. Consultant is available for four hours of consultation time under this subtask to contribute toward the revised Public Review Draft PAT Corridor Map.
- 3.9 PAT Corridor Evaluation** – Consultant shall prepare a draft and final PAT Corridor Evaluation based on the Public Review Draft PAT Corridor Map. Consultant shall apply the PAT Corridor Selection Criteria plus other criteria deemed pertinent by County to select alignments if alternatives are included in the Refined PAT Corridor Map and to compare the corridors to one another for prioritization purposes. Consultant shall prioritize the corridors for implementation based on the evaluation results and other criteria deemed pertinent by County. County shall provide consultation time as needed for Consultant under this subtask. Consultant level of effort shall be consistent with the equivalent of three person days to complete analysis and document findings. Final PAT Corridor Evaluation must be prepared after PAC Meeting #3.
- 3.10 PAC Meeting #3** - County shall arrange and conduct PAC Meeting #3 in order to gain 1) consensus on the Refined PAT Corridors; and 2) PAC input on the corridors they recommend to be addressed in Task 4. County shall present the Virtual Open House summary (developed under Subtask 3.6) and draft PAT Corridor Evaluation for their comment. County shall provide meeting material at least one week prior to PAC Meeting #3. County shall provide and distribute meeting summary notes within one week after PAC Meeting #3.

County deliverables

- 3A Preliminary PAT Corridor Map and Brainstorm/Worksession (Subtask 3.1)
- 3B. Draft PAT Corridor Map (Subtask 3.2)
- 3C. TAC Meeting #2 (Subtask 3.3)
- 3D. PAC Meeting #2 (Subtask 3.4)
- 3E. Public Review Draft PAT Corridor Map (Subtask 3.5)
- 3F Virtual Open House On-line Survey Outline (Subtask 3.6)
- 3G Virtual Open House – public feedback summary (Subtask 3.7)
- 3H Refined PAT Corridor Map (Subtask 3.8)
- 3I PAT Corridor Evaluation – consultation as needed (Subtask 3.9)
- 3J PAC Meeting #3 (Subtask 3.10)

Consultant deliverables:

- 3a PAT Corridor Map Brainstorm/Worksession (Subtask 3.1)
- 3b Virtual Open House (Subtask 3.7)
- 3c Refined PAT Corridor Map – (Subtask 3.9)
- 3d PAT Corridor Evaluation (Subtask 3.10)

Task 4: Refine Corridors and Identify Segment Needs

Objectives:

- Identify gaps and deficiencies along identified active transportation corridor.
- Document pedestrian and bicycle needs, system barriers and gaps along active transportation routes.
- Identify solutions and strategies to overcome corridor barriers and gaps.
- Determine wayfinding sign locations for selected PAT Corridor segments.

Subtasks

4.1 PAT Corridor Infrastructure Needs Report– Consultant shall identify the infrastructure needs associated with the 8-12 PAT Corridors identified in Task 3. PAT Corridor Infrastructure Needs Report must be based on Task 2 Facility Type Report and Task 3 corridors. PAT Corridor Infrastructure Needs Report must identify logical segments and lengths for future project development and implementation, following consultation with the County. Report must also recommend Facility Type refinements, if needed. Consultant shall conduct three full days of field review to confirm conditions, including some accompanied by County staff. Consultant shall provide Project segments in a table that includes project name, extent, length, facility type, reason for the project, and planning considerations. Where pavement and right-of-way width data are available, the planning considerations must identify projects where additional pavement width or right of way may be required.

Consultant shall provide draft electronically or in hard copy to PMT for their review and comment. Revisions to incorporate PMT input will be made as part of preparing Draft ATP in Task 5.

4.2 PAT Corridor Signage and AT Amenities Report – County shall identify AT amenities for some or all of the PAT Corridors recommended in Task 3 in the form of draft PAT Corridor Signage and AT Amenities Report for the PMT and final PAT Corridor Signage and AT Amenities Report to be incorporated into the Draft ATP. Amenities include the type and location of wayfinding signage, informational kiosks, and bicycle parking. County must consider the Intertwine guidelines for sign content and placement. County shall provide draft PAT Corridor Signage and AT Amenities Report electronically or in hard copy to PMT for their review and comment. Revisions to incorporate input will be made as part of preparing Draft ATP in Task 5.

- 4.3 Cost Estimates of PAT Corridor Improvements** – Consultant shall provide draft and final planning level cost estimates for the corridors identified in final PAT Corridor Infrastructure Needs Report and organized by low, medium and high cost projects. Consultant shall use County TSP cost estimates where applicable and have the County staff responsible for the County’s TSP funding program review the draft. Consultant shall provide draft Cost Estimates of PAT Corridor Improvements electronically or in hard copy to PMT for their review and comment. Revisions to incorporate input will be made as part of preparing Draft ATP in Task 5

County Deliverables

- 4A PAT Corridor Signage and AT Amenities Report (Subtask 4.2)

Consultant Deliverables

- 4a PAT Corridor Infrastructure Needs Report (Subtask 4.1)
4b Cost Estimates of PAT Corridor Improvements (Subtask 4.3)

Task 5: Draft and Recommended ATP

Objective:

- Assemble deliverables into draft and recommended ATP.
- Present and gain PAC comments on draft ATP including priority segments for implementation.
- Prepare for ATP adoption.

Subtasks

- 5.1 Draft ATP** – Consultant shall prepare a preliminary draft and Draft ATP incorporating earlier deliverables using the Table of Contents developed in Task 1 as guidance, an Executive Summary that can be printed separately that describes the AT vision and process, recommendations of the ATP with maps and a recommended project priority list. The preliminary draft ATP must be electronically reviewed by the PMT prior to the joint TAC and PAC meeting and revised to incorporate their comments. County shall post, distribute and collect comments from PMT and other interest groups who have provided comments to the County on draft ATP.
- 5.2 Joint PAC and TAC Meeting #3** – County shall arrange and co-conduct with Consultant a joint TAC and PAC Meeting to gather comments on the Draft ATP and its recommended project priority list.
- 5.3 Recommended ATP** – Consultant shall revise the Draft ATP based on PAC and TAC comments and develop the Recommended ATP for public review and adoption.

Consultant shall provide to both City and WOCPM electronically on CD (in both pdf and editable formats) and two hard copies.

- 5.4 **Online ATP**– Consultant shall spend 40 hours of time to assist the County in developing an online version of the final ATP that illustrates the ATP projects on a map and includes descriptions and information about each project segment. Consultant shall document the work accomplished in the form of a report to the PMT.
- 5.5 **Proposed Amendments and Supporting Documents** – County shall prepare adoption-ready ordinance and supporting documents for adoption of the Recommended ATP including amendments to Chapter 5 of the Clackamas County Comprehensive Plan, TSP and to the Bicycle and Pedestrian Master Plans and other County documents and plans, as needed. County shall provide to WOCPM electronically on CD (in both pdf and editable formats) and two hard copies.

NOTE ABOUT CONTINGENCY TASK: Only one of the two contingency tasks can be performed based on the Project budget limitations following a Notice to Proceed from WOCPM.

- 5.6 **Contingency Meeting #1** – *If needed, the County shall arrange and co-conduct with Consultant either a joint TAC and PAC Meeting, or single PAC Meeting or single PMT Meeting if County PM determines additional input is needed to provide guidance and recommendations on the Draft ATP. County PM shall request in writing the contingency task be approved and have a Notice to Proceed be issued by the WOCPM prior to initiating the task. County shall provide PMT and others, as determined by County PM, summary meeting notes. (See note about contingency task above).*

Contingency Meeting #2 – If needed, the County shall arrange and conduct a joint TAC and PAC Meeting, single PAC Meeting or PMT Meeting if County PM determines additional input is needed to provide guidance and recommendations on the Draft ATP. County PM shall request in writing the contingency task be approved and have a Notice to Proceed be issued by the WOCPM prior to initiating the task. County shall provide PMT and others, as determined by County PM, summary meeting notes. (See note about contingency task above).

- 5.7 **Title VI Report** – County shall prepare a summary of Project public involvement and submit to WOCPM by the end of the Project period. The Title VI Report must summarize the Project public involvement and include the number of women and minority individuals who participated in the Project.

County Deliverables:

- 5A Joint PAC and TAC Meeting #3 (Subtask 5.2)
5B Proposed Amendments and Supporting Documents (Subtask 5.5)

- 5C Contingency Meeting #1 or Contingency Meeting #2 (Subtask 5.6)
- 5E Title VI Report (Subtask 5.7)

Consultant Deliverables:

- 5a Draft ATP (Subtask 5.1)
- 5b Joint PAC and TAC Meeting #3 (Subtask 5.2)
- 5c Recommended ATP (Subtask 5.3)
- 5d Online ATP (Subtask 5.4)
- 5e Contingency Meeting (Subtask 5.6)

County Deliverable Table

Task	Description	Budget
1	Project Start and Stakeholder Involvement	
1A	Existing Conditions Report	\$2,000
1B	Project Schedule - updates	\$ 600
1C	Stakeholder Involvement Strategy	\$3,000
1D	PAT Destinations Inventory and Map	\$4,000
1E	Project Website - maintenance	\$3,000
1F	PAT Corridor Selection Criteria – data needed by consultant	\$1,000
1G	ATP Introduction and Table of Contents	\$3,000
1H	Initial Meeting Agendas	\$ 500
1I	PMT Meeting #1	\$2,000
	Subtotal - Task 1	\$19,100
2	Facility Design	
2A	PMT Meeting #2	\$1,500
2B	TAC Meeting #1	\$1,500
2C	PAC Meeting #1	\$1,500
	Subtotal - Task 2	\$4,500
3	Draft Principal Active Transportation Corridors	
3A	Preliminary PAT Corridor Map and Brainstorm/Worksession	\$2,000
3B	Draft PAT Corridor Map	\$2,500
3C	TAC Meeting #2	\$1,200
3D	PAC Meeting #2	\$1,000
3E	Public Review Draft PAT Corridor Map	\$ 600
3F	Virtual Open House On-Line Survey Outline	\$1,700
3G	Virtual Open House - public feedback summary	\$1,000
3H	Refined PAT Corridor Map	\$1,000
3I	PAT Corridor Evaluation- consultation as needed	\$ 400
3J	PAC Meeting #3	\$ 1,500

Task	Description	Budget
	Subtotal – Task 3	\$12,900
4	Refine Corridors and Identify Segment Needs	
4A	PAT Corridor Signage and AT Amenities Report	\$10,000
	Subtotal – Task 4	\$10,000
5	Draft and Recommended ATP	
5A	Joint PAC and TAC Meeting #3	\$1,500
5B	Proposed Amendments and Supporting Documents	\$2,400
5C	<i>Contingency Meeting #1(\$800) or Contingency Meeting 2 (\$1,980)</i>	\$1,980
5E	Title VI Report	\$2,000
	Subtotal – Task 5	\$7,880
	Direct Project Cost	\$2,900
	Subtotal Non-Contingency	\$52,400
	Subtotal Contingency	\$ 1,980
TOTAL		\$57,280

Consultant Amount per Deliverable Table

Task	Description	Total Fixed Amount Per Deliverable	Schedule
1	Project Start and Stakeholder Involvement		July 2013 – August 2013
1b	Draft Project Schedule	\$ 600	
1e	Project Template	\$ 800	
1f	Project Website	\$ 1,000	
1g	PAT Corridor Selection Criteria	\$ 4,700	
1i	PMT Meeting #1	\$ 1,200	
	Subtotal - Task 1	\$8,300	
2	Facility Design		August 2013 – October 2013
2a	Draft PAT Facility Type Report	\$ 9,750	
2b	PMT Meeting #2	\$ 650	
2c	TAC Meeting #1	\$ 1,400	
2d	Final Draft Facility Type Report	\$ 2,100	
2e	PAC Meeting #1	\$ 750	
	Subtotal - Task 2	\$14,650	
3	Draft Principal Active Transportation Corridors		October 2013 – December 2013
3a	PAT Corridor Map Brainstorm/Worksession	\$ 1,000	

Task	Description	Total Fixed Amount Per Deliverable	Schedule
3b	Virtual Open House	\$ 2,000	
3c	Refined PAT Corridor Map	\$ 450	
3d	PAT Corridor Evaluation	\$ 4,050	
	Subtotal – Task 3	\$7,500	
4	Refine Corridors and Identify Segment Needs		December 2013 – February 2014
4a	PAT Corridor Infrastructure Needs Report	\$ 14,600	
4b	Cost Estimates of PAT Corridor Improvements	\$ 1,900	
	Subtotal – Task 4	\$16,500	
5	Draft and Recommended ATP		February 2014 – April 2014
5a	Draft ATP	\$ 5,600	
5b	Joint PAC and TAC Meeting #3	\$ 1,500	
5c	Recommended ATP	\$ 1,100	
5d	Online ATP	\$ 4,550	
5e	Contingency Meeting	\$ 1,000	
	Subtotal – Task 5	\$13,750	
	Subtotal – Non-Contingency	\$59,700	
	Subtotal – Contingency	\$1,000	
	TOTAL	\$60,700	

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:

- | | |
|--|--|
| <ul style="list-style-type: none">1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;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 | <p>criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;</p> |
|--|--|

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

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

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

EXCEPTIONS:

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

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

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

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

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

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

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

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

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

- Appendix B of 49 CFR Part 29 -

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

Instructions for Certification

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

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

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

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

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

IV. EMPLOYMENT

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

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

V. NONDISCRIMINATION

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

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

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

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

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

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

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

DBE POLICY STATEMENT

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

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

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

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

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

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

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

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

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

VII. LOBBYING

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

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

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

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

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

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

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

EXHIBIT D
ELIGIBLE PARTICIPATING COST
DESCRIPTION
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