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## Regional Travel Options Planning and Policy Study

### RFP 11-1891

#### **Metro Planning Department**

600 NE Grand Avenue  
Portland, OR 97232  
503-797-1700

#### **Project Manager**

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#### **Procurement Staff**

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Notice is hereby given that proposals for RFP 11-1891 for the Regional Travel Options Planning and Policy Study shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until close of business on June 17, 2011. It is the sole responsibility of the proposer to ensure that Metro receives the Proposal by the specified date and time. Proposers shall review all instructions and contract terms and condition.

**Note:** The contract issued from this RFP 11-1891 will be paid for with federal grant dollars. The proposal must be based on adherence to all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives including but not limited to the following: (1) the terms and conditions applicable to a "recipient" set forth in the FTA Master Agreement dated October 1, 2010 (FTA MA 17) (2) 48 CFR part 31, Contract Cost Principles and Procedures, (3) FTA Circular 5010.1D and (4) CFR 225 (OMB Circular A-87) Cost Principles for State, Local, and Indian Tribal Governments.

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## I. INTRODUCTION

The Planning Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232 is requesting proposals for a Regional Travel Options Planning and Policy Study. This study will require consulting and facilitation services to update:

Part A: the program's strategic directions and implementation model for achieving prioritized outcomes.

Part B: the public-private partnership model (Transportation Management Associations).

Part C: evaluate the current program for fiscal years 2009-2010 and 2010-2011.

Proposals will be accepted for 1. Parts A, B and C., 2. Parts A and B., or 3. Part C. No other combination(s) will be considered.

Proposals will be due as indicated on the RFP cover page.

Details concerning the project and proposal are contained in this document.

## II. BACKGROUND-HISTORY OF PROJECT

### **Part A: RTO Strategic Plan Update**

Metro's Regional Travel Options (RTO) program implements transportation demand management (TDM) strategies to improve air quality by reducing auto trips. TDM strategies include marketing and outreach to educate and encourage solo drivers to use alternative modes of transportation (for example, transit pass programs, and carpool matching services). Metro adopted a five-year strategic plan for its RTO Program in December 2003 and adopted an update in March 2008.

### **Part B: Public-Private Partnership Policy Update**

In the mid-1990s, Transportation Management Associations (TMAs) emerged as a strategy for local implementation of TDM strategies. TMAs are based on public-private partnerships (PPP) with support from the region (Metro), local government and local private interests (usually employers). Public-private partnerships are initiated when public and business interests align around an issue and resources are allocated to the solution. The solution may be a combination of a project, program or service. Resources may be a combination of funds and in-kind donations of labor and materials. Metro policy for TMAs is included in the Regional Transportation Plan (RTP) and Metro Council Resolutions. The RTO Subcommittee is the decision-making body for RTO's budget and implements TMA policy. Metro RTO staff administers TMA Grant Agreements, support TMAs with technical service and coordinate TMA measurement.

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The six current TMAs are:

- Clackamas Regional Center TMA
- Gresham Regional Center TMA
- Lloyd TMA
- South Waterfront TMA
- Swan Island TMA
- Westside Transportation Alliance

In fiscal year 2010-2011, RTO's TMA Grant fund is investing over \$300,000; matched with local funds of over \$300,000. By implementing TDM strategies, TMAs contribute to the nearly 30 million vehicles miles reduced annually, measured by the RTO program.

**Part C: Program Evaluation** The RTO program seeks an independent evaluation every two years. This evaluation covers all funded elements of the RTO program for each biennium.

### III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms to perform the following:

Proposals will be accepted for Parts A, B and C., Parts A and B., or Part C. No other combination(s) will be considered.

#### **Part A: RTO Strategic Plan Update**

The RTO Strategic Plan should, but is not limited to:

- Inform RTO program choices — what has worked and what hasn't.
- Recommend potential additional program investments that will benefit the RTO program as a whole
- Quantify return on investment of existing programs
- Address the implementation of Rideshare Online and how it will be integrated into RTO programs
- Inform regional strategy for building local staff capacity
- Inform regional strategy for individualized marketing project delivery
- Suggest ways to integrate ODOT travel options programs into RTO strategies and goals
- Address new or increased level of partnerships, both within and external to the region (ODOT, non-profits, other MPO rideshare partners, etc.)

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## **Task A1: Kickoff meeting with Metro staff**

Consultant shall meet with Metro staff to discuss project details.

### Deliverable for Task A1:

Provide meeting summary notes that outline objectives and tasks for drafting the 2013-2018 Strategic Plan.

## **Task A2: Assessment of the 2008-2013 RTO Strategic Plan goals**

Consultant shall assess the 2008-2013 RTO Strategic Plan Goals. Current goals include:

- Support new capital investments in transit, trails and other infrastructure by marketing new options to potential riders and users
- Reach additional employers and commuters through employer programs
- Enhance traveler information services
- Market travel options to new residents and people who relocate in the region
- Support development of parking management strategies in local downtowns and centers
- Support public-private partnerships to leverage investments and increase use of travel options in local downtowns and centers
- Apply individualized marketing strategies in select locations to increase travel options use and decrease single-person car trips
- Continue implementation of the Drive Less/Save More campaign to increase awareness and use of travel options

For the 2008-2013 Strategic Plan goals listed above, consultant shall determine to what extent the outlined goals were or were not accomplished, what measureable outputs were achieved (e.g., VMT reduction, employer counts, materials distributions, marketing outreach efforts), recognize which RTO programs were most effective at reaching targeted goals and why, and identify and evaluate any setbacks or lessons learned from the 2008-2013 RTO strategies.

Metro will provide all annual work plans, quarterly progress reports, grant project reports and other documents that exemplify work done during the time of the 2008-2013 RTO Strategic Plan.

### Deliverable for Task A2

Consultant shall provide a background document that describes the current status of the RTO program in relation to the goals outlined in the current (2008-2013) Strategic Plan.

## **Task A3: RTO Think Tank Event**

To inform and inspire the RTO Strategic Plan deliverables, the consultant team will lead and facilitate a half-day interactive forum with RTO staff, TMA members, stakeholders and regional experts in the travel options field. The forum is envisioned as a “think tank” for exploring RTO opportunities and challenges and, more importantly, offering solutions and implementation strategies. The consultant team will stimulate dialogue and brainstorming among think tank

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members by presenting national best practices for promoting the use of travel options among residents in the Metro region. The topics shall include an environmental scan of RTO elements (existing programs, goals and challenges), evaluating the potential for RTO programs to reduce VMT, identifying trends, opportunities, and potential threats to RTO programs, and identifying best practices in the field of travel behavior research. Exercises will also be conducted that rank different RTO strategies that relate to potential impacts and potential to reduce VMT among the following categories: collaborative marketing, commuters, employer outreach, traveler information tools, centers. Consultant shall condense notes and findings and synthesize into a document that highlights new RTO strategies and priorities.

Metro will provide meeting space and invite stakeholders.

### Deliverable for Task A3

Organize Think Tank, provide notes incorporating feedback from Think Tank exercises, and provide summary report describing external changes and their likelihood of affecting RTO priorities and outcomes.

### **Task A4: Landscape scan**

Consultant shall describe and evaluate external changes that have taken place since the 2008-2013 Strategic Plan Update. Ideas and examples for the landscape scan will come from the Think Tank meeting and RTO staff debriefings. Some examples include higher energy costs, increased awareness of climate change, the availability of new and cleaner technologies, and the use of smart phones and GPS devices.

To the extent possible, Metro will provide reference material to recent studies relating to the landscape scan.

### Deliverable for Task A4

Provide a matrix that recommends program/policy changes that will allow RTO to adapt to new and changing environments.

### **Task A5: Individual stakeholder interviews**

Consultant will meet in person or over the phone with established RTO partners and customers to solicit candid input on updating the RTO Strategic Plan (approximately 31 interviews or meetings).

- TriMet
- Wilsonville SMART
- 1 meeting with Oregon State partners (DEQ, ODOT, ODOE)
- 1 meeting with Clark County/Vancouver partners
- 1 meeting with Community Representatives (is Metro to identify?)
- 6 TMA Directors
- 3 Closed TMAs: Columbia Corridor Association, Troutdale TMA, Tualatin TMA

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- 9 Transportation Planning Directors from each TMA area: Clackamas County, City of Gresham, City of Portland; City of Gresham; Washington County; City of Beaverton, City of Hillsboro, City of Tigard; City of Tualatin
- 3 meetings with selected employers in different parts of the region and a mix of employers who have worked with RTO partners and those who have not (a minimum of 6 people per meeting = 18 people).
- 1 meeting with related non-profits (e.g., Bicycle Transportation Alliance, Willamette Pedestrian Coalition)
- 4 Metro Planning and Development leaders

Metro will provide contact information for all individuals.

#### Deliverable for Task A5

Provide a draft copy of interview questions to Metro staff; incorporate feedback from Metro staff; summarize responses as they relate to the RTO Strategic Plan update, including but not limited to modifying strategies, roles and buy-in. Provide summary report.

#### **Task A6: New planning initiatives**

Consultant shall determine to what extent new planning initiatives may or may not influence RTO policy and objectives. Consultant shall research, document and prioritize both current and future RTO planning initiatives and recommend strategies for incorporating the initiatives into the Strategic Plan. Categories should include (but are not limited to):

- Greenhouse Gas (GHG) Emissions work (Climate Smart Communities)
- TSMO Plan/Corridor Study
- Active Transportation
- Environmental Justice
- New Corridors
- East-West Connections
- Individualized Marketing
- Social Media and Marketing
- Collaborative Marketing

Metro will provide documents produced by Metro on planning initiatives.

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## Deliverable for Task A6

Consultant shall research, document and prioritize various new planning initiatives and describe the ways in which each initiative could be incorporated into the new Strategic Plan. Consultant shall provide examples of how each recommended planning initiative could be supported, given the current RTO budget parameters and staff capacity.

## **Task A7: Second stakeholder meeting**

Consultant shall draft an outline to organize principles for the updated RTO Strategic Plan. Consultant shall present outline to a second stakeholder meeting and incorporate all feedback for policy and strategy recommendations. The goal of the meeting is to define elements that will be presented in the new Strategic Plan.

Metro will provide meeting space and invite stakeholders.

## Deliverable for Task A7:

Provide a draft outline of the new Strategic Plan to be reviewed by RTO staff and partners. Provide meeting summary and document all policy and strategy recommendations.

## **Task A8: Draft Strategic Plan**

Consultant shall utilize all previous research and recommendations from Tasks A1-A7 and provide a draft of the Strategic Plan to be reviewed by RTO staff.

Metro will review and comment.

## Deliverable for Task A8

Submit draft outline of updated Strategic Plan, incorporate feedback, provide draft Strategic Plan, incorporate feedback and provide final Strategic Plan.

## **Tentative Schedule for Task A**

Kick off meeting with RTO staff (Task A1)	July 7, 2011
Assessment of 2008-2013 Strategic Plan goals (Task A2)	July 14, 2011
“Think Tank” stakeholder meeting (Task A3)	July 28, 2011 1-4 PM
Provide matrix for landscape scan (Task A4)	August 4, 2011
Provide summary of partner and customer interviews (Task A5)	August 25, 2011
Provide documentation of RTO planning initiatives (Task A6)	September 1, 2011
Draft outline and second stakeholder meeting (Task A7)	September 6, 2011
Consultant attends RTO Subcommittee meeting for feedback	September 14, 2011
Provide draft Strategic Plan due (Task A8)	October 6, 2011
Present draft Strategic Plan at RTO Subcommittee (Task A8)	October 13, 2011
Provide final Strategic Plan (Task A8)	November 2, 2011
Additional presentations to update policy leaders	TBD

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## **Part B: Public-private Partnership Policy Update**

This task is to be completed in coordination with Task A. All conversations and research to develop the Strategic Plan update will also inform an update of Metro's current policy for Transportation Management Associations (TMAs), a public-private partnership (PPP) strategy. Metro expects the consultant to have learned the value held by public and private interests for TMAs. The consultant will also have assessed RTO strategies that lend themselves to implementation through public-private partnerships. The following tasks describe additional steps needed to inform an update of a PPP policy.

### **Task B1: Parameters for forming public private-partnerships**

Based on all input gathered in Task A, consultant shall draft policy guidance and recommended steps the RTO program will take for:

- Studying the potential for forming a PPP in different parts of the region (e.g., employment/industrial area, suburban downtown and others) and examining the geographical reach and scale of implementation of each PPP.
- Forming a PPP with conditions to meet specific organizational targets (similar to forming a non-profit), such as having a mission, governance structure, strong leadership, local buy-in, staffing and finance.
- Implementation of:
  - RTO strategies by PPPs with varying staff capacity and sometimes housed in larger non-profit organizations.
  - Consideration for Metro Planning & Development strategies for PPPs outside of RTO such as building consensus during planning processes, during project implementation and supporting re-development opportunities that improve the conditions for walking, transit, biking and/or ridesharing.
  - Consideration for other sustainability efforts (e.g., conserving energy, reducing waste, "Eco Districts").
- Measuring performance of PPPs toward outcomes described by the RTO Strategic Plan and documenting how beneficial PPPs are towards advancing the goals and objectives of the RTO Program.
- Supporting PPPs at different levels of Metro funding, technical assistance, assistance from other RTO partners and regional policy/political support; and, determine the level of local match needed from the PPP for funding, assistance with regional partners and local policy/political support.
- Timing for growing the PPP and adjusting the level of Metro support needed to sustain the organization.

Metro will provide all current materials related to TMA policy and administration.

#### Deliverable for Task B1:

Provide a draft policy guidance document; incorporate Metro and stakeholder feedback; provide final policy guidance document.

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## **Task B2: Organizational model**

Metro staff currently administers and manage the TMA program. The consultant will look at the current model and weigh the benefits and limitations compared to other models for administering the updated PPP strategy (Task B1). The consultant will also weigh models against an “opportunity cost” such as Metro RTO could directly support local jurisdictions (City and County) to build staff capacity to implement RTO strategies (Metro’s Recycle at Work program currently operates under this model).

Models include:

1. Metro, the current TMA model
2. Local jurisdiction (City, County) receives support from Metro to administer and manage PPP(s) in their jurisdiction.
3. One large non-profit receives support from Metro to administer and manage PPPs around the region. Plus up to three additional models based on consultants review of best TMA and PPP practices from a national search. (Example: Washington State’s Growth and Efficiency Transportation Efficiency Center (GTEC) model).

To the extent possible, Metro will provide reference materials on public-private partnership models.

### Deliverable for Task B2:

Provide a draft summary of the benefits and limitations for various models of PPP administration and management including recommendation for the most beneficial model; incorporate Metro and stakeholder feedback; finalize summary; incorporate findings into Task A in updating the RTO Strategic Plan strategy for PPPs.

### **Tentative Schedule for Task B**

Provide drafts (Task B1 and B2)	September 1, 2011
Incorporate PPP policy guidance and organization models into	
Draft Strategic Plan (Task A8)	October 6, 2011
Final Strategic Plan (Task A8)	November 2, 2011

## **Part C: 2009-2011 RTO Evaluation**

Metro’s 2040 Growth Concept sets forth a long-range growth management strategy that encourages growth within existing centers and corridors, along with some expansion of the urban growth boundary. The future success of the plan relies on reducing private motor vehicle travel by reducing the number and length of trips. This will be done, in part, by increasing the share of trips made using transit, walking, bicycling, carpooling, and telecommuting. These are generally referred to as non-single-occupant vehicle (non-SOV) modes. To help implement the Growth Concept, Metro’s Regional Travel Options (RTO) Program works to increase awareness of non-SOV alternatives and increase the provision of those alternatives. The program complements

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other strategies, including land use policies and infrastructure investment. In addition to policies contained in the 2040 Growth Concept and Regional Transportation Plan (RTP), the RTO Program is governed by a strategic plan. In January 2004, the Metro Council adopted the first such plan, Regional Travel Options Program 5-Year Strategic Plan. A new five-year plan was adopted in March 2008, the 2008-2013 Strategic Plan. The RTO program receives funding through the Regional Flexible Funding process that includes the Metropolitan Transportation Improvement Program (MTIP), primarily from Congestion Management and Air Quality (CMAQ) funds. Both strategic plans place an emphasis on evaluation of the program to demonstrate results. Past evaluations were conducted by Portland State University and TriMet.

Per FTA requirements, the RTO program seeks an independent evaluation every two years. The evaluation covers all funded elements of the RTO program from January 2009 through June 2011. Elements include:

#### Collaborative marketing and information tools

- Drive Less/Save More outreach
- Bike There! map distribution and outreach
- Walk There! guidebook distribution and outreach
- Sponsorships

#### Commuter services

- TriMet Employer Outreach
- Regional Vanpool program
- CarpoolMatchNW employer outreach
- SMART/Wilsonville

#### Downtowns and centers

- Transportation Management Associations (TMAs), including start-ups
- Lloyd TMA
- Swan Island TMA
- Clackamas TMA
- Gresham Regional Center TMA
- WTA TMA
- South Waterfront TMA

#### Individualized marketing (residential outreach)

- Gresham Civic Drive Station
- Portland N/NW SmartTrips
- Portland Greenline SmartTrips
- Portland N/NE SmartTrips

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- Wilsonville, Discover Wilsonville

## RTO Grant Program

- BTA Bike Commute Challenge
- City of Gresham way-finding signage
- City of Portland Sunday Parkways
- City of Tigard bike map
- Community Cycling Center barriers to bicycling
- Lloyd TMA Lloyd Links personalized assistance to area residents and employees
- TriMet bike parking at Beaverton Transit Center
- TriMet multi-modal trip planner open-source programming
- Swan Island TMA Trip Not Taken location efficient living employee and resident outreach
- WTA Carefree Commuter Challenge
- WTA bike rack installation
- Wilsonville SMART bike/pedestrian coordinator

The 2008-2013 Strategic Plan also has estimates of the impacts of many of these programs. The last evaluation of the RTO Program covered data up to December 31, 2008.

## Objectives

- Produce an independent evaluation of Metro's RTO Program activities from January 2009 through June 2011
- Develop recommendations on future evaluation, measurement and monitoring efforts of the RTO Program
- Produce a draft and final report and presentation materials
- Present *the evaluation at the RTO Subcommittee of TPAC and for additional audiences (up to 3 total)*

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## **Task C1: Review of materials**

Review materials submitted by RTO funding recipients to Metro; plus, Metro carpool, vanpool and Drive Less/Save More materials (provided by Metro). Metro will also provide copies of the contracts and other agreements between Metro and the grantees describing what the project proposed and accomplish. The evaluator will review all materials and prepare for follow-up questions and interviews. Maintain contact with Metro RTO staff throughout the project to obtain necessary information to conduct the evaluation and provide progress updates.

Metro will provide materials for all funded projects and programs subject to this evaluation (e.g., scopes of work, data and final reports).

### Deliverable for Task C1:

Provide progress update on review of materials and prepare for follow-up questions and interviews.

## **Task C2: Conduct interviews**

Conduct interviews with RTO funding recipients. The evaluator will interview at least one manager at each of the programs listed above. The interviews will collect both qualitative and quantitative data on the projects. When possible, the evaluator will obtain disaggregate data from the programs. Data would include the original individual responses (in electronic form) from any surveys conducted, ridership numbers, and similar data. After the in-person interview, the evaluator will use follow-up phone calls and emails with the grantees when necessary to obtain additional information. Metro staff will provide their written or verbal support in obtaining the quantitative data, if necessary, so that the evaluator receives the data in a timely manner.

Metro will provide contact information for project managers on all funded projects.

### Deliverable for Task C2:

Provide summary log of data collected from stakeholder interviews.

## **Task C3: Conduct independent review**

Conduct an independent review of data. The evaluator will analyze the quantitative data collected from the funding recipients and compare findings to the original objectives and managers' evaluations. This analysis will focus on those programs with sufficient quantitative data, including but not limited to TriMet, Wilsonville Smart and TMA Employer Outreach, CarpoolMatchNW, individualized marketing projects, Metro VanPool, commuter challenges, Swan Island TMA location efficient living and other grants.

Metro will share analysis methods used in the past.

### Deliverable for Task C3:

Provide draft charts and tables showing in-depth analysis comparing trends within the RTO program and quantifying outcomes where possible.

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## **Task C4: Review evaluations of similar programs.**

Review evaluations of similar programs. There are other transportation demand management (TDM) programs with elements similar to Metro's RTO program operated in other parts of the United States. The evaluator will collect information from evaluations of those programs to help assess Metro's results and develop recommendations on future evaluation efforts. The consultant shall then prepare recommendations on future data collection efforts. Based upon the work to date on Tasks C 1-4, the consultant will provide recommendations to update the Evaluation Framework completed by Metro and stakeholders in spring 2007. Recommendations will include new performance measures, methods, tools and formulas used to summarize data. Recommendations will also improve the RTO Travel and Awareness Survey questionnaire and method.

Metro will provide current RTO Evaluation Framework documents. Metro will also provide several examples and assist with finding additional examples through related listservs and contacts.

### Deliverable for Task C4:

Provide list of programs and criteria that show similarities and comparisons

## **Task C5: Prepare draft evaluation report.**

Prepare a draft evaluation report. Based upon the information collected in Tasks C 1-4, the evaluator will prepare a draft report for Metro staff and the RTO Subcommittee. The report will evaluate each of the projects listed above as well as progress in meeting the program's goals. In all cases, the overall program and individual projects will be evaluated in comparison to the objectives and impact estimates presented in the 2008-2013 Strategic Plan and related documents identified by Metro staff. The report will include recommendations for future evaluations, including what data should be collected by funding recipients.

Metro will review draft report and provide feedback.

### Deliverable for Task C5:

Submit draft evaluation report

## **Task C6: Present evaluation at RTO subcommittee meeting on October 12, 2011.**

Present draft evaluation at RTO Subcommittee meeting. The consultant will present the results of the evaluation to the RTO Subcommittee.

### Deliverable for Task C6:

Presentation at RTO Subcommittee meeting on October 12, 2011

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## **Task C7: Prepare and submit final report.**

Prepare final report. Based on feedback from Metro staff and the RTO Subcommittee, the evaluator will revise and finalize the report. The conclusions expressed in the final evaluation will be those of the evaluator.

To the extent possible, Metro will assist with responses to feedback by the RTO Subcommittee.

### Deliverable for Task C7:

Submit final report incorporating feedback in such a way that still preserves the independent nature of the consultant's evaluation.

## **Task C8: Present evaluation to additional audiences.**

Consultant shall present evaluation to up to three additional audiences. Provide any necessary follow-up information. If necessary, the consultant shall provide follow-up responses (in memo format) to questions raised at these presentations. This follow-up will not include extensive new data collection or evaluation.

### Deliverable for Task C8:

Present evaluation to up to three additional audiences and provide necessary follow-up information.

### **Deliverable Schedule**

Review Metro materials and provide update (Task C1)	July 18, 2011
Provide raw data from interviews with RTO funding recipients (Task C2)	August 15, 2011
Provide update on independent review of program data (Task C3)	September 12, 2011
Provide update on review evaluations of similar programs (Task C4)	September 20, 2011
Submit draft evaluation report (Task C5)	September 26, 2011
Present evaluation at RTO Subcommittee meeting (Task C6)	October 12, 2011 3-5 PM
Submit final report based on Metro feedback (Task C7)	October 31, 2011
Present evaluation to additional audiences	TBD

## **IV. QUALIFICATIONS/EXPERIENCE**

Proposers shall be expert at:

### Task A:

- (1) Understanding transportation and land use planning
- (2) Facilitating large groups
- (3) Interviewing leaders and technical staff
- (4) Analyzing policy alternatives across multiple criteria
- (5) Assessing return-on-investment (including economic impacts) and opportunity cost
- (6) Achieving consensus across stakeholders from organizations with diverse interests

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- (7) Working through a public planning process

Task B requires additional expertise at:

- (8) Understanding business models
- (9) Understanding public-private partnership models and non-profit formation

Task C requires additional expertise at:

- (10) Program evaluation
- (11) Objective and comprehensive analysis
- (12) Methods to quantify or otherwise report outcomes from education and encouragement programs

## V. PROJECT ADMINISTRATION

Under direction of the RTO Subcommittee of TPAC, Caleb Winter, Senior Transportation Planner, will manage the resulting contract and provide assistance as necessary throughout the duration of contract terms to ensure the objectives of the contract are achieved. The consultant will conduct all project tasks and subtasks within the timeline of the above scope of work. Proposer shall identify one point of contact for the resulting contract.

## VI. PROPOSAL INSTRUCTIONS

### A. Submission of Sealed Proposals

Two (2) hard copies and one (1) electronic copy (CD or thumb drive) of the proposal shall be furnished to Metro in a sealed envelope, addressed to:

Metro Procurement Services

Attention: Julie Hoffman, RFP 11-1891

600 NE Grand Avenue

Portland, OR 97232-2736

### B. Deadline

Proposals **will not** be considered if received after the date and time indicated on the RFP cover page.

### C. RFP as Basis for Proposals:

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Julie Hoffman, [julie.hoffman@oregonmetro.gov](mailto:julie.hoffman@oregonmetro.gov). Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro may not respond to questions received after 3:00 p.m. on June 9, 2011.

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D. Information Release

All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro from all claims arising from such activity. In Accordance with Oregon Public Records Law (ORS 192), proposals submitted will be considered part of the public record, except to the extent they are exempted from disclosure.

E. Minority, Women and Emerging Small Business Program

In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100, which encourages the use of minority, women and emerging small businesses (MWESB) to the maximum extent practical. Copies of these MWESB requirements are available from the Metro Procurement Office, 600 NE Grand Avenue Portland, OR 97232, 503-797-1648.

## VII. PROPOSAL CONTENTS

The proposal should contain no more than 16 pages of written material (excluding biographies and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested, as outlined below. **Note:** The proposal should be submitted printed double-sided on recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

- A. Transmittal Letter: Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days. One (1) page.
- B. Approach/Project Work Plan: Describe how the work will be done within the given timeframe and budget. Include a proposed work plan and schedule. Five (5) pages.
- C. Staffing/Project Manager Designation: Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and special qualifications they may bring to the project. Include resumes of individuals proposed for this contract. Proposals must identify a single person as project manager to work with Metro. The consultant must assure responsibility for any subconsultant work and shall be responsible for the day-to-day direction and internal management of the consultant effort. The contract awarded will be paid for with federal dollars, therefore, subconsultants, if used, must be named and hired based on federal guidelines. Two (2) pages (not including resumes in appendix).
- D. Experience: Indicate how your firm meets the experience requirements listed in section IV. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of the other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number.

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Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles. Four (4) pages.

- E. Cost/Budget: Present the proposed cost of the project and the proposed method of compensation. List hourly rates for personnel assigned to the project, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses should also be listed One (1) page.
- F. Diversity in Employment, Ownership and Contracting:
- Work Force Diversity – Describe your work force demographics (number of employees, race and gender) and the measurable steps taken to ensure a diverse work force, including company policies and practices that promote the hiring and retention of women and ethnic minorities.
  - Diversity in Contracting – Describe your history of working with diverse firms, including any MWESB-certified firms. Describe a project for which you worked with minorities, women or emerging small businesses. Please provide the project name, method used to achieve participation – for example, joint ventures, subcontracts or purchase of equipment or supplies from a certified firm – and the dollar amount or percentage of the project budget expended on such participation.
  - Diversity of Firm – Describe the ownership of your firm and whether or not your firm is certified by the State of Oregon as a DBE, MBE, WBE or ESB. Provide certification number, if applicable. One (1) page.
- G: Sustainable Business Practices
- Economy: Describe your business practices to reduce environmental impacts of your operations. This may include energy efficiency, use of non-toxic products, alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.
  - Environment: Describe your support of local businesses and markets within the Portland Metro region. Include what steps your company has taken in the past to support local businesses, and what steps would be taken if selected for this project.
  - Community: Describe the employee compensation structure of your organization. Include wage scales for employees, including trainee, probationary, entry level, journey level, and supervisory. Also include policies regarding annual cost of living adjustments (COLA) to employee wages. Details of the healthcare program (including, medical, dental, prescriptions, preventive care, etc.) as well as out of pocket and deductibles, and employee contributions for themselves and family members. All other employee benefits are to be including, such as vacation, sick leave, pension, disability insurance, profit sharing, childcare, health memberships, company vehicle, public transportation, etc. One (1) page.
- H. Exceptions to Standard Agreement and RFP: Carefully review the Agreement and the required Federal Clauses attached hereto and incorporated herein. This is the Agreement successful respondents to this RFP will be required to execute. **Note: RFP respondents wishing to propose any exceptions, alternative language or clauses**

# Request for Proposals - Regional Travel Options Planning and Policy Study RFP 11-1891



to this Agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their Proposal. Metro shall not be required to consider contract revisions proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear. One (1) page.

## VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award: This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Method of Award: All responsive proposals will be evaluated by a committee as designated by Metro. Proposals will be evaluated based on the criteria stated in the RFP, with award going to the proposer(s) submitting the most advantageous proposal(s). Metro, at its sole discretion, will evaluate the quality of the proposals and shall make a determination as to the contract award(s) deemed to be in the best interest of Metro. Metro reserves the right to award multiple contracts for individual sites listed in the RFP.
- C. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.
- D. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- E. Conflict of Interest: A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- F. Equal Employment and Nondiscrimination Clause: Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see [www.oregonmetro.gov](http://www.oregonmetro.gov).

**Request for Proposals - Regional Travel  
Options Planning and Policy Study  
RFP 11-1891**



**IX. EVALUATION OF PROPOSALS**

A. Evaluation Procedure: Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm. Interviews with those most qualified may be conducted as a final measure of qualifications at the sole discretion of OCC. OCC reserves the right to retain an outside third party to assist with screening and evaluation of proposals. Award shall be made to the highest ranked Proposer based on the stated evaluation criteria. In the event negotiations are unsuccessful, Metro reserves the right to negotiate with the next highest ranked firms.

A. Evaluation Criteria: This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

	Percentage of Total Score
Project Work Plan/Approach	30
1. Demonstration of understanding of the project objectives	
2. Performance methodology	
Project Staffing Experience	30
1. Project consultant	
2. Commitment to project	
Budget/Cost Proposal	20
1. Projected cost/benefit of proposed work plan/approach	
2. Commitment to budget and schedule parameters	
Diversity	10
1. Work Force Diversity	
2. Diversity in Contracting	
3. Diversity of Firm	
Sustainable Business Practices	10
1. Environmental Impact	
2. Support of local business and markets	
3. Employee compensation structure	
	100%

**Request for Proposals - Regional Travel  
Options Planning and Policy Study  
RFP 11-1891**



**X. NOTICE TO ALL PROPOSERS - STANDARD AGREEMENT**

- A. The attached Agreement included herein reflects preliminary, draft contract language and selected, proposed contract terms for this procurement. Proposers should be aware that such language terms and provisions are for illustrative purposes only and that Metro reserves the right, following submission and ranking of all proposals submitted in response to this procurement, to amend, modify or negotiate over any and all such contract language, terms and provisions regarding the Agreement rising from this procurement. By submitting a proposal in response to this procurement, proposers acknowledge that they are aware of and do not object to any later, potential amendment and modification of such preliminary, draft language and terms. In addition, by responding to this procurement, proposers acknowledge that they are aware of their ability to offer alternatives to any of the preliminary, draft contract language and proposed contract terms set forth herein.
- B. Carefully review the Agreement and required Federal Clauses attached hereto and incorporated herein. This is the Agreement successful respondents to this RFP will be required to execute. **Note: RFP respondents wishing to propose any exceptions, alternative language or alternative clauses to this Agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their Proposal.** Metro shall not be required to consider contract revisions proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear.

# Personal Services Agreement

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**Metro Contract No. \_\_\_\_\_**

THIS AGREEMENT is between **Metro**, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, and \_\_\_\_\_, referred to herein as "Contractor," located at \_\_\_\_\_.

## A. RECITALS

1. Metro is the recipient of Federal Transit Administration (FTA) Congestion Mitigation and Air Quality (CMAQ) funds, and wishes to enter into this agreement with the Contractor, utilizing these federal funds.
2. Metro considers the Contractor to be a subrecipient of federal funds. Funding for this project is obtained from an agreement between Metro and the FTA, utilizing Congestion Mitigation and Air Quality (CMAQ) funds, CFDA No. 20.507.
3. The Regional Travel Options Program, hereinafter referred to as the "RTO Program" is a program of Metro designed to assist local governments in managing demand on the transportation system and increasing use of travel options.

## B. EFFECTIVE DATE AND DURATION

The beginning date of this Agreement is \_\_\_\_\_, and shall remain in effect until and including \_\_\_\_\_, unless terminated or extended as provided in this Agreement. Costs incurred after \_\_\_\_\_, which are deemed allowable costs for this project, will be reimbursed once all parties have signed this Agreement and Metro has been presented with the appropriate invoice and documentation.

## C. SCOPE OF WORK

Contractor shall provide all services and materials specified in the attached "Exhibit A – Scope of Work," which is incorporated into this Agreement by reference. Contractor in accordance with the Scope of Work shall provide all services and materials, in a competent and professional manner. To the extent that the Scope of Work contains additional Agreement provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.

## D. COMPENSATION

The total Agreement amount is \_\_\_\_\_ **AND NO/100<sup>TH</sup>S DOLLARS (\$\_\_\_\_\_ .00)** which is comprised of the maximum amount of FTA funds to be dispersed to the Contractor not to exceed \_\_\_\_\_ **AND NO/100<sup>TH</sup>S DOLLARS (\$\_\_\_\_\_ .00)** and local match provided by Contractor of \_\_\_\_\_ **AND NO/100<sup>TH</sup>S DOLLARS (\$\_\_\_\_\_ .00).**

Qualified costs are direct project costs, incurred by the Contractor and personal services contractor(s) during the term of this Agreement that are eligible for federal funds.

The Contractor shall present cost reports, reimbursement requests and progress reports to Metro's RTO Administrator on a quarterly basis. The Contractor shall not submit requests for payments that exceed \_\_\_\_\_ **AND NO/100<sup>TH</sup>S DOLLARS (\$\_\_\_\_\_ .00)**, unless otherwise

## **Personal Services Agreement**

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authorized to do so by future amendments to this Agreement. Invoices shall display one hundred percent (100%) of the total project costs incurred during the period of the invoice, and identify any required matching amounts, if applicable. *Documentation, when requested, must be received by Metro before payment will be made, and may include copies of receipts for expenditures, timesheets, or system-generated accounting reports documenting the actual expense.*

### **E. SUBCONTRACTS AND ASSIGNMENT – SUCCESSORS AND ASSIGNS**

1. Contractor shall not enter into any subcontracts for any of the Services required by this Agreement, or assign or transfer any of its interest in this Agreement, without Metro's prior written consent. In addition to any other provisions Metro may require, Contractor shall include in any permitted subcontract under this Agreement a requirement that the subcontractor be bound by Sections E, G, I and O of this Agreement as if the subcontractor were the contractor. Metro's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Agreement. Payment under the terms of this Agreement will be made to the Contractor and subcontractors have no right to payment directly from the Metro.

2. Contractor agrees to include adequate provisions in their Agreements with their subcontractors to ensure compliance with those Federal laws, regulations, and directives as directed by the FTA Master Agreement Section 2(e).

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.

### **F. Records Maintenance – Access**

Contractor shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Metro, the FTA, the Comptroller General of the United States and/or their duly authorized representatives shall have access to such fiscal records and other books, documents, timesheets, papers, plans and writings of Contractor that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, timesheets, 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.

### **G. LIABILITY AND INDEMNITY**

Contractor is an independent contractor and assumes full responsibility for its performance and assumes full responsibility for all liability for bodily injury or physical damage to persons or property arising out of or related to this Agreement, Contractor shall indemnify, defend and hold harmless Metro, its elected officials, officers, employees and agents, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, whether before the commencement of litigation at trial or on appeal, arising out of or in any way connected with its performance of this Agreement. Contractor is solely responsible for paying Contractor's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and Metro. Contractor is solely

## Personal Services Agreement

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responsible for the acts and omissions of its' agents, employees, subcontractors, and/or representatives and for all claims.

### H. TERMINATION

Metro may terminate this Agreement upon giving Contractor seven (7) days' written notice. In the event of termination, Contractor shall be entitled to payment for goods received prior to the date of termination. Metro shall not be liable for any indirect or consequential, or any other damages whatsoever. Termination by Metro shall not waive any claim or remedies it may have against Contractor.

### I. INSURANCE

1. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:

a. Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability, shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage; and

b. Automobile bodily injury and property damage liability insurance coverage shall be a minimum of \$1,000,000 per occurrence.

2. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro thirty (30) days prior to the change or cancellation.

3. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit C, in lieu of the certificate showing current Workers' Compensation.

4. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and thirty (30) days advance notice of material change or cancellation.

5. Contractor shall provide Metro with a Certificate of Insurance complying with this article, and naming Metro as an additional insured within fifteen (15) days of execution of this Agreement, or twenty-four (24) hours before services under this Agreement commence, whichever date is earlier.

## **Personal Services Agreement**

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### **J. STATE AND FEDERAL LAW CONSTRAINTS**

Both parties shall comply with the public contracting provisions of ORS chapters 279A, 279B and 279C and the recycling provisions of ORS 279B.025 to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

### **K. ATTORNEY'S FEES**

In the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

### **L. QUALITY OF GOODS**

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. Contractor guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by Metro, whichever is later. All guarantees and warranties of goods furnished to Contractor or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of Metro.

In addition to any express warranties provided by the Contractor, all implied warranties covered by ORS Chapter 72 shall apply to any goods provided under this Agreement, and are hereby expressly not disclaimed.

### **M. SAFETY**

If services of any nature are to be performed in connection with the provision of goods pursuant to this Agreement, Contractor shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits. All applicable Material Safety Data (MSD) sheets shall accompany the goods.

### **N. RIGHT TO WITHHOLD PAYMENTS**

Metro shall have the right to withhold from payments due Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

### **O. COMPLIANCE**

1. This Agreement is subject to a financial assistance Agreement between Metro and the Federal Transit Administration (FTA). Contractor shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly

## **Personal Services Agreement**

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set forth in this Agreement, including but not limited to the following, which are incorporated into and made a part hereof: (1) the terms and conditions applicable to a “recipient” set forth in the October 1, 2010 FTA Master Agreement [FTA MA 17] between Metro and the FTA; (2) 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; (3) 2 CFR 225 (OMB Circular A-87), Cost Principles for State, Local, and Indian Tribal Governments (4) FTA Circular 5010.1D.

2. Contractor shall also comply with federal, state, and local laws, statutes, and ordinances relative to, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

### **P. INTEGRATION OF CONTRACT DOCUMENTS**

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, General and Special Instructions to Bidders, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Agreement are hereby expressly incorporated by reference. Otherwise, this Agreement represents the entire and integrated agreement between Metro and Contractor and supersedes all prior negotiations, representations or Agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Metro and Contractor. The law of the state of Oregon shall govern the construction and interpretation of this Agreement.

### **Q. ASSIGNMENT**

This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

### **R. OWNERSHIP OF DOCUMENTS**

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

### **S. PROJECT INFORMATION**

Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

### **T. INDEPENDENT CONTRACTOR STATUS**

Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement

## Personal Services Agreement

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and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

**U. SITUS**

The situs of this Agreement is Portland, Oregon. Any litigation over this Agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the state of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

**V. NO WAIVER OF CLAIMS**

The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

**W. MODIFICATION**

Notwithstanding and succeeding any and all prior Agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

CONTRACTOR, BY EXECUTION OF THIS AGREEMENT TO AGREE, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS AGREEMENT TO AGREE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**Contractor**

**Metro**

By \_\_\_\_\_

By \_\_\_\_\_

Written \_\_\_\_\_

Written \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

XXXXX \_\_\_\_\_

XXXXX \_\_\_\_\_

XXXXXXXXX \_\_\_\_\_

XXXXX \_\_\_\_\_



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

***Exhibit A – Scope of Work***

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**(Insert Scope of Work)**

## ***Exhibit B – Federal Clauses***

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The Contractor agrees to comply with all applicable Federal Clauses as outlined in the **October 1, 2010 FTA Master Agreement [FTA MA 17]** including, but not limited to, the following:

- A. Federal Laws, Regulations, and Directives. The Recipient agrees that Federal laws and regulations control Project award and implementation. The Recipient also agrees that Federal directives, as defined in this Master Agreement, set forth Federal terms applicable to the Project, except to the extent that FTA determines otherwise in writing. Thus, FTA strongly encourages adherence to applicable Federal directives. The Recipient understands and agrees that unless FTA has provided express written approval of an alternative procedure or course of action differing from a procedure or course of action set forth in the applicable Federal directive, the Recipient may incur a violation of the terms of its Grant Agreement or Cooperative Agreement if it implements an alternative procedure or course of action not approved by FTA.

The Recipient understands and agrees that Federal laws, regulations, and directives applicable to the Project and to the Applicant on the date on which the FTA Authorized Official awards Federal assistance for the Project may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date on which the Recipient executes the Grant Agreement or Cooperative Agreement for the Project, and might apply to that Grant Agreement or Cooperative Agreement. The Recipient agrees that the most recent of such Federal laws, regulations, and directives will govern the administration of the Project at any particular time, except to the extent that FTA determines otherwise in writing.

FTA's written determination may take the form of a Special Condition, Special Requirement, Special Provision, or Condition of Award within the Grant Agreement or Cooperative Agreement for the Project, a change to an FTA directive, or a letter to the Recipient signed by the Federal Transit Administrator or his or her duly authorized designed, the text of which modifies or otherwise conditions a specific provision of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement. To accommodate changing Federal requirements, the Recipient agrees to include in each agreement with each subrecipient and each third party contract implementing the Project notice that Federal laws, regulations, and directives may change and that the changed requirements will apply to the Project, except to the extent that FTA determines otherwise in writing. All standards or limits in the Grant Agreement or Cooperative Agreement for the Project, and in this Master Agreement are minimum requirements, unless modified by FTA. *[FTA Master Agreement §2.c(1)]*

- B. No Federal Government Obligations to Third Parties. In connection with the Project, the Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, lessee, third party contractor, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subagreement, lease, or third party contract at any tier, the Federal Government has no obligations or liabilities to entity other than the Recipient, including any subrecipient, lessee, or third party contractor at any tier. *[FTA Master Agreement §2.f]*
- C. Debarment and Suspension. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29. The Recipient agrees to, and assures that its subrecipients, lessees, and third party contractors will review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any third subagreement, lease or third party contract. [U.S. DOT issued a new amendment to these regulations adopting the

## ***Exhibit B – Federal Clauses***

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optional lower tier coverage for tiers lower than the first tier below a covered nonprocurement transaction. See, 71 Fed. Reg. 62394, October 25, 2006.] *[FTA Master Agreement §3.b]*

D. Lobbying Restrictions. The Recipient agrees that:

(1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement;

(2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities, designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

(3) It will comply, and will assure the compliance of each subrecipient, lessee, or third party contractor at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352. *[FTA Master Agreement §3.d]*

E. False or Fraudulent Statements or Claims. The Recipient acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Recipient the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001 or other applicable Federal law to the extent the Federal Government deems appropriate. *[FTA Master Agreement §3.f]*

F. Access to Records of Recipients and Subrecipients. The Recipient agrees to permit, and require its subrecipients to permit, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Recipient and its subrecipients pertaining to the Project, as required by 49 U.S.C. § 5325(g). *[FTA Master Agreement §8.d]*

G. Right of the Federal Government to Terminate. Upon written notice, the Recipient agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Recipient understands and agrees that any

## ***Exhibit B – Federal Clauses***

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failure to make reasonable progress on the Project or violation of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Recipient before the termination date to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Recipient has willfully misused Federal assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, the Federal Government reserves the right to require the Recipient to refund the entire amount of Federal assistance provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement for the Project. *[FTA Master Agreement §11]*

- H. Civil Rights. The Recipient agrees to comply with all applicable civil rights laws, regulations and directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:
- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
  - b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,” 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with all applicable provisions of FTA Circular 4702.1A, “Title VI and Title VI--Dependent Guidelines for Federal Transit Administration Recipients,” May 13, 2007, and any other applicable Federal directives that may be issued.
  - c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with all applicable Federal EEO directives that may be issued. Accordingly:
    - (1) General. The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
    - (2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as “construction,” the

## ***Exhibit B – Federal Clauses***

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Recipient agrees to comply and assures the compliance of each subrecipient, lessee, or third party contractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subrecipient, lessee, and third party contractor participating at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

(1) The Recipient agrees and assures that it will comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subagreement, lease or third party contract, supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subagreements, leases, and third party contracts supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Recipient's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq.

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing Federal regulations that prohibit discrimination on the basis of sex that may be applicable.

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with applicable requirements of.

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625.

## ***Exhibit B – Federal Clauses***

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g. Access for Individuals with Disabilities. The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the Recipient agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.

h. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Recipient agrees to comply with the confidentiality and other civil rights protections of

## ***Exhibit B – Federal Clauses***

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the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 et seq., with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 et seq., and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 et seq., and any amendments thereto.

- i. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.
- j. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.
- k. Other Nondiscrimination Laws. The Recipient agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing. *[FTA Master Agreement §12]*
- I. Fly America. The Recipient understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143. *[FTA Master Agreement §14(c)]*
- J. Federal Standards. The Recipient agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and other procurement requirements of Federal laws in effect now or as subsequently enacted to the extent applicable; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and subsequent amendments thereto, to the extent those regulations and amendments are consistent with SAFETEA-LU provisions. The Recipient also agrees to comply with the provisions of FTA Circular 4220.1E, "Third Party Contracting Requirements," to the extent those provisions are consistent with SAFETEA-LU provisions and with any subsequent revision to that circular, except to the extent FTA determines otherwise in writing. Although the FTA "Best Practices Procurement Manual" provides additional procurement guidance, the Recipient understands that the FTA "Best Practices Procurement Manual" is focused on third party procurement processes and may omit certain Federal requirements applicable to specific third party contract work to be performed. *[FTA Master Agreement §15(a)]*
- K. Access to Third Party Contract Records. The Recipient agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records to the extent required by 49 U.S.C. § 5325(g). The Recipient further agrees to require its third party contractors and third party subcontractors, at as many tiers of the Project as required, to provide sufficient access to third party procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by FTA. *[FTA Master Agreement §15(t)]*

## ***Exhibit B – Federal Clauses***

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### **L. Patent Rights.**

a. **General.** If any invention, improvement, or discovery of the Recipient or any third party contractor or any subrecipient at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

b. **Federal Rights.** The Recipient agrees that its rights and responsibilities, and those of each subrecipient and each third party contractor at any tier, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Recipient agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that subagreement, third party contract, or third party subcontract, as specified in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 (implementing 35 U.S.C. §§ 200 et seq.), irrespective of the status of the Recipient, subrecipient, or third party contractor (i.e., a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, individual, etc.). [*FTA Master Agreement §17*]

### **M. Rights in Data and Copyrights.**

a. **Definition.** The term "subject data," as used in this Section 18 of this Master Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data," as used in this Section 18 does not include financial reports, cost analyses, or other similar information used for Project administration.

b. **Federal Restrictions.** The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement for the Project:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

(2) The restrictions on publication of Subsection 18.b(1) of this Master Agreement, however, do not apply to a Grant Agreement or Cooperative Agreement with an institution of higher learning.

c. **Federal Rights in Data and Copyrights.** The Recipient agrees to provide to the Federal Government a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of this Master Agreement. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

## ***Exhibit B – Federal Clauses***

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(1) Any subject data developed under the Grant Agreement or Cooperative Agreement for the Project, or under a subagreement or third party contract supported with Federal assistance derived from the Grant Agreement or Cooperative Agreement for the Project, whether or not a copyright has been obtained; and

(2) Any rights of copyright to which a Recipient, subrecipient, or a third party contractor purchases ownership with Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to Project participants. Therefore, except to the extent that FTA determines otherwise in writing, the Recipient of Federal assistance to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of this Master Agreement, FTA may make available to any FTA recipient, subrecipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use when the costs thereof are financed with Federal funds for capital Projects.

e. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the Recipient agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Recipient shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

f. Restrictions on Access to Patent Rights. Nothing in this Section 18 of this Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

g. Data Developed Without Federal Funding or Support. In connection with the Project, the Recipient may find it necessary to provide data developed without any Federal funding or support to the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support, even though that data may have been used in connection with the Project. Nevertheless, the Recipient understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

h. Requirements to Release Data. To the extent required by U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," at 49 C.F.R. § 19.36(d), or by subsequent Federal laws or regulations, the Recipient understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the provisions of the

## ***Exhibit B – Federal Clauses***

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Freedom of Information Act (or another Federal law providing access to such records). *[FTA Master Agreement §18]*

- N. Air Quality. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal laws, regulations, and directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. In addition:

(1) The Recipient agrees to comply with the applicable requirements of section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, and any subsequent Federal conformity regulations that may be promulgated. To support the requisite air quality conformity finding for the Project, the Recipient agrees to implement each air quality mitigation or control measure incorporated in the Project. The Recipient further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the Recipient agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Recipient agrees to comply with the notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note. *[FTA Master Agreement §25(b)]*

- O. Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

(1) The Recipient agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Recipient agrees to comply with the notice of violating facility provisions of Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note. *[FTA Master Agreement §25(c)]*

- P. Energy Conservation.

The Recipient agrees to comply with any mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal

## ***Exhibit B – Federal Clauses***

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Government determines otherwise in writing. To the extent applicable, the Recipient agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C. *[FTA Master Agreement §26]*

Q. Disputes, Breaches, Defaults, or Other Litigation.

The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

- a. Notification to FTA. The Recipient agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA in writing before doing so. Each notice to FTA under this Section shall be sent, at a minimum, to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.
- b. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery, except that the Recipient may return any liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.
- c. Enforcement. The Recipient agrees to pursue all legal rights provided within any third party contract.
- d. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.
- e. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate. *[FTA Master Agreement §53]*

**CERTIFICATION REGARDING LOBBYING**

The undersigned [Contractor] certifies, 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 an 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 making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, *apply* to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

## ***Exhibit B – Attachment B***

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### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

- (1) The prospective participant certifies that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  
- (2) When the prospective participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

**Exhibit C Subcontractor DBE Report**

**Subcontracts Paid – Monthly Report**

**Month:** \_\_\_\_\_

**Project:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Contract Number:** \_\_\_\_\_  
**Contract Amount:** \_\_\_\_\_  
**Contract Award Date:** \_\_\_\_\_

**Prime Contractor:** \_\_\_\_\_

**Project Grant #:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**DBE Coordinator Review:** \_\_\_\_\_

**Initial and Date)**

Subcontractor	DBE/ Non DBE	Committed DBE Amount	Amount Paid This Period	Paid to Date	Percent of Work Completed to Date	Percent of Amount Paid to Date

This certification is made under Federal and State laws concerning false statements. The undersigned firm understands also that supporting documentation or the payment is subject to audit, and it will be retained for a minimum of three years from the project acceptance date.

*I declare under penalty of perjury, as set out in ORS 162.055 through 162.085, and other applicable State and Federal Laws that the statement made on this document are true and complete to the best of my knowledge.*

**Prepared by:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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

**Signature:** \_\_\_\_\_

**PLEASE SUBMIT WITH INVOICE TO PROJECT MANAGER**