

INTERGOVERNMENTAL AGREEMENT

City of Troutdale, Troutdale Town Center Plan

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT"; and City of Troutdale, hereinafter referred to as "Grantee".

RECITALS

1. The Transportation and Growth Management Program, hereinafter referred to as the "TGM Program", is a joint program of ODOT and the Oregon Department of Land Conservation and Development.
2. The TGM Program includes a program of grants for local governments for planning projects. The objectives of these projects are to better integrate transportation and land use planning and develop new ways to manage growth to achieve compact pedestrian, bicycle, and transit friendly urban development.
3. The Transportation and Growth Management Program is financed with federal Intermodal Surface Transportation Efficiency Act (ISTEA), Oregon Lottery, and local government funds. Lottery funds are used as match for ISTEA funds.
4. Per ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that either party to the agreement, its officers, or agents have the authority to perform. Grantee is legally able to enter into this agreement.
5. Funding Assignments/Definitions:
 - a. The **grant amount** is the sum of the **grantee amount** and the **personal services contract** amount. The grant amount is limited to \$68,880.
 - b. The **grantee amount** is the maximum amount reimbursable to Grantee. It is limited to \$23,830 for the work described in Exhibit A, attached hereto and which by this reference is made a part hereof;
 - c. The **personal services contract amount** is the maximum amount payable by ODOT to a personal service contractor or contractors. It is limited to \$45,050 for the work described in Exhibit A. Contractor shall be under contract with ODOT;
 - d. Grantee **matching cost** is 10.27% of the total project cost described in Exhibit A. The required grantee matching cost is limited to \$7,884.
 - e. The **total project cost** is the sum of qualified costs, including **matching costs**, incurred by the Grantee for this project plus qualified costs incurred by any consultant(s) engaged by ODOT for this project.

- f. **Qualified costs** are direct project costs, including matching costs, incurred by the grantee between the beginning and ending date of this agreement. Councils of government that have federally approved indirect cost plans may charge indirect costs.
 - g. **Direct project costs** are limited to costs directly associated with the project. These may include salary and benefits of personnel assigned to the project, supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not direct project costs.
6. The beginning date of this agreement is that date on which all parties have signed. The ending date is June 30, 1997.

The parties agree as follows:

GRANTEE OBLIGATIONS

1. Grantee shall perform the work and provide the products described in Exhibit A.
2. Grantee shall present cost reports, reimbursement requests, progress reports, and work products to ODOT's grant manager no less than every other month. Grantee shall not submit requests for reimbursement that exceed the **grantee amount**. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.
3. Grantee agrees to cooperate with ODOT grant manager. At the request of the grant manager, Grantee agrees to:
 - a. Meet with the Grant Manager;
 - b. Form a project steering committee to oversee the project;
 - c. Include the Grant Manager on the project steering committee.
4. Grantee agrees to keep cost records for three years following the date of final reimbursement pertaining to the work covered by this agreement available for inspection by representatives of ODOT. Grantee shall give copies of such records to ODOT, when requested.
5. Grantee shall not enter into any subcontracts to accomplish work described in Exhibit A, except when written approval is first obtained from ODOT.
6. If ODOT engages a personal services contractor to accomplish work described in Exhibit A, Grantee shall perform the following:
 - a. Provide ODOT's grant manager with the opportunity to participate in the personal services contractor selection.

- b. Select personal services contractor(s) in accord with ODOT procedures, and advise ODOT of Grantee's recommendation;
 - c. Provide ODOT's grant manager with the opportunity to review and approve personal services contractor's work, billings and progress reports; and,
 - d. Provide a project manager to:
 - i. be the Grantee's principal contact person for the ODOT grant manager and the personal services contractor;
 - ii. monitor and coordinate the work of the personal services contractor;
 - iii. review billings and progress reports submitted by the contractor; and
 - iv. advise ODOT's grant manager regarding payments to the personal services contractor.
7. Grantee shall be responsible for nonqualifying costs associated with the work described in Exhibit A and any costs above the grantee amount.
8. Grantee may copyright materials developed under this agreement. ODOT reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for governmental purposes.
9. Grantee shall ensure that products produced under this grant include the following statement:
- This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. TGM grants rely on federal Intermodal Surface Transportation Efficiency Act and Oregon Lottery funds.
- The contents of this document do not necessarily reflect views or policies of the State of Oregon.
10. Grantee shall submit two copies of all final products produced in accord with this agreement to ODOT's grant manager, unless otherwise specified in Exhibit A. Grantee shall also submit to ODOT's grant manager all final products produced using generally available word processing or graphics programs for personal computers via e-mail or on IBM-compatible 3.5" computer diskettes. The Oregon Department of Land Conservation and Development may display appropriate products on its "home page".
11. Grantee shall submit to ODOT's grant manager all reimbursement claims within 60 days after the agreement ending date.

12. Within 60 days after the agreement ending date, Grantee shall provide, in a format provided by ODOT, a completion report. The report shall contain:
 - a. A summary of qualified costs incurred for the project, including reimbursable costs, matching costs, and personal services contract costs;
 - b. The intended location of records (which may be subject to audit); and,
 - c. A list of final products.
13. Within 60 days after the agreement ending date, Grantee will pay to ODOT 10.27% of the **total cost of the project**, less reported qualifying **matching cost**. ODOT will use any funds paid to it under this paragraph to substitute for an equal amount of federal ISTEA funds used for the project.
14. Grantee shall be liable for all pension and employee welfare costs, applicable taxes and withholdings, plus all other amounts and will be subject to state laws (ORS 279.312, 279.314, 279.320 and 279.555).
15. Grantee and its employees are subject to civil rights laws, including Title II of the Americans with Disabilities Act (PL No. 101-366) and ORS 659.425.
16. Grantee, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
17. Grantee agrees to comply with applicable federal, state, and local laws and ordinances.

ODOT OBLIGATIONS

1. ODOT shall reimburse Grantee for **qualified costs** for work described in Exhibit A, up to the **grantee amount**. ODOT reserves the right to withhold final payment equal to 10% of the total grantee amount until all required work is completed and accepted by the ODOT's grant manager.
2. ODOT shall limit reimbursement of travel claims in accordance with current State of Oregon Accounting Manual. General Travel Rules, effective the date this agreement is completely signed.
3. ODOT certifies that funds are authorized for expenditure to finance costs of ODOT's portion of this agreement within appropriation or limitation of current biennial budget.

4. ODOT will provide Grantee the statements of qualifications for the grantee's project that meet the minimum requirements of the *Request for Proposals: Transportation and Growth Management Grant Projects, January 1996*.
5. If ODOT engages a personal services contractor to perform work described in Exhibit A, it agrees to pay personal service contractor, up to the **personal services contract amount**.
6. ODOT will assign a grant manager for this agreement. The Grant Manager shall be ODOT's principal contact person regarding administration of this agreement.
7. If ODOT engages a personal service contractor to complete work shown in Exhibit A, the Grant Manager shall:
 - a. At his/her discretion, participate in selection of a personal services contractor, monitor personal services contractor's work, and review and correct personal services contractor billings and progress reports;
 - b. Prepare a contract and supporting exhibits on forms provided by ODOT.

GENERAL PROVISIONS

1. Minor adjustments may be made to the work program specified in Exhibit A with the written consent of ODOT's grant manager. A minor adjustment is one that does not materially alter the objectives or products of the grant project. Budget modifications and major adjustments in the work program must be processed as an amendment to the agreement.
2. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing and delivered by certified mail or in person. ODOT may terminate this agreement effective upon delivery of written notice to Grantee, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:
 - a. Failing to complete work tasks in Exhibit A within the time specified in this agreement, including extensions;
 - b. Failing to perform any of the provisions of this agreement;
 - c. Failing to correct stated above failures within 10 days of receipt of written notice, or date specified by ODOT in written notice, if granted an extension of time to perform adequately according to ODOT's desires.
3. ODOT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Grantee which are directly pertinent to the specific grant for the purpose of making audit, examination, excerpts, and

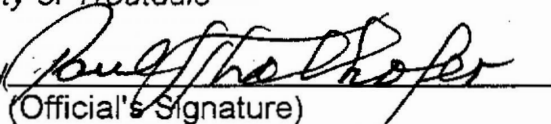
transcripts for a period of three (3) years after final reimbursement. Copies of applicable records shall be made available upon request. ODOT will reimburse the cost of copies.

4. As federal funds are involved in this grant, EXHIBITS B and C are attached hereto and by this reference made a part of this agreement and are hereby certified to by grantee's representative.
5. All agreement provisions were approved as to legal sufficiency on January 19, 1996, by Dale K. Hormann, Assistant Attorney General.

On April 12, 1995, the Oregon Transportation Commission adopted Delegation Order 2, which became effective May 1, 1995. The Order grants authority to the Branch Managers to approve and execute agreements for work in the current Statewide Transportation Improvement Program or approved work plan budget.

GRANTEE

City of Troutdale

By 
(Official's Signature)

PAUL THALHOFER

(Printed Name of Official)

Date: FEBRUARY 14, 1996

ODOT

STATE OF OREGON, by and through
its Transportation Development Branch

By 
Ron Schaadt, Interim Manager

Date: 2/21/96

January 12, 1996

PROJECT OBJECTIVES

The primary objective of this town center planning project is to prepare a development plan, together with recommended implementing ordinances, for the downtown area of Troutdale that is consistent with the existing Troutdale Downtown Concept Plan and achieves the growth management strategies of the Metro 2040 growth concept. Other objectives of the project are:

- Use extensive citizen involvement to build consensus within the community on future development of the downtown area.
- Study transportation issues within the downtown and provide options for improving transit, bicycle, pedestrian and automobile movement in and around the downtown area.
- Examine linkages between the town center and other commercial nodes in the city.
- Evaluate existing zoning and development standards and prepare amendments for achieving a viable and efficient mixed use city center consistent with the 2040 growth concept.
- Examine methods, such as regulatory changes and incentives, for facilitating infill and redevelopment within the town center area.
- Evaluate the desirability for designating part or all of the town center area as a pedestrian district.

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WORK PROGRAM

TASK 1. Refine project scope of work.

Task Objective. To develop clear expectations about project products, process, coordination and budget.

Methods. Request project proposals based upon TGM approved work program, select consultant, refine scope of work and make adjustments as necessary.

Products.

- A. Defined roles and responsibilities between city staff and the consultant in carrying out the project.
- B. Final consultant scope of work.
- C. Contract with consultant

Task/ hour allotment. City Staff: 20 hours

Note: For purposes of this work program, city staff refers primarily to the City's Community Development Director, who will serve as the project manager, and an associate planner who will provide technical assistance for data gathering and analysis, code revisions and as the public involvement coordinator. For various work program tasks, the Community Development Director and planner will be assisted as needed by the City Administrator, the Finance Director, and/or Public Works staff.

Schedule for Completion of the Task. March 1996.

TASK 2. Establish a citizen involvement process for the project.

Task Objective.

- A. To provide an opportunity for early and continuous involvement by a citizen advisory committee.
- B. To provide timely and complete information.
- C. To support collaborative efforts for participation.
- D. To make preliminary recommendations relating to key decisions

Methods.

- A. Publicize town center planning project and solicit citizen involvement.
- B. Re-constitute the Troutdale Downtown Task Force as the advisory committee.

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- C. Determine other citizen stakeholders or interested persons.
- D. Confirm committee by action of the Troutdale City Council.

Products.

- A. Citizen Involvement Committee (CIC) is appointed.
- B. Mission statement completed.
- C. Chairperson selected.
- D. Meeting schedule created.

Task/ hour allotment.

City staff: 18 hours
Consultant: 4 hours

Schedule for Completion of the Task.

March 1996.

TASK 3. Establish and make use of a Technical Advisory Committee (TAC).

Task Objective.

- A. To provide an opportunity for early and continuous involvement of technical and professional people who can advise on the project.
- B. To assist staff and the consultant with timely and complete information, data, strategies, plans and implementing measures.
- C. To ensure collaborative participation among affected agencies and interests.
- D. To make preliminary recommendations relating to key decisions.

Methods.

- A. Identify and solicit participation by technical and professional staff from the City, Multnomah County, Metro, Tri-Met and other agencies having expertise relative to the project.
- B. Confirm TAC membership by letter.

Products.

- A. Technical Advisory Committee (TAC) selected.
- B. Purpose statement affirmed.
- C. Meeting schedule created.
- D. Other stakeholders or interested persons identified.

Task/ hour allotment.

City staff: 12 hours
Consultant: 4 hours

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Schedule for Completion of the Task. March 1996.

TASK 4. Develop and implement an ongoing public involvement strategy with the TAC, CIC and the general public. Conduct regular meetings.

Task Objectives. A. To develop a coordinated/collaborative process for ongoing public involvement, and to provide opportunities for participation in key decisions.
 B. Well informed and actively involved governmental agencies, affected interests and citizens.

Methods. A. Develop public involvement proposal, including:
 ■ Regular meetings of CIC and TAC;
 ■ Public notices;
 ■ Meetings with key players and stakeholders;
 ■ Meetings with consultant, ODOT, DLCD, Metro, and other governments and agencies.
 B. Meet with CIC and develop consensus on approach and schedule.
 C. Meet with TAC and develop consensus on approach and schedule.
 D. Meetings of the CIC and TAC.
 E. Provide timely information which is understandable to the public.
 F. Listen to, respond and collaborate with public interests
 G. Coordinate and unify the project with broader regional planning activities.

Products. A framework for coordination, collaboration and involvement in the project which complies with DLCD, ODOT, Metro and local public involvement requirements.

Task/ hour allotment. City staff: 120 hours
 Consultant: 40 hours

Division of Labor. City staff will be responsible for scheduling, set up and recording of all meetings. This includes meeting notices and mail out of materials.

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The consultant will be responsible for presenting information and offering technical assistance at all meetings.

Schedule for Completion of the Task. April 1996/Ongoing thru project completion.

TASK 5. Review, compile and evaluate existing data relating to Troutdale in general and the town center area in particular.

Task Objectives. A. To assess current conditions.
B. To delineate the project boundaries for the town center plan.

Methods. Identify existing available data relating to or affecting lands within the project boundaries, including the following:

- Metro 2015 and 2040 population/employment forecasts
- Land use plans, reports, ordinances
- Capital improvement plans.
- 1984 Troutdale Downtown Concept Plan
- 1987 Troutdale Downtown Implementation Plan
- Troutdale TSP and associated data
- Other relevant data
- Coordination meeting with Metro staff to seek agreement on town center boundaries in light of 2040 population and employment forecasts.

Products. A. A compilation of data that can be used to inform the CIC, TAC, staff and consultant.
B. Town center boundary map based on 2040 forecasts.

Task/ hour allotment. City staff: 20 hours
Consultant: 40 hours

Division of Labor. City staff will compile appropriate documents and relevant data and perform limited data evaluation, particularly relating to delineation of the project boundary. The consultant will gather information beyond the City's capability and, together with materials provided by the City, perform in depth review and evaluation.

Schedule for Completion of the Task. May 1996.

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TASK 6. Inventory project area land for infill and redevelopment potential.

Task Objective. To identify and inventory properties within the town center area that are vacant or have redevelopment potential.

- Methods.
- A. Collect zoning and tax lot maps and associated information.
 - B. Use CIC and TAC to develop a methodology for determining redevelopment potential.
 - C. Conduct field inventory.
 - D. Develop map data of the physical characteristics of properties for potential infill and redevelopment.
 - E. Tabulate data.

- Products.
- A. A map showing the location and characteristics of properties suitable for infill and redevelopment.
 - B. Tabulated data which quantifies the range for infill and redevelopment opportunities.

Task/ hour allotment.

City staff:	30 hours
Consultant:	60 hours

Division of Labor. City staff will collect duplicate copies of zoning and tax lot maps and associated information for both in-house and consultant use. Some field inventory work will also be done to confirm existing land use and property characteristics. The consultant will perform more complete field inventory work and data analysis to produce anticipated task products.

Schedule for Completion of the Task. June 1996.

TASK 7. Identify and develop concepts for desired land uses, development patterns, and transportation facilities which will support the 2040 growth concept for town centers.

- Task Objective.
- A. To create alternative concepts for development of the town center.
 - B. To coordinate land use with transportation for internal consistency.

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- C. To assess the desirability and viability of designating all or part of the town center as a pedestrian district as defined in the Transportation Planning Rule.

Methods.

- Identify and evaluate transportation linkages within the town center and to surrounding areas.
- Suggest various alternatives to missing links in the transportation network.
- Pedestrian/ bicycle relationships between the downtown and surrounding areas.
- Evaluate parking standards against Metro 2040 guidelines.
- Evaluate auto-oriented development in the downtown.
- Evaluate mixing land uses and increasing densities.
- Evaluate neighborhood commercial uses for the shopping needs of nearby residential areas.
- Evaluate conflicting land uses or structures.
- Evaluate lot sizes, orientation of structures, and architectural design.
- Evaluate planned densities and existing density patterns for the downtown area.
- Evaluate minimum/maximum residential densities within the town center.
- Technical assistance review by the TAC.
- Public involvement through CIC meetings.

Products.

- A. Technical reports summarizing preliminary concepts of desirable development patterns, mixture of land uses, design standards and transportation facilities in the town center area.

Task/ hour allotment.

City staff: 120 hours
Consultant: 130 hours

Division of Labor.

City staff will work closely with the consultant to identify and evaluate development scenarios for the town center. Staff's evaluation will focus on consistency with the existing Downtown Concept Plan, the Troutdale TSP, Parks Plan and other official and unofficial policy documents. The consultant will provide technical expertise in exploring alternative scenarios and determining the positives and negatives of each.

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Schedule for Completion of the Task. July 1996.

TASK 8. Evaluate development concepts against existing land use regulations and development standards for areas which may require amendment or for creation of new ordinances.

Task Objective. To evaluate existing codes and development standards against 2040 growth concept guidelines and concepts developed in Task 7 to identify provisions which may impede the ability to achieve desired town center development patterns and to determine regulation revisions or creation of new regulations to facilitate a thriving business climate in the downtown area.

Methods. Review, identify and evaluate existing codes and development standards, including but not limited to:

- Permitted uses
- Lot coverage
- Setbacks
- Lot size min/max
- Density min/max
- Parking
- Height limitations

Products.

- A. Analysis and recommendations of needed code amendments and/or adoption of new codes which best implement the Troutdale Town Center growth concept identified in Task 7.
- B. Data, graphics and visual materials necessary to accurately inform the public, CIC, TAC and others.

Task/ hour allotment.

Project Manager:	72 hours
Consultant:	40 hours

Division of Labor. City staff will assume the principal responsibility of evaluating existing land use regulations and development standards and assessing how implementation of the development concepts can be accommodated within the city's current code structure or the need for new ordinances. The consultant will provide technical support for this task and will assist the city in reviewing model ordinances and drawing from the experiences of other jurisdictions.

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Schedule for Completion of the Task. August 1996.

TASK 9. Draft land use regulations based upon findings and conclusions drawn from Tasks 7 and 8.

Task Objective. To draft initial land use regulations for achieving a desirable Troutdale town center growth strategy that is consistent with 2040 development guidelines.

Methods.

- A. Adapt model ordinances to Troutdale's needs.
- B. Prepare revisions to existing development code regulations.
- C. Supplement ordinances with illustrations depicting town center development.

Products.

- A. Draft land use regulations with illustration as necessary.
- B. Zoning maps.

Task/ hour allotment.

City staff:	100 hours
Consultant:	40 hours

Division of Labor. City staff will be primarily responsible for drafting land use regulations with an emphasis on modifications to existing city ordinances. The consultant will review the city's work and provide technical support for achieving the best possible product. The consultant will assist in adapting model regulations or incentive programs to the City's regulatory framework.

Schedule for Completion of the Task. September 1996.

TASK 10. Review existing public facilities plans, capital improvement plans, and other public investment plans for coordination with the town center growth strategy.

Task Objective. To review existing public improvement plans to evaluate and coordinate public facility planning with the town center plan.

Methods.

- A. Obtain copies of public facility plans, capital improvement plans and public investment plans that impact the project area.
- B. Evaluate existing public investment resources.
- C. Coordinate and collaborate on local and regional public

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investment concepts.

Products. A coordinated capital improvement plan for public facilities.

Task/ hour allotment. City staff: 12 hours
Consultant: 20 hours

Division of Labor. City staff will collect and compile relevant public improvement plans and perform a limited review of these documents to determine the range and scope of planned public investment in the town center area. The consultant will conduct a more complete evaluation to assess deficiencies of these improvements in implementing the town center concept.

Schedule for Completion of the Task. September 1996.

TASK 11. : Draft a public investment list and rough budget estimates for public facility projects in the town center.

Task Objective. To draft a list of public investments which implement the town center concept.

Methods. A Preparation of initial project listing, analysis of associated costs, and rough budget figures using information and products prepared under Task 10.
B. TAC and CIC will review initial listing to modify list and add additional items.

Products. Draft list of public investment projects and associated costs.

Task/ hour allotment. City staff: 20 hours
Consultant: 40 hours

Division of Labor. The consultant will have primary responsibility for identifying needed public investment projects and analyzing associated costs. City staff will assist the consultant with cost analysis and budgeting for identified projects.

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B. Town hall meeting(s).

<u>Task/ hour allotment.</u>	City staff:	20 hours
	Consultant:	12 hours

Division of Labor. City staff will schedule, organize and set up meetings to introduce the draft town center plan to the advisory committees and the general public. Affected parties will be notified and a formal record of meeting will be kept. The consultant will make technical presentations at all the meetings.

Schedule for Completion of the Task. February 1997.

TASK 14. Plan Revisions.

Task Objective. To revise draft plans and ordinances based upon public feedback. Prepare proposed plans and ordinances for adoption.

Methods.

- A. Note and quantify feedback.
- B. Revise plans and ordinances.

Products. Proposed town center plan and implementing measures with an improved likelihood of public acceptance and adoption through the public hearing process.

<u>Task/ hour allotment.</u>	City staff:	40 hours
	Consultant:	24 hours

Division of Labor: Based on public feedback, city staff will revise draft ordinances or formulate new implementing measures. These will be formatted for presentation as the formal proposal for public hearing and adoption. The consultant will be responsible for revisions and final packaging of the proposed town center plan in preparation of the adoption hearings.

Schedule for Completion of the Task. April 1997.

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TASK 15. Adoption process.

Task Objective. Formal adoption of the proposed Troutdale town center plan and implementing measures.

Methods. Public hearings by the Planning Commission and City Council.

Products. An adopted Troutdale town center plan and implementing measures reflecting local preferences but consistent with Metro 2040 growth concept guidelines.

Task/hour allotment. City staff: 60 hours
Consultant 20 hours

Division of Labor: City staff will be responsible for meeting procedural requirements, public hearing notices, staff reports, exhibits and all relevant materials for both Planning Commission and City Council adoption hearings. Staff will prepare revisions as directed by the Planning Commission and City Council. The consultant will provide technical assistance and support to city staff for these adoption hearings.

Schedule for Task Completion. July 1997.

TASK 16. TGM Grant Administration.

Task/ hour allotment. City staff: 32 hours

Schedule for Task Completion. Ongoing thru project completion.

EXHIBIT B (Local Agency or State Agency)

CONTRACTOR CERTIFICATION

Contractor certifies by signing this contract that Contractor has not:

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

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

AGENCY OFFICIAL CERTIFICATION (ODOT)

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

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

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

EXHIBIT C

**Federal Provisions
Oregon Department of Transportation**

I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

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

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
- 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or

contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

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

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

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

EXCEPTIONS:

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

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

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

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result

in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered trans-action", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction,

unless authorized by the Department or agency entering into this transaction.

7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause or default.

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

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

- Appendix B of 49 CFR Part 29 -

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

Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

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

in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

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

IV. EMPLOYMENT

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been

at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.

3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

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

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
 - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by

Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.

5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraph 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 23 or as may be amended (49 CFR 23), Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT.

DBE Policy. It is the policy of the Oregon Department of Transportation (Department) that Disadvantaged Business Enterprises as defined in 49 CFR 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the DBE requirements of 49 CFR 23 apply to this contract.

DBE Obligations. Contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 23 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts.

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

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

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

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

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

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

VII. LOBBYING

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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