

## **RESOLUTION NO. 2089**

### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR THE EAST METRO CONNECTIONS PLAN**

#### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. For many years East County jurisdictions have been at odds about the location of a proposed Mt. Hood Highway that would link I-84 to Highway 26.
2. East County jurisdictions have lobbied vigorously for Metro to undertake a study of the various north-south transportation corridors through the East County Area in order to determine what improvements could be made to these corridors to better move people and goods.
3. In August 2010 the Metro Council amended the Metropolitan Transportation Improvement Plan to allocate available federal funds for an East Metro Corridor Refinement Plan. Use of these federal funds requires a 10.27% local match.
4. Participating local agencies have agreed on sharing the required local match. The City of Troutdale has agreed to contribute \$8,187 as its local match.
5. The purpose of this intergovernmental agreement is to formalize the City's funding responsibility toward the East Metro Connections Plan.

#### **NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

- Section 1. The city manager is authorized to sign the attached Intergovernmental Agreement with Metro on behalf of the City.
- Section 2. The city manager is authorized to sign any addendums to this Intergovernmental Agreement that may arise during the course of the project.
- Section 3. This resolution shall take effect immediately upon adoption.

**YEAS: 7**  
**NAYS: 0**  
**ABSTAINED: 0**

*Mayor Jim Kight*  
Mayor Jim Kight

*February 10, 2011*  
Date

*Debbie Stickney*  
Debbie Stickney, City Recorder  
Adopted: February 8, 2011

## INTERGOVERNMENTAL AGREEMENT

### East Metro Connections Plan

THIS AGREEMENT is made and entered into by and between Metro, an Oregon metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, hereinafter referred to as "Metro," and the City of Troutdale, Oregon, hereinafter referred to as the "City."

#### RECITALS

1. Metro is the recipient of Federal Surface Transportation Program Funds (STP), and wishes to enter into this agreement with the City, utilizing these federal funds together with City funds, to create the "East Metro Connections Plan."
2. The East Metro Connections Plan, hereinafter referred to as "EMCP" is a Mobility Corridor Refinement Plan that will evaluate the multimodal needs within an area defined as the Plan Area as shown in Exhibit D, including, but not limited to, land use, transportation, and freight mobility needs.
3. Metro is the local lead agency for the EMCP, and intends to enter into intergovernmental agreements with each participating agencies providing local matching funds to further the EMCP. Participating Agencies are: Cities of Fairview, Gresham, Troutdale and Wood Village, and Multnomah County. Each agency will provide review and guidance in accordance with its agency mission and technical expertise.
4. By authority granted in ORS Chapter 190.110 units of local government may enter into agreements to perform any functions and activities that the parties to the agreement, or their officers or agents have the duty or authority to perform.
5. The parties desire to enter into this agreement to establish the funding responsibilities.

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

#### TERM OF AGREEMENT; PROJECT DESCRIPTION & COSTS

1. The beginning date of this agreement is December 1, 2010. The termination date of this agreement is December 31, 2012.
2. The scope of work for this project, Exhibit C, is attached hereto and by this reference made a part of this agreement.
3. The work of the EMCP will be developed to address the following preliminary goals, which themselves may be further defined during the planning process.
  - a. Enhance the livability of East Metro communities;
  - b. Support the local land use vision as planned by each community;
  - c. Support north/south connectivity between I-84 and US 26, as well as east/west connectivity and capacity in the East Metro plan area;
  - d. Foster economic development through accommodating freight, goods movement and other commercial vehicle trips and distributing them appropriately;

- e. Develop multiple, multi-modal solutions that distribute both benefits and burdens of growth and minimize environmental impacts;
  - f. Make the best use out of the existing system through innovative technology, urban and street design, or other means.
4. The final product of the EMCP will be an investment strategy for the Plan Area that will include:
- a. Recommended transportation and land use projects and programs;
  - b. Transportation investments tied to land use and other relevant local commitments;
  - c. Implementation plans (phasing and funding);
  - d. Identified triggers for regional and local actions; and
  - e. Specific deliverables – to be refined and finalized as part of a scoping phase.
5. The City shall be responsible for a portion of the matching funds required for the plan, and the City's match must come from non-federal, local funds. The other participating agencies will contribute the remainder of the required matching funds. The City's portion shall be **EIGHT THOUSAND ONE HUNDRED AND EIGHTY SEVEN AND NO/100THS DOLLARS (\$ 8,187.00)** ("City Matching Funds"). The plan funding sources are:

City of Fairview	\$6,233
City of Gresham	\$40,426
Multnomah County	\$14,212
City of Troutdale	\$8,187
City of Wood Village	\$2,000
<b>Total Match</b>	<b>\$71,058</b>
Federal Surface Transportation Program	\$620,844
<b>Total</b>	<b>\$691,902</b>

**CITY OBLIGATIONS**

1. The City shall:
- a. Provide representation on project committees including the technical advisory committee, and the steering committee charged with policy decisions for the project;
  - b. Participate in developing the project's public involvement plan and lead the public involvement effort for their jurisdictions;
  - c. Participate in project workshops or other public meetings;
  - d. Provide representation for the project at meetings of governing bodies; and
  - e. Review and provide comments and guidance on work products
2. The City shall maintain all fiscal records relating to this agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this agreement in such a manner as to clearly document the City's performance. The City acknowledges and agrees that Metro, ODOT, U.S. Secretary of Transportation, and Comptroller General of the United States or their authorized representative shall have access to such fiscal records and other books, documents, papers, plans, and writings that are pertinent to this agreement to perform examinations and audits and make copies, excerpts and transcripts. The City also acknowledges and agrees that the City shall retain,

such documents for a period of six years, or such longer period as may be required by applicable law, after 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. Copies of applicable records shall be made available upon request.

3. All project work products, if any, of City that result from this agreement are the joint work products of the City and Metro. The City and Metro intend that such work products be deemed "work made for hire" of which the City and Metro shall be deemed the author. If, for any reason, the work products are not deemed "work made for hire," the City hereby irrevocably assigns to Metro all of its rights, title, and interest in and to any and all of the work products, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. The City shall execute such further documents and instruments as Metro may reasonably request in order to fully vest such rights in Metro.
4. The City shall pay Metro, within 30 days following receipt of an invoice, the City's lump sum City Matching Funds.
5. Without limiting the generality of the foregoing, the City expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Sections V and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS.659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
6. All employers, including the City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. The City shall ensure that each of its subcontractors complies with these requirements.
7. The City represents and warrants to Metro that:
  - a. The City has full legal right and authority to execute and deliver this agreement and to observe and perform its duties, covenants, obligations and agreements hereunder and to undertake and complete the project; and
  - b. The agreement has been authorized pursuant to its official action that has been adopted and authorized in accordance with applicable state law.

## **METRO OBLIGATIONS**

1. Metro shall be responsible for completion of the scope of work attached as Exhibit C. If Metro determines changes to the scope of work are required, the changes would be made in consultation with City.
2. Metro shall be responsible for monitoring the project budget and ensuring work is accomplished in an efficient manner. Metro shall provide timely notification of any budget shortfall and work with project partners to identify additional funding as needed.
3. Metro shall invoice the City for Matching Funds outlined in this agreement as required by the funding agreement between Metro and ODOT.

4. Metro has assigned a Project Manager for this agreement who will be Metro's principal contact person regarding administration of this agreement. Bridget Wieghart is the Project Manager for this agreement.

## GENERAL PROVISIONS

1. This agreement may be terminated by mutual written consent of all parties. Metro may terminate this agreement effective upon delivery of written notice to the City, or at such later date as may be established by Metro under, but not limited to, any of the following conditions:
  - a. If by February 28, 2011 the other Participating Agencies have not executed IGAs with Metro for the EMCP;
  - b. If the City is performing any work on the Plan, and materially fails to complete work within the time specified, or failing to perform any of the provisions of this agreement and the City does not correct any such failure within 10 days of receipt of written notice, or the date specified by Metro in such written notice;
  - c. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that any agreed upon work is prohibited or Metro is prohibited from paying for such work from the planned funding source;
  - d. If Metro fails to receive appropriations, limitations or other expenditure authority sufficient to allow Metro, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this agreement;
  - e. Any termination of this agreement shall not prejudice any right or obligations accrued to the parties prior to termination.
2. As federal funds are involved in this agreement Exhibits A and B are attached hereto and by this reference made a part of this agreement and are hereby certified to by the City's representatives.
3. All communications between the parties regarding this agreement shall be directed to the parties' respective Project Managers as indicated below:

Metro - Bridget Wieghart  
600 N.E. Grand Avenue  
Portland, OR 97232-2736  
Phone: (503) 797-1775  
Fax: (503) 797-1930

E-mail: [bridget.wieghart@oregonmetro.gov](mailto:bridget.wieghart@oregonmetro.gov)

City of Troutdale - Rich Faith  
104 SE Kibling Avenue  
Troutdale, OR 97060  
Phone: (503) 674-7261  
Fax: (503) 667-0524

[rfaith@ci.troutdale.or.us](mailto:rfaith@ci.troutdale.or.us)

4. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the City and Metro that arise from or relates to this agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this


section be construed as a waiver by Metro of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court.

5. This agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Metro to enforce any provision of this agreement shall not constitute a waiver by Metro of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and their seals as of the day and year hereinafter written.

**City of Troutdale**

**Metro**

By: 

By: 

Name: Craig Ward

Name: Robin McArthur

Title: City Manager

Title: Planning & Development Director

Date: February 9, 2011

Date: 2/15/11

## Exhibits A and B

For purposes of Exhibits A and B, references to Department shall mean Metro, references to Contractor shall mean City of Troutdale and references to Contract shall mean Agreement.

### EXHIBIT A 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 Contractor) 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 Contractor), 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.

### DEPARTMENT OFFICIAL CERTIFICATION

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.

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### EXHIBIT B

Federal Provisions  
Oregon Department of Transportation

### 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:

## Exhibits A and B

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 Contract 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 Contract 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 submit a written explanation to Department.

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 Department 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

## Exhibits A and B

Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by entering into this Contract 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 entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a

certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

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

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

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

- Appendix B of 49 CFR Part 29 -

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

Instructions for Certification

1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by

## Exhibits A and B

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 entering into this Contract, 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 submit a written explanation to Department:

#### **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

## Exhibits A and B

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.

## Exhibits A and B

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

### VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable

steps to comply with the following statement:

#### DBE POLICY STATEMENT

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

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

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

## Exhibits A and B

material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

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

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

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

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

### CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL   0   %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by

ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

### VII. LOBBYING

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section

## Exhibits A and B

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.

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

**East Metro Connections Plan**

**Proposed Scope of Work (Subject to modification, as needed)**

**Task 1 – Project Management**

- 1.1 – Metro staff coordination
- 1.2 – Contract management
- 1.3 – Monthly progress reports
- 1.4 – Project administration
- 1.5 – Quality assurance and quality control for each deliverable and technical task

**Task 2 – Chartering**

- 2.1 – Establish committees
- 2.2 – Conduct internal kickoff meeting
- 2.3 – Preparatory Steering Committee interviews
- 2.4 – Create chartering plan (consultant assisted)
- 2.5 – Chartering meeting #1 (February 2011)
- 2.6 – Chartering meeting #2 (February or March 2011)
- 2.7 – Prepare chartering final document

**Task 3 – Scope of Work, Budget and Schedule**

- 3.1 – Refine formal plan area and plan influence area
- 3.2 – Develop technical scope of work and budget
- 3.3 – Identify and integrate efficiencies into the scope of work
- 3.4 – Develop necessary consultant Requests for Proposal (RFPs)
- 3.5 – Issue RFPs, select consultant
- 3.6 – Revise overall and consultant scope of work as needed
- 3.7 – Monitor project budget

**Task 4 – Interagency and Stakeholder Coordination and Public Involvement**

- 4.1 – Prepare interagency and stakeholder and general public engagement plan
- 4.2 – Coordinate and conduct public outreach with local jurisdictions
- 4.3 – TAC meetings (estimate 18 meetings)
- 4.4 – Working group meetings (as needed, up to eight meetings)
- 4.5 – Steering Committee meetings (estimate 6 meetings)
- 4.6 – Local agency support
- 4.7 – Milestone workshop #1
- 4.8 – Milestone workshop #2

**Task 5 – Literature Review**

- 5.1 – Identify and compile documents
- 5.2 – Develop questions and categories of information for review
- 5.3 – Review documents
- 5.4 – Prepare report

**Task 6 – Existing Conditions**

- 6.1 – Develop list of questions to be answered and the data required
- 6.2 – Compile a list of data sources and obtain that data where readily available.
- 6.3 – Assemble the needed data
- 6.4 – Draft existing conditions base maps
- 6.5 – Complete needed modeling tasks for development of the 2010 (existing) Regional Transportation Model and update 2005 data (see Task 14 – Subtasks 14.1, 14.2 and 14.3)

**Task 7 – Future Baseline Conditions**

- 7.1 – Complete needed modeling preparation for development of the future 2035 baseline scenario
- 7.2 – Assemble the needed data for the Future (2035) Baseline Conditions Report
- 7.3 – Prepare test runs of the 2017 regional transportation model
- 7.4 – Review transportation and land use performance of future 2035 baseline scenario
- 7.5 – Draft and final Future Baseline Conditions Report

**Task 8 – Problem Statement**

- 8.1 – Review and compare preliminary problem statement with existing conditions
- 8.2 – Identify or refine problems and issues
- 8.3 – Draft and final technical memorandum

**Task 9 – Plan Goals and Objectives**

- 9.1 – Refine preliminary goals and objectives based on revised problem statement

**Task 10 – Evaluation Framework**

- 10.1 – Describe general approaches appropriate to specific analytic tasks
- 10.2 – Identify screening, evaluation, and performance measures appropriate to revised goals and objectives
- 10.3 – Identify procedures for applying screening, evaluation and performance measures

**Task 11 – Analytic Methodology Memorandum**

- 11.1 – Identify and define plan assumptions and parameters based on previous tasks
- 11.2 – Provide details on networks and models for each phase of analysis
- 11.3 – Describe how off-model or post-processing tools and techniques will be used
- 11.4 – Confirm geographic extent of analyses
- 11.5 – Describe how environmental, community and equity impacts will be evaluated
- 11.6 – Provide detail on how to measure and assess the potential for community and economic development
- 11.7 – Prepare draft and final technical memorandum

**Task 12 – Identify and Review Candidate Strategies for Effectiveness**

- 12.1 – Identify range of strategies to be tested
- 12.2 – Review expected performance of strategies
- 12.3 – Conduct sketch planning analysis (e.g., GIS) or experience-based review of candidate strategies as appropriate for the following:
  - 12.3a – Safety improvements
  - 12.3b – TSMO – review signal system , travel information, weather systems, incident information
  - 12.3c – Bike-Pedestrian
  - 12.3d – Transit
  - 12.3e – Urban design amenities
  - 12.3f – Roadway connectivity, capacity, intersection, access management
- 12.4 – Conduct interactive analysis and evaluation sessions with TAC

**Task 13 – Refine and Combine Strategies into Several Scenarios for Testing**

- 13.1 – Define strategy investment levels and number of test scenarios
- 13.2 – Define modeling and network assumptions for each scenario
- 13.3 – Obtain new land use assumptions
- 13.4 – Prepare technical memorandum

**Task 14 – Calibrate and Run Regional Transportation Model (EMME2 or VISSUM)**

- 14.1 – Prepare model inputs
- 14.2 – Calibrate 2010 (existing) regional transportation model
- 14.3 – Run the Regional Transportation Model for 2010 and 2035
- 14.4 – Prepare technical memorandum

**Task 15 – Contingent Task – Dynamic Traffic Assignment**

**Task 16 – Evaluation of Scenarios**

- 16.1 – Safety analysis and multimodal level of service (using 2010 FHWA Highway Capacity Manual, Safety Manual)
- 16.2 – Conduct targeted traffic/intersection analysis (using Synchro or SimTraffic)
- 16.3 – Air quality and greenhouse gas assessment (using MOVES)
- 16.4 – Evaluate against other criteria, including environmental risk and opportunity, equity, community health, community and economic development, and public and stakeholder input
- 16.5 – Draft and final technical memorandum

**Task 17 – Scenario Selection**

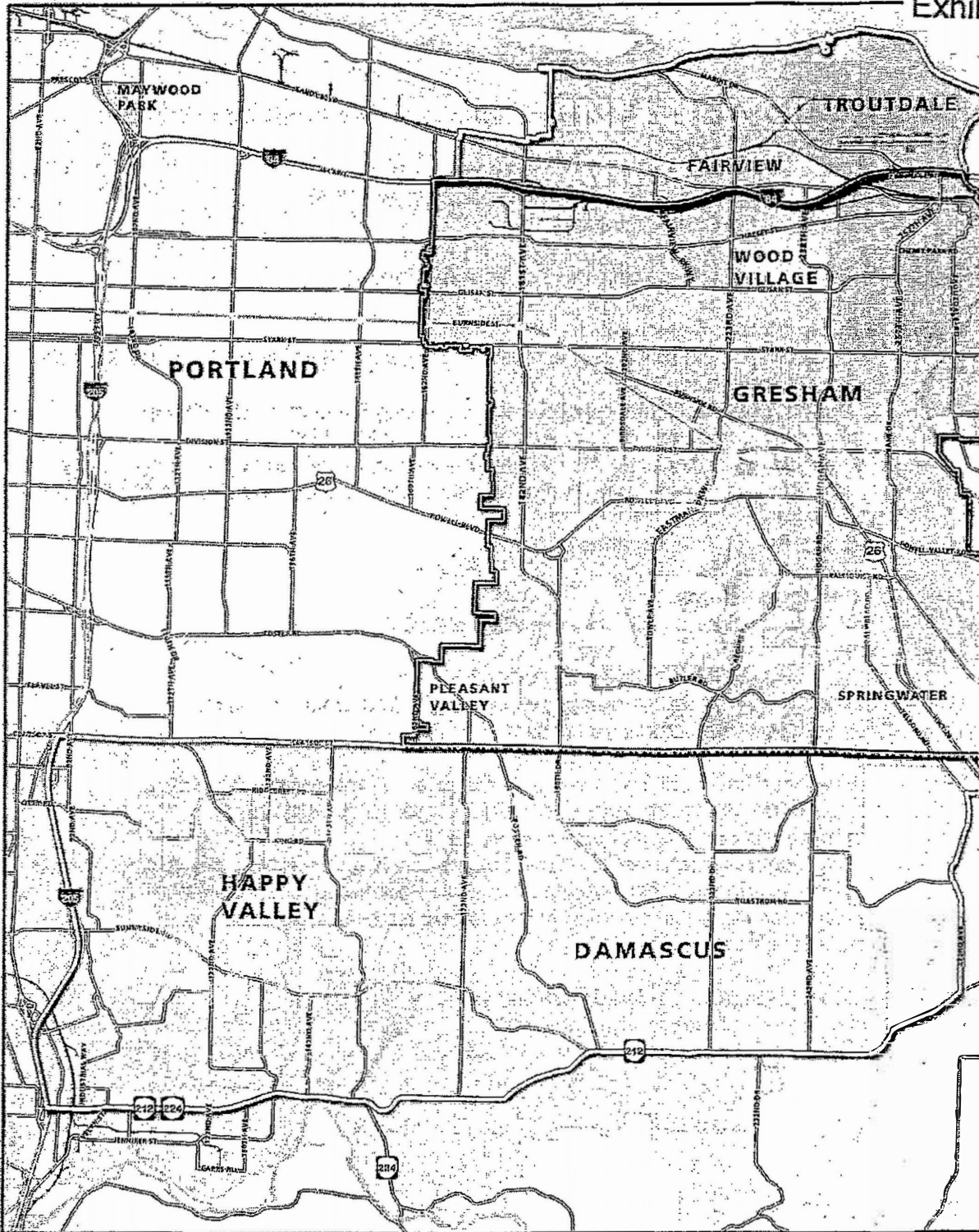
- 17.1 – Summarize findings for use in screening/selection
- 17.2 – Screening session
- 17.3 – Refine top candidate scenario, as needed
- 17.4 – Conduct analysis to recommend project phasing and grouping strategy
- 17.5 – Draft and final technical memorandum

**Task 18 – Prepare Final Report – Investment Strategy/Implementation Guide**

- 18.1 – Define function, mode and general location of plan area facilities
- 18.2 – Document regulatory and policy compliance
- 18.3 – Identify triggers for regional and local actions and identify needed elements of formal agreements; Identify other needed actions and resources for implementation
- 18.4 – Prepare reader-friendly community investment plan
- 18.5 – Draft and final report

**Task 19 – Amend Regional Transportation Plan**

- 19.1 – Coordinate with Metro committees and local jurisdictions, as appropriate, to move resolutions and amendments through to JPACT and Metro Council.



**East Metro Connections Plan  
Plan and Influence Areas**

Exhibit D

- Plan Area
- County Line
- Influence Area
- Urban Growth Boundary
- Light Rail
- Railroad

0 Mile 1

Plan Area (Area for which improvements will be proposed): East Multnomah County, which includes the four city area of Gresham, Fairview, Wood Village, Troutdale and the unincorporated Pleasant Valley and Springwater areas between I-84 (north) and the County Line (south). Influence Area: Comprises two areas within two county/six city area (including Happy Valley and Damascus): 1) The portions of the 4 city area between the Columbia River (north) to I-84 (south) and 2) Between the County Line (north) and HWY 212 (south), and I-205 (west) to 272nd Avenue (east). The Influence Area will include a level of analysis sufficient to assess connectivity and land use relationships with the Plan Area.

