



## RESOLUTION 2006-070

### **A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT (IGA) FOR DEVELOPMENT OF TONQUIN TRAIL MASTER PLAN AND ALLOCATION OF FUNDS**

**WHEREAS**, the City of Sherwood was awarded a federal transportation (ISTEA) grant of \$88,000 in 1992 toward the Cedar Creek greenway trail project, which included a 10.27% match from the city; and

**WHEREAS**, the Tonquin Trail is a planned, regional, multi-use path as adopted in the Regional Transportation Plan (RTP) and Sherwood Transportation System Plan (TSP) that will eventually connect three cities: Tualatin, Sherwood, and Wilsonville; and

**WHEREAS**, the Sherwood City Council adopted Resolution 2005-068 approving a local match of \$9,200 of General Fund monies for the purposes of completing the Tonquin Trail Master Plan; and

**WHEREAS**, since that time, project cost estimates have increased and it is determined that a local match of \$10,000 is now necessary; and

**WHEREAS**, Metro as the lead agency, along with the cities of Sherwood, and Wilsonville have developed an intergovernmental agreement and scope of work which also involves participation from the City of Tualatin, Washington County and Clackamas County; and

**WHEREAS**, an IGA has been developed along with a draft scope of work (Exhibit A) and the signed IGA is necessary to obtain the federal grant funds and commence work on the project; and

**WHEREAS**, it is in the best interest of the City of Sherwood and its residents to plan for and facilitate this regional trail connection into and through the City.

### **NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:**

**Section 1.** The City Manager is authorized to sign the IGA.

**Section 2.** The City Manager is hereby authorized to disburse \$10,000 of Park SDC funds.

Duly passed by the City Council this 5<sup>th</sup> day of December 2006.

  
\_\_\_\_\_  
Keith S. Mays, Mayor

ATTEST:

  
\_\_\_\_\_  
Sylvia Murphy, City Recorded

## INTERGOVERNMENTAL AGREEMENT

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**"; the **City of Sherwood**, acting by and through its Council, hereinafter referred to as one of "**The Cities**"; the **City of Wilsonville**, acting by and through its Council, herein after referred to as one of "**The Cities**"; and the Portland Urbanized Area Metropolitan Planning Organization, hereinafter referred to as "**METRO**".

### RECITALS

1. By the authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. **METRO**, an independent public agency not in the employ of **ODOT**, is the designated Metropolitan Planning Organization for the Portland Urbanized Area.
3. **ODOT** considers **METRO** to be the sub-recipient to any federal funds identified in this Agreement. **ODOT** will make available the federal funds identified in the Agreement on behalf of **METRO** to **The Cities** for the Project identified in "Exhibit A" on a reimbursement basis.
4. **METRO** and **The Cities** desire to enter into this Agreement for their mutual benefit of developing a project for the Metropolitan Transportation Improvement Program (MTIP). The MTIP schedules spending of federal transportation funds in coordination with significant state and local funds in the Portland metro region. It demonstrates how these projects relate to federal regulations regarding project eligibility, air quality impacts, environment justice and public involvement.
5. **ODOT**, as the state agency responsible for pass-through Federal-Aid Surface Transportation Funds, is therefore a party to this Agreement.

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

### TERMS OF AGREEMENT

1. The purpose of this Agreement is to enable **METRO**, through **The Cities**, to prepare a master plan for the Tonquin Trail Multi-Use Path hereinafter referred to as "Project", as described in Exhibit A (scope, schedule and budget summary) attached hereto and by this reference made a part hereof.
2. The Project shall be conducted as a part of the Federal-Aid Urban Surface Transportation Program (STP), Title 23, United States Code, CFDA No. 20.205. The

total Project cost is estimated at **\$209,517**. Federal Urban STP funds for this Project shall be limited to **\$188,000**. **METRO** and **The Cities** shall be responsible for all matching funds. **METRO's** share of the match is **\$1,517** and the match share for **The Cities** shall be: **\$10,000** each. **The Cities** shall be responsible for all non-participating costs.

3. The terms of this Agreement shall begin on the date all required signatures are obtained and shall terminate on completion of the Project and final payment or two calendar years following the date of the notice to proceed, whichever is sooner. This Agreement may be amended upon mutual consent of all parties.

### **THE CITIES OBLIGATIONS**

1. **The Cities** shall be responsible for the performance of their share of the work described in Exhibit A.
2. **The Cities** shall present invoices and required supportive documentation regarding specific tasks and the progress on said tasks as shown in Exhibit A (i.e. monthly progress statement), for 100 percent of actual eligible costs incurred by **The Cities** on behalf of the Project directly to **METRO's** project manager for review and approval. Invoices and required supportive documentation shall be presented for periods of not less than one-month duration, based on actual eligible expenses incurred. Invoices shall display 100% of total eligible expenses incurred during the period of the invoice, and identify any matching amounts if applicable. Invoices shall also display a categorical breakdown of costs, such as personnel costs (salary and benefits), other direct charges, and indirect charges that are appropriate for this project. Documentation must be received by **METRO** before payment will be made, and may include copies of receipts for expenditures or system-generated accounting reports that document actual expenses incurred. **The Cities** shall be responsible for all matching funds and all non-participating costs.
  - a. [FOR USE FOR LOCAL GOVTS: Eligible project expenses are those deemed allowable by OMB Circular A-87.]
  - b. In the event the invoice is not approved, **METRO** shall request corrective action be taken and accomplished prior to approval of the invoice. The invoice shall be resubmitted with documentation supporting completion of the corrective action.
3. **The Cities** shall keep accurate cost accounting records. The cost records and accounts pertaining to the work covered by this Agreement shall be retained by **The Cities** for a period of three (3) years following final payment. Copies shall be made available upon request to either **METRO** or **ODOT**. **METRO** and **ODOT** may request a copy of **The Cities's** records pertaining to this Project at any time. When the actual total cost of the Project has been computed, **The Cities** shall furnish **METRO** with an itemized statement of final costs.

4. If **The Cities** engage a personal services contractor(s) to accomplish any work described in Exhibit A, **The Cities** shall:
  - a. Select personal services contractor(s) in accordance with **ODOT** and federal procedures (ODOT contractor services will provide technical support to advise **The Cities** on selection process on request);
  - b. Ensure that personal services contractors comply with all applicable federal laws, regulations, rules, policies and procedures pertinent to this agreement
  - c. Provide **METRO's** Project Manager with the opportunity to review and approve contractor's work, billings, and progress reports prior to approval by ODOT.
5. **The City of Sherwood's** project manager is **Julia Hajduk**, Senior Planner, 22560 SW Pine St., Sherwood, OR 97140, (503) 625-4204, hajdukj@ci.sherwood.or.us.
6. **The City of Wilsonville's** project manager is **Kerry Rappold**, Natural Resources Program Manager, 30000 SW Town Center Loop E, Wilsonville, OR 97070, (503) 570-1570, rappold@ci.wilsonville.or.us.

## **METRO OBLIGATIONS**

1. **METRO** shall be responsible for the performance of its share of the work described in Exhibit A.
2. In consideration for the services performed as shown on Exhibit A, **METRO** agrees to authorize **ODOT** to make available on **METRO's** behalf, an amount not to exceed **\$188,000** in **METRO's** Federal Urban STP funds. **METRO** and **The Cities** shall be responsible for all matching funds and non-participating costs. **METRO's** share of the match is: **\$1,517** and the match share for **The Cities** shall be: **\$10,000** each.
3. **METRO** certifies, at the time this Agreement is executed, that sufficient funds from **METRO's** Federal Urban STP allocation are available and authorized for expenditure to finance costs of the Project. **METRO** shall ensure inclusion of the Project in the MTIP using **STIP number 14399**. If there is an amendment to the MTIP regarding the Project outlined in "Exhibit A", the ODOT Project Manager shall be informed of the change, and an amendment to the STIP and this Agreement shall be made as needed.
4. **METRO** shall submit to **ODOT** monthly cost reports, reimbursement requests and/or **The Cities** invoices that have been approved by **METRO** for payment by **ODOT**. **METRO** shall also provide **ODOT** quarterly progress reports regarding specific tasks and the progress on said tasks.

5. **METRO** shall keep accurate cost accounting records. The cost records and accounts pertaining to the work covered by this Agreement shall be retained by **METRO** for a period of three (3) years following final payment. Copies shall be made available upon request. ODOT may request a copy of **METRO's** records pertaining to this Project at any time. When the actual total cost of the Project has been computed, **METRO** shall furnish **ODOT** with an itemized statement of final costs.
6. **METRO's** project manager for this Agreement is **Mel Huie**, 600 NE Grand Ave., Portland, OR 97232-2736, (503)797-1731, [Huiem@metro.dst.or.us](mailto:Huiem@metro.dst.or.us).

### **ODOT OBLIGATIONS**

1. Upon receipt of monthly reimbursement requests from **METRO**, and invoices and supporting documentation approved by **METRO** for **The Cities**, **ODOT** shall review for approval and where appropriate make payment to **METRO** for approved eligible costs, and to **The Cities** for eligible costs reviewed and approved by **METRO**.
2. **ODOT** has no monetary obligation under this Agreement other than in its role as a "pass-through agency" to distribute Urban STP funds on behalf of **METRO** for the Project outlined in "Exhibit A".
3. **ODOT's** project manager for this Agreement is **Tim Wilson** of the **ODOT** Region 1 Planning Section, 123 SW Flanders, Portland, OR 97209, or by phone at (503) 731-8534, [Timothy.J.Wilson@odot.state.or.us](mailto:Timothy.J.Wilson@odot.state.or.us).

### **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of all parties.
2. **ODOT** may terminate this Agreement effective upon delivery of written notice to **METRO** and **The Cities**, or at such later date as may be established by **ODOT**, under any of the following conditions:
  - a. If **METRO** and/or **The Cities** fail to provide services called for by this Agreement and as further outlined in Exhibit A within the time specified herein or any extension thereof.
  - b. If **METRO** and/or **The Cities** fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from **ODOT** fails to correct such failures within 10 days or such longer period as **ODOT** may authorize.
  - c. If **ODOT** fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the Agreement.

- d. If Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if **ODOT** is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
4. **METRO** and **The Cities** agree to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270, which hereby are incorporated by reference. Without limiting the generality of the foregoing, **METRO** and **The Cities** expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 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.
5. **METRO** and **The Cities** shall perform the service under this Agreement as independent contractors and shall be exclusively responsible for all costs and expenses related to their employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
6. All employers, including **METRO** and **The Cities**, 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. **METRO** and **The Cities** shall ensure that each of its subcontractors complies with these requirements.
7. **METRO** and **The Cities** acknowledge and agree that **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 **METRO** and **The Cities** which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by **ODOT**.
8. As federal funds are involved in this Agreement, EXHIBITS B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by **METRO** representative. **The Cities** also certify to any provisions of Exhibit B and C which are applicable to its situation as a sub-sub recipient of federal funds.
9. All parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, and liabilities which may arise from their respective performance of this Project.

10. Notwithstanding the foregoing defense obligations under paragraph 10 above, no party nor any attorney engaged by any party shall defend any claim in the name of the other parties or any agency/department/division of such other parties, nor purport to act as legal representative of the other party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other parties. Each party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other parties are prohibited from defending it, or that other party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the parties to do so. Each party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
11. **METRO and The Cities**, as recipients of federal funds pursuant to this Agreement with **ODOT**, shall each individually assume sole liability for its breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon any such breach that results in a requirement that **ODOT** return the funds to the Federal Highway Administration, hold harmless and indemnify **ODOT** for an amount equal to the funds required to be returned as a result of said breach; or if legal limitations apply to the indemnification ability of **METRO and The Cities**, the indemnification amount shall be the maximum amount of funds required to be returned as a result of said breach, including any available contingency funds for the Project or other available non-appropriated funds for the Project, up to the amount required to be returned as a result of said breach. This clause shall not be interpreted to require one party to assume liability for a breach by another party of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds.
12. This Agreement may be executed in several counterparts [facsimile or otherwise] all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
13. 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 both 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 **ODOT** to enforce any provision of this Agreement shall not constitute a waiver by **ODOT** of that or any other provision.

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

This Project is in the 2006-2009 Statewide Transportation Improvement Program that was approved by the Oregon Transportation Commission on August 17, 2005.



The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On April 12, 2004, the Director approved Subdelegation Order No. 10 in which the Director delegates authority to the Division Administrator, Transportation Development to approve and execute personal service contracts and agreements over \$75,000 for programs within the Transportation Development Division when the work is related to a project included in the STIP or in other system plans approved by the Oregon Transportation Commission or in a line item in the legislatively adopted biennial budget and;

To approve and execute all agreements, approved by the OTC, for Metropolitan Planning Organization agreements outside the Transportation Program Development limitation and acceptance of funds sent to ODOT, but not earmarked for Transportation Program Development.

**Metro, Portland Urbanized Area Metropolitan Planning Organization**

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**Approved for Legal Sufficiency**

By \_\_\_\_\_

Date \_\_\_\_\_

**City of Sherwood**

**STATE OF OREGON, by and through its Department of Transportation**

By \_\_\_\_\_  
Division Administrator for the Transportation Development Division

Date \_\_\_\_\_

**Approval Recommended**

By \_\_\_\_\_  
Region Manager, Region 1

Date \_\_\_\_\_

**Approved for Legal Sufficiency**

By \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_

**City of Wilsonville**

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**Approved for Legal Sufficiency**

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**Approved for Legal Sufficiency**

By \_\_\_\_\_

Date \_\_\_\_\_

## Exhibit A Tonquin Trail Master Plan Scope of Work

November 2006

### BACKGROUND/HISTORY

The future Tonquin Trail will serve as a regional multi-use commuter and recreational trail connecting the Willamette and Tualatin rivers. The trail is essentially the shape of a "Y". The trail's southern terminus will be in Wilsonville adjacent to the Willamette River (e.g. Boones Ferry Park). The trail will proceed north through Wilsonville and portions of unincorporated Clackamas and Washington counties and split into westerly and easterly alignments to connect to the cities of Sherwood and Tualatin. Depending on the final trail alignments, the trail will be 12 to 16 miles in length (see "Attachment 3" Map of the Trail Corridor.)

The Tonquin Trail will also be connected to two other regional trails: Fanno Creek Greenway Trail and Westside Trail (a.k.a. Power Line Trail) by future bike/ped bridges over the Tualatin River. The trail bridge connecting the proposed Tonquin Trail alignment to the Fanno Creek Greenway Trail will be completed in early 2007 (see "Attachment 6" map of Regional Trails and Greenspaces".

The trail will be planned and designed as a "green trail" using environmentally sensitive materials (e.g., pervious asphalt) and will balance the needs of fish, wildlife and habitat with public access.

The Tonquin Geological Area was formed by the Bretz floods between 8,000 and 15,000 years ago. The Bretz Floods scoured the landscape, carrying large boulders and carving out new geological formations. The Tonquin Geological Area is also referred to as "scablands" which describes lands that have been scoured to bedrock by flooding.

There has been a clear history of public policy decisions and citizen support for the protection of natural areas in the Tonquin Geological Area and planning for a regional trail over a 35-year time frame. Protecting the Tonquin Geological Area or Scablands, and building the Tonquin Trail were first identified as regional priorities when the area was listed in the *The Urban Outdoors: A New Proposal for Parks and Open Spaces for the Portland – Vancouver Metropolitan Area* by the Columbia Region Association of Governments (CRAG) in 1971.

The Tonquin Regional Trail is also identified in *the Metropolitan Greenspaces Master Plan* adopted by Metro in 1992. In 1995, the region's voters approved a Metro-sponsored bond measure to buy land in the Tonquin Geological Target Area for public open space and natural area protection. Metro purchased 487 acres in the target area with these funds. In 1996, Metro completed the *Tonquin Area Refinement Plan*. The

Tonquin Trail concept is recognized on both Metro's *Regional Trails and Greenways Map* and on Metro's *Regional Transportation Plan (RTP) Bicycle and Pedestrian System Map*. In 2004, the *Tonquin Trail Feasibility Study* was jointly completed by Metro, Wilsonville, Tualatin, Sherwood and other interested parties.

## **JURISDICTIONAL PARTNERS**

The City of Wilsonville recently completed a bicycle and pedestrian trail plan, which incorporates the Tonquin Trail concept. A trail connection from the Willamette River to the north through the scablands, to the Tualatin River Greenway, National Wildlife Refuge, and the Fanno Creek Greenway Trail is an objective of the City. The 2004 Master Plan for the Graham Oaks Natural Area, owned by Metro and located in Wilsonville, also incorporates the Tonquin Trail. Villebois, a new mixed-use "village" development, is located just north and northeast of the Graham Oaks Natural Area and will also include portions of the future Tonquin Trail.

The western alignment of the Tonquin Trail will run through the City of Sherwood. Natural areas, parks, open spaces and creeks as well as Sherwood's historic Old Town and town center could be connected by the trail.

The City of Tualatin anticipates the connectivity the Tonquin Trail will add to its existing bikeway and greenway system. The City would like to see the trail link up parks, open spaces and geological features and connect to the Fanno Creek Greenway Trail. Thus, Tigard and Durham would also be connected to the Tonquin Trail via a new bike/pedestrian bridge over the Tualatin River. The bridge will be completed in early 2007.

Washington County is interested in supporting the development of trails in the unincorporated areas of the county to connect the cities of Wilsonville, Sherwood and Tualatin. The county, together with Metro and the Oregon Department of Transportation, is currently conducting an east/west road connector study between I-5 and 99W (the I-5 to 99W Connector Project), which could potentially accommodate segments of the regional trail.

Clackamas County also supports the development of trails in the unincorporated areas of the county to connect these communities to natural areas and parks.

The U.S. Fish and Wildlife Service's (USFWS) Tualatin River National Wildlife Refuge would be a key northern terminus along the westerly alignment of the trail.

## **PROJECT FOCUS**

The potential trail alignments cover approximately 12 to 16 miles. The project area will generally extend one (1) mile on either side of proposed alignments under consideration. The project area may be extended to accommodate more feasible

alternatives. The proposed trail alignments under consideration include a combination of on-street and off-street alignments.

The future regional trail will serve both recreational and commuter users and will interconnect parks, open spaces, greenways, wildlife refuges, unique geological features, schools, town centers, employment areas and neighborhoods, while also protecting water quality sensitive areas.

The Tonquin Trail Master Plan will determine alignments and routes by looking at topography, soils, natural resources, environmental constraints, zoning, other projects in the vicinity and ownership of land. It is expected that the future trail alignments will traverse a combination of public lands, public right-of-ways, utility and transportation corridors and private developments and land (with their permission and potential dedication of trail ROW by the owners) and/or the possible purchase of trail right-of-way and easements, which could be acquired by Metro, other public agencies and land trusts.

## **PROJECT OBJECTIVES**

- Assess, analyze and recommend the most appropriate trail alignments and design elements for a future multi-use regional trail between the Willamette and Tualatin rivers.
- Develop a recommended financial strategy, and potential timing of construction of the trail.
- Define a regional trail alignment to serve as a recreational and commuter trail connecting the cities of Wilsonville, Tualatin, Sherwood and the neighboring cities of Tigard and Durham, through a combination of off-street trail and on-street alignments.
- Employ "green trail" design and construction guidelines and/or standards.
- Involve agency partners, neighbors, landowners and businesses, trail user groups and the general public in the planning process.
- Complete the Master Plan between Spring 2007 and Spring 2009.

## **STATEMENT OF WORK**

The consultant team will take the lead under the direction of the Metro project manager in conducting all necessary activities to accomplish the following scope of services and schedule.

## **Task 1: Scope of Work Refinement, Project Management Roles**

### **1.1 Kick-off Meeting between Consultant and Project Steering Committee**

Facilitate project kick-off meeting. Discuss desired project outcomes and clarify scope of work. Review project time-lines, milestones and deliverables. Discuss the roles of the project Steering Committee and consultants. Establish lines of communication and decision-making and internal review processes. Discuss composition, role, meeting frequency and first meeting agenda of the Steering Committee and a larger Working Group. Discuss public involvement and outreach goals, and set dates for public workshops. Discuss initial identification of key stakeholders to interview, and other project logistics as appropriate.

### **1.2 Consultant's Project Management Responsibilities**

- Provide project management, coordination and direction to the project team to complete the project on time and within budget.
- Communicate frequently with Metro's project manager and the Steering Committee.
- Review sub-consultants monthly progress and billings. Provide copies of prime consultant and sub-consultant bills and invoices to Metro project manager.
- Review monthly billings for materials and printing costs.
- Prepare monthly progress reports including compliance with time-line and budget (Note: Travel costs are not reimbursable) Monthly reports will detail work completed in the preceding month by work task, documentation of issues and concerns, coordination efforts with affected agencies, percent of work task completed, and percent of work task budget spent.
- Review all documents and submittals with Metro project manager to ensure quality control and completeness. All information shall be submitted in paper and digital form.
- Coordinate planning work with Metro, the cities of Wilsonville, Tualatin, and Sherwood, Clackamas County, Washington County, U.S. Fish and Wildlife Service, Clean Water Services, Oregon Department of Transportation (ODOT), Portland and Western Railroad, TriMet, BPA, other utility companies, and other stakeholder groups under the direction of the Metro project manager.
- Prepare for and facilitate meetings of the project Steering Committee, Working Group and other public meetings. Agendas and background information shall be available at least one week prior to meetings.
- Prepare meeting agendas and meeting minutes, including action items.

- Meet with the Metro project manager every two weeks or as needed to update him on work tasks and issues.

### **1.3 Metro's Project Management Responsibilities**

- Finalize the Intergovernmental Agreement (IGA) and Scope of Work including budget and time-line and obtain necessary approvals and signatures.
- Assemble project Steering Committee and Working Group and facilitate review of information and documents by Working Group at appropriate points of the work tasks. Arrange and attend all project meetings.
- Provide periodic updates to City Councils, County Commissions, planning commissions and/or parks boards, developers, citizen groups, and other government agencies as needed.
- Monitor compliance with both time-line and budget and make such corrections as necessary to stay within both. Receive and review all billings and authorize payment from ODOT.
- Maintain and update a list of project Stakeholders, interested citizens and agency contacts. Distribution of mailings, public notices for hearings and postage will be the responsibility of Metro and the project Steering Committee. Create a link to Metro Parks' website.

### **1.4 Cities of Wilsonville, Tualatin and Sherwood, Clean Water Services (CWS) and Washington and Clackamas Counties' Responsibilities**

- Approve IGA and scope of work including budget and time-line.
- Review all work products developed by the consultants.
- Participate in research and fieldwork as needed.
- Make final recommendations on trail alignments, design guidelines, trail logo and financial plan and general time-lines to build and maintain the trail.
- Recommend and approve members for the Working Group.
- Attend Steering Committee and Working Group meetings.
- Organize, publicize and attend/host local public meetings to present information about the planning process and master plan.

- Organize, conduct and host/attend one or two public meetings per city, (Clean Water Services, Clackamas County and Washington County will participate as appropriate), write meeting summaries and document public comments.

## **1.5 ODOT Responsibilities**

- Execute IGA between parties.
- Hire prime consultant. Coordinate hiring of sub-consultants.
- Pay all bills within 30 days following approval by Metro project manager.

### **Task 1 Deliverables:**

- Executed IGA
- Scope of work, budget and time-line (including schedule of meetings)
- Updated stakeholders mailing lists
- Lists of trail advocates, key property owners, adjacent to the trail corridor
- Monthly progress reports
- Prepare and distribute meeting agendas and minutes

### **Task 2: Data Gathering, Field Inventory, Research and Analysis**

**Objective:** Provide basic information in order to determine final trail alignments, design specifications, and construction cost estimates.

#### **2.1 Collect and Review Existing Relevant Plans and Related Projects**

Collect and review pertinent transportation, parks/open space and trail plans, and related projects in the vicinity that will serve as important sources of baseline information for the Tonquin Trail Master Plan. These include, but are not limited to:

- Existing City and County Comprehensive Plans: land use, zoning, parks/trails, and transportation
- Metro's Graham Oaks Natural Area Master Plan
- Metro's Greenspaces Master Plan (which includes trails)
- Metro's Regional Transportation Plan (RTP)
- Wilsonville Parks and Recreation Master Plan
- Wilsonville Bicycle and Pedestrian Master Plan Update
- Villebois Master Plan and Trail Development
- Boeckman Road Extension Project
- Water Pipe Study from Wilsonville to Sherwood
- BPA and PGE Power Line Corridors (a.k.a. Westside Power Line Trail)
- TriMet Commuter Rail Project
- I-5 to 99W Road Connector Study
- Washington County 2020 Transportation Plan



- Bike / Ped Bridge over Tualatin River in Tualatin
- Tualatin Greenway Development Plan
- Tualatin Bikeway Plan
- Tualatin Parks and Recreation Master Plan
- Fanno Creek Greenway Trail Action Plan
- Tualatin River Greenway Trail Plan
- Tualatin Urban Expansion Concept Plan
- Sherwood Transportation System Plan
- Sherwood Parks and Natural Areas Plan
- Sherwood Urban Expansion Metro's Concept Plan
- Metro's Green Trails – Guidelines for environmentally friendly trails
- U.S. Fish and Wildlife Service's (USFWS) Tualatin National Wildlife Refuge Plan
- Green Trails Design, Construction and Maintenance plans by other agencies
- Other improvement plans such as roadway projects and major residential or commercial developments.

## **2.2 Land Use Approvals and Regulatory Requirements**

Determine if a trail is allowed outright based on local regulations. Review existing comprehensive and zoning plans for the proposed trail alignments to determine whether the trail will be allowed outright. An outright allowance under current zoning would allow the project to proceed. A conditional use (CU) determination or environmental overlay may inform and affect the design and alignment of the trail. Outline how comprehensive plans and zoning maps would need to change in order to allow for a trail. Where necessary, outline the process for securing reviews and permits to construct the trail.

Determine if a trail would be allowed in a power-line corridor and railroad corridor. If allowed, list needed requirements.

Produce a list of agencies that will need to review trail plans, designs and construction documents. Generate a matrix of local, county, regional, state, and federal agencies along with their associated permits, estimated permit fees and regulations, and reviews that pertain to the planning, design, development and maintenance of the future Tonquin Trail.

Produce list of established Local, Regional, State and Federal trail design and development standards and guidelines. Generate a list of established Local, Regional, State and Federal standards and guidelines for trail design and development to use as a framework for alignment alternatives and evaluation process and to develop maintenance and management strategies for the local trail managing agencies. Sources will include ODOT Bicycle and Pedestrian Plan, American Association of State Highway and Transportation Officials (AASHTO) Guide for the Development of Bicycle Facilities, American with Disabilities Act (ADA) standards, the Manual on Uniform Traffic Control Devices (MUTCD), Metro's Green Trails Guidelines manual, and other sources.

### **2.3 Reconnaissance Level Environmental Baseline Report**

Identify and map, if appropriate, the following resources in project area and anticipated land use actions and permits needed:

- Conduct Level 1 hazardous materials assessment of trail alignments.
- Identify potential cultural resources (Section 106) in project area.
- Identify potential archaeological resources and potential need for State Historic Preservation Office (SHPO) clearance.
- Identify if surface water run-off disposal or treatment will require local permit, DEQ NPDES permit, or if further investigation is needed.
- Identify sensitive, threatened and endangered species in project area and potential for No-Effect Memo or Biological Assessment (BA) for ESA species.
- Identify designated FEMA floodway or floodplains.
- Identify and describe jurisdictional wetlands and waters of the state.
- Identify 4(f) resources (historic site, wildlife refuge, or public park) in the project area.
- Identify and map Goal 5 resources along the trail alignments.
- Identify environmental constraints of building the trail in the power line corridor and at the toe of the berm of the railroad alignment.
- Maps should be 11" x 17" in size and display size for meetings at least 2' x 3'.
- Identify anticipated required land use actions. Develop list of permits needed to build the trail.

### **Field Inventory**

Conduct a comprehensive field inventory of the project area focusing on potential alignments to augment the data collected in the Tonquin Trail Feasibility Study, July 2004.

Conduct a land inventory of the natural features and human-made features in the corridor and along the potential trail alignments. Incorporate information in tables and maps. Conduct a topographical analysis of the recommended alignments. List all impediments in the terrain. Map information on display size maps (at least 2'x3') and 11"x17" maps.

### **2.4 Geotechnical and Hydraulic Analysis**

Research and provide reconnaissance level geotechnical and hydraulic data to determine preliminary recommendations, feasibility of proposed alternative alignments, and special mitigation and construction cost considerations due to Geological hazards or special drainage mitigation issues.

### **2.5 Real Estate Title Research and Analysis**

Determine and follow federal and ODOT rules and requirements related to right-of-way issues and studies and acquisition implementation strategies.

Conduct a Right-of-Way Analysis to determine where public and nonprofit owned lands (including utility corridors and street ROW) could accommodate the future trail. (Present on a map and table w/acres and ownership information.)

Conduct a Right-of-Way Analysis to determine where private lands (including utility corridors) may be needed to accommodate the future trail. (Present on a map and table w/acres and ownership information).

Inventory, map and assess which private lands may need to be purchased for the future trail.

Inventory, map and assess what privately owned land may need easements or dedications to provide for the future trail.

Inventory, map and assess private encroachments on public land and utility corridors.

Review existing easements on private lands in the utility corridors and determine feasibility of forming agreements to allow a future trail.

Identify and contact all public utilities in the project study area about the trail master plan study. Request utility maps for the project area from the utility companies. Determine what, if any, prior rights exist and estimate potential costs associated with obtaining those rights or adding trail rights. Determine impacts of project and needed utility easement adjustments. Identify potentially costly or time-consuming adjustments and determine responsibility for costs.

Review, assess and coordinate plans with public and private utilities. Inventory, map and make recommendations on how utility corridors could accommodate the future trail (e.g. rail and freight lines, future Westside Commuter Rail corridor, electric / BPA / PGE, natural gas, street ROW, sewer/storm water/drinking water lines, etc.)

Note: Metro's Open Spaces and Trails acquisitions are based on a willing seller program.

## **2.6 Traffic and Roadway Analysis**

Coordination / analysis and recommendation of street and railroad crossing design options with affected agencies and work needed to further define (traffic analysis, signal warrant data, safety issues, etc.).

### **Task 2 Deliverables:**

- "Draft" version of maps, tables and reports.
- "Final" version of maps tables and reports.

### **Task 3: Public Involvement and Information**

**Objective:** Provide public involvement services that will result in meaningful and constructive public input to the master plan, and promote a positive partnership between the public and agency partners. Develop and carry out a public outreach plan to inform and involve local partners and jurisdictions, adjacent neighbors, property owners and businesses, trail user groups, local media and the general public. Components of the plan shall include the following:

#### **3.1 Tonquin Trail Steering Committee and Working Group Meetings**

Attend Tonquin Trail Working Group and Steering Committee meetings and present project information as appropriate. The working group will consist of members representing a variety of backgrounds and interests. The working group will meet monthly or as needed during the entire planning process of two years. The working group will serve as a sounding board and review work products and recommendations for trail alignments and trail design. These meetings will be used to present updates and receive feedback as per the direction of the master plan.

#### **3.2 Public Community Meetings**

Facilitate one or two public meetings per city. Clean Water Services, Clackamas County and Washington County will participate as appropriate. The workshops will solicit public comment about recommended trail alignments and design options and outline the Working Group's response to public comments. Prepare presentation materials, agendas, questionnaire forms, and minutes for these meetings.

#### **3.3 Agency Contacts and meetings**

Hold stakeholder discussions with affected agency staff, as needed, to clarify specific issues or handle specific problems. Such agencies may include ODOT, USFWS, BPA, PGE, Tri-Met and the railroad, local partners, etc.

#### **3.4 Stakeholder Contacts – Community Groups and Adjacent Property Owners**

Attend meetings with local business, non-profit and/or neighborhood groups as needed to present updates on the master plan process and resolve conflicts as they arise.

Hold individual one-on-one meetings with affected adjacent property owners who may want to work out a specific issue. Offer to meet in the field or at individual's homes, businesses or at a public office.

#### **3.5 Final Presentations**

Prepare for and facilitate up to two presentations of the draft and final Master Plan at each of the following governing bodies: park and recreation advisory boards, city councils or county commissions, planning commissions, and Metro Council.

Prepare display boards, summary reports, high quality web-friendly PowerPoint computer presentations to present to governing bodies and interest groups that present preferred alignments and major trail features.

### **Task 3 Deliverables:**

- Presentation materials
  - Stakeholder interview questions and summaries
  - Summaries of one-on-one meetings with landowners
  - Facilitation of public workshops
  - Participation in Steering Committee and Working Group meetings
  - Agendas and meeting minutes for public forums and working group meetings
  - Presentation materials to city councils, Washington County and Clackamas County commissions and Metro Council
  - One large display size (at least 2'x3') of the entire trail corridor (one each: aerial photo and planning map)
  - Power Point Presentation on a CD
  - Trail Brochure: 4-page color fold out with centerfold map (Metro has already developed a draft)
  - Power Point Virtual Tours on CDs of the Trail Alignments (ground level and from the air if possible, e.g. via Earth Google software)
  - Coordinate web page detailing the Master Planning Process on Metro Parks Site with links to local partners web sites (this task to be completed by the local partners)
  - Design a proposed trail logo and map which will be used on way-finding signs, maps, brochures, etc.
  - Educational materials for trail users (e.g. where the sensitive areas and water quality areas are located, etc.)
- 
- **Task 4: Trail Alignments Feasibility Assessment and Alternatives Analysis**

**Objective:** Identify and explore all potential trail alignment alternatives to ensure the best possible alignments. Analysis of options shall focus on safety, particularly at roadway and rail crossings, coordination with public plans and adjacent private property owners, cost, ease of implementation, aesthetics, topographical constraints, environmental constraints, and public support. Also evaluate potential connections to key destinations such as other trail systems (e.g. local trails and bike routes) in the area, trailheads, access points, transit connections, as well as potential connections to schools, parks, town and employment centers, and homes.

#### **4.1 Alternatives Evaluation**

Evaluate alignment alternatives according to various evaluation criteria to be developed. This detailed analysis will ensure the best possible alignments from the perspective of the trail user with a focus on safety, cost, ease of implementation, site constraints, aesthetics and public support. Evaluation of the potential alignments will be accomplished by constructing a decision-matrix that scores by each criterion. Scoring of individual criteria will be weighted to reflect the highest priority items. Work in coordination with Project Steering Committee and Working Group on this task.

### Safety and Security

Evaluate alternative crossings options and alignments based on traffic speed, visibility, and volume data, using ODOT, AASHTO, railroad companies, TriMet, and other agencies' guidelines and experiences. Review accident data, police reports, and crime statistics.

### Consistency with Local Plans

Determine the compatibility/conflict of the proposed alignments with local, regional and state transportation and bikeway plans and policies.

### Environmental Impacts

Evaluate potential environmental impacts to wildlife habitat, wetlands, water bodies, and riparian areas and resulting mitigation requirements. Protection of these natural resources is very important and should be addressed in the master plan.

### Bikeway and Community Connections

Give priority to alternatives that provide the most direct and convenient access to other trails or bikeways, schools, (e.g. "Safe Routes to Schools") parks, and town centers, commercial, employment and residential areas.

### Trail User Experience

Give priority to alternatives that provide a positive user experience with respect to views, scenic quality, wildlife viewing, noise and grades.

### Multiple Uses of Trail

Evaluate alternatives with potential users in mind such as bicyclists, walkers, joggers, in-line skaters, equestrians (assess potential for equestrian use and cost of trailheads for horses and trailers), motorized and non-motorized wheelchair users, and maintenance or security vehicles.

### Cost Considerations

Estimate cost of alternatives, especially where bridge, crossing improvements, fencing, trailheads, retaining walls, boardwalks, or other expensive infrastructure improvements are being considered.

### Acquisition and Easement considerations

Prioritize projects already in public ownership, review easements in entire corridor in coordination with Metro Parks' real estate staff and local partners.

### Private Property Impacts

Analyze potential impacts of trail alignments and design on adjacent private properties and mitigate for those impacts. Work with adjacent neighbors as needed.

## 4.2 Recommend Preferred Alignments

From the alternatives evaluation process, develop preferred alignments in enough design detail using available mapping so that the constraints and decision-points are clear.

Other work tasks and aspects of the recommended alignments to be addressed include:

- Railroad alignments and/or crossings: Explore design options and work with ODOT, TriMet and the Portland and Western Railroad
- Phasing plan of building the trail in four segments (e.g. Wilsonville, unincorporated areas, Sherwood and Tualatin)
- Property requirements and strategies
- Cost estimating for permit fees, construction oversight costs, third party design review and operating restrictions, discreet categories (such as fencing, paving, lighting, etc.), and responsibility.
- Maintenance program and costs
- Crossing design for each trail-roadway crossing, including potential use of signals, striping, loop detectors for signals, additional lighting, and signage
- Surface treatment
- User conflict reduction strategies
- Environmental mitigation, if needed, erosion control, drainage, ADA compliance
- Outline a strategy for resolving potential conflicts that includes a combination of incentives and regulations, as appropriate.

### Task 4 Deliverables:

- Evaluation Criteria and Matrix
- Report on alignment options including text, sections, plans, maps and diagrams to convey the preferred alignment.
- Cross-sections of trail
- Provide drafts, then final versions.

### **Task 5: Trail Design - Preliminary Recommendations**

**Objective:** Provide general recommendations for trail design elements (trail cross sections, surface treatments and amenities) for the preferred trail alignments. In particular, provide recommendations for trailheads, way-finding signage, trail crossings and “pinch points” along the trail.

#### **5.1 Analysis of key design elements and uses**

Analyze and recommend various key design elements that factor into the trail design concept. These include:

- Bikeway section (typical)
- Bikeway section (constrained)
- Environmentally sensitive areas and pinch points

- Amenities and support facilities
- Pavement types (including pervious surfaces)
- Historical markers/gateways
- Way-finding signs, maps, mile posts
- Fencing and other barriers
- Horizontal and vertical clearances
- ODOT Rail Division, TriMet and railroad companies' design requirements for trails adjacent to railroad lines
- BPA, PUC and utility companies' design requirements for trails within or adjacent to utility corridors
- City, county and state design guidelines for trails in the public R-O-W
- Interpretive signing, maps and kiosks
- Access and trailheads/parking
- Restroom facilities (new or use existing facilities adjacent or near the trail)
- Drinking fountains
- Signing and striping
- Road crossings
- Bridges
- Gradients
- Drainage
- Lighting
- Landscaping
- Utility relocations
- Skateboard, in-line skates, scooter, etc.
- Equestrian use
- Separate paths (soft surface path for walkers/joggers near sensitive land areas and hard surface for bikers)

## **5.2. Trail Design**

Based on the analysis of items listed above, specific design elements of the trail will be described in typical sections and plans. Design elements will all conform to established local, regional, state and federal and railroad company standards and guidelines.

## **5.3 Cost Estimates**

Produce cost estimates of the trail, (subtotal costs by trail segments to be determined) using unit costs for items related to trail design, engineering, construction, and maintenance.

Present cost estimates in an easily readable spreadsheet that breaks down costs for each segment of the trail. Use both English and metric units. General Cost estimates for:

- Land and ROW Acquisition and/or obtaining easements
- Land and ROW Dedications
- Conservation Easements
- Trail Construction Document Preparation and Permitting



- Preliminary Engineering
- Construction (including relocation of electric poles, towers, etc.)
- Operations and Maintenance

**Task 5 Deliverables:**

Report on alignment recommendations, trail design elements, photos, illustrations, cross sections, maps, and cost estimates. (Provide draft then final version.)

**Task 6: Tonquin Trail Master Plan Document**

**Objective:** To produce a “user friendly” final document available for public review and distribution that is available in both hard copy and digital form. Determine the desired final format for the Master Plan document that, in addition to serving as a tool for trail development, will be easily understood by the public. The Master Plan document shall be tailored for ease of segmenting sections (e.g. Wilsonville segment, Sherwood segment, Tualatin segment, unincorporated Washington and Clackamas county segments) out for specific funding applications, and it shall include graphics and display boards that can serve as a communication tool to generate public interest for the project.

**6.1** Work with Metro and the Trail Working Group to determine report format, layout, and programs to use. Prepare a full draft of the master plan (comprised of a summary document and Technical Notebook), to be internally circulated and reviewed by Metro, Wilsonville, Sherwood, Tualatin, Clean Water Services, Washington County, Clackamas County and other trail partners including the Tonquin Trail Working Group for comment.

**6.2** Incorporate all comments into a second draft for printing and distribution by Metro. This draft will function as the final draft for public review.

**6.3** Revise the draft after public review and produce a final Master Plan.

**6.4** In addition to preparing photo-ready hard copies, provide Metro Steering Committee and Working Group members with a CD containing digital copies of drafts, tables, maps, GIS files, and other supporting documents in MS Word, Adobe Acrobat, ArcView GIS, or other cross-platform formats.

**Task 6 Deliverables:**

- Provide eight (8) copies of the draft report and then final report with text, analysis, and proposed trail alignments, incorporating maps and aerial photography. Trail alignments shall be shown by segments (e.g. Wilsonville, unincorporated areas, Sherwood and Tualatin) on 11x17 aerial photo maps. Appendices may include statistics, technical research, and other information used in making trail alignment recommendations. Two camera-ready paper copies in color and an electronic copy of the report on a CD.

- Digital photographs on a CD of the entire corridor and recommended trail alignments. Location of images must be described.
- Spreadsheet of Recommendations of ROW and land, which may need to be acquired in fee, or through easements, including estimated costs.
- Develop an "Executive Summary" of the master plan and provide eight (8) copies to be distributed to the Steering Committee.

### **Estimated Time-line**

Spring 2007 to Spring 2009

**Attachment 1  
Tonquin Trail Master Plan  
Budget**

November 2006

|                  |             |
|------------------|-------------|
| \$188,000        | MTIP Funds  |
| <u>\$ 20,157</u> | Local Match |
| \$209,517        | TOTAL       |

**Attachment 2  
Tonquin Trail Master Plan  
Timeline**

November 2006

**Spring (February or March) 2007**

**to**

**Spring (February or March ) 2009**

**Attachment 3  
Tonquin Trail Master Plan  
Map**

November 2006

**Tonquin Trail:  
Potential Alignment(s)**

**Attachment 4  
Tonquin Trail Master Plan  
Project Steering Committee**

November 2006

| <b>Project Manager</b>  |  |
|---|--|
| <p>Mel Huie, Regional Trails Coordinator<br/>Metro Parks &amp; Greenspaces<br/>600 NE Grand Ave.<br/>Portland, OR 97232<br/>503.797.1731<br/><a href="mailto:huiem@metro.dst.or.us">huiem@metro.dst.or.us</a></p>                         |  |
| <b>Steering Committee</b>   |  |
| <p>Julia Hajduk<br/>Senior Planner<br/>City of Sherwood<br/>22560 SW Pine St.<br/>Sherwood, OR 97140<br/>503.625.4204<br/><a href="mailto:hajdukj@ci.sherwood.or.us">hajdukj@ci.sherwood.or.us</a></p>                                    | <p>Carl Switzer<br/>Parks &amp; Recreation Coordinator<br/>City of Tualatin<br/>18880 SW Martinazzi Ave.<br/>Tualatin, OR 97062<br/>502.691.3064<br/><a href="mailto:cswitzer@ci.tualatin.or.us">cswitzer@ci.tualatin.or.us</a></p>        |
| <p>Kerry Rappold<br/>Natural Resources Program Manager<br/>City of Wilsonville<br/>8445 SW Elligsen Rd.<br/>Wilsonville, OR 97070<br/>503.570.1570<br/><a href="mailto:rappold@ci.wilsonville.or.us">rappold@ci.wilsonville.or.us</a></p> | <p>Lori Mastrantonio<br/>Senior Planner<br/>Clackamas County<br/>9101 SE Sunnybrook Blvd.<br/>Clackamas, OR 97015<br/>503.353.4511<br/><a href="mailto:lorim@co.clackamas.or.us">lorim@co.clackamas.or.us</a></p>                          |
| <p>Astrid Dragoy<br/>Plan Review Supervisor<br/>Clean Water Services<br/>2550 SW Hillsboro Hwy.<br/>Hillsboro, OR 97123<br/>503.681.5157<br/><a href="mailto:Dragoya@cleanwaterservices.org">Dragoya@cleanwaterservices.org</a></p>       | <p>Aisha Willits<br/>Senior Planner<br/>Washington County<br/>155 N First Ave., Suite 350, MS 14<br/>Hillsboro, OR 97124<br/>503.846.3961<br/><a href="mailto:aisha_willits@co.washington.or.us">aisha_willits@co.washington.or.us</a></p> |
| <p>John Mermin<br/>Transportation Planner<br/>Metro Planning<br/>600 NE Grand Ave.<br/>Portland, OR 97232<br/>503.797.1747<br/><a href="mailto:merminj@metro.dst.or.us">merminj@metro.dst.or.us</a></p>                                   |  |



**Attachment 5  
Tonquin Trail Master Plan  
Working Group**

November 2006

Members to be selected.



**Attachment 6  
Tonquin Trail Master Plan  
Map**

November 2006

**Regional Trails and Greenways Map**

METRO/ /ODOT  
Agreement No.

For purposes of Exhibits B and C, references to Department shall mean ODOT, references to Contractor shall mean The Cities and references to Contract shall mean Agreement.

**EXHIBIT B  
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 C**

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:

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 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 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 Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of

subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.

2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

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

may request Department to enter into such litigation to protect the interests of the State of Oregon.

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

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

##### DBE POLICY STATEMENT

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

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

**DBE Obligations.** The 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 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 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

FOR INQUIRY CONCERNING  
DEPARTMENT'S DBE PROGRAM



REQUIREMENT CONTACT OFFICE  
OF CIVIL RIGHTS AT (503)986-4354.