

INTERGOVERNMENTAL AGREEMENT

State Fiscal Year 2024 Unified Planning Work Program Walla-Walla Valley Metropolitan Planning Organization (WWVMPO)

THIS AGREEMENT is made and entered into by and between the **STATE OF OREGON**, acting by and through its **Department of Transportation**, hereinafter referred to as “**ODOT**,” and the **Walla Walla Valley Metropolitan Planning Organization**, hereinafter referred to as “**MPO**,” each herein referred to individually as “Party” and collectively as “Parties.”

RECITALS

1. ODOT has the authority MPO’s satisfaction of its federal match requirement through submission of a cost report to ODOT’s Project Manager and State Planning and Research (SPR) Program Manager and Program and Funding Services Manager by August 1 of each year. Cost reports shall include 100% of monetized MPO volunteer hours incurred during the term of this Agreement.
2. MPO is the designated Metropolitan Planning Organization for the Walla Walla Urbanized Area and is an independent public agency not in the employ of ODOT.
3. Intergovernmental agreements defining roles and responsibilities for transportation planning between ODOT, the Metropolitan Planning Organization for an area, and the public transportation provider for the area are required by 23 U.S.C. 134 and 23 CFR 450.314.
4. A Unified Planning Work Program (UPWP) is an annual or biennial statement of work identifying the planning priorities and activities to be carried out within a metropolitan planning area, as described in 23 CFR 450.308. At a minimum, a UPWP includes a description of the planning work and resulting products, who will perform the work, time frames for completing the work, the cost of the work, and the source(s) of funds. MPOs are required to develop UPWPs to govern work programs for the expenditure of FHWA and FTA planning funds.

In consideration of the foregoing Recitals and the mutual terms and conditions set forth below, ODOT and MPO agree as follows:

TERMS OF AGREEMENT

1. Under such authority, ODOT wishes to retain the services of MPO to perform the work tasks and deliverables outlined in the 2023-2024 Unified Planning Work Program (UPWP), adopted by the MPO Policy Committee on June 7, 2023 with its related funding summary, hereinafter referred to as the “Work.” The UPWP is hereby incorporated by reference. The total cost of the Work under this Agreement shall not exceed \$27,414.89. ODOT shall

reimburse MPO for the Work up to a maximum amount of \$26,722.29 in federal and state funds, as set forth in Terms of Agreement Paragraph 2. MPO shall be responsible for all non-participating costs and any match amount(s) set forth in Terms of Agreement Paragraph 2.

2. The full text of the above-referenced UPWP may be obtained at: <http://www.wvwmpo.org>, and is hereby incorporated by reference into this Agreement.
3. The total cost set forth in Terms of Agreement Paragraph 1 is comprised of federal funds and matching funds as outlined in the table below.

Federal funding type	Federal portion (ODOT responsibility)	Match amount		Total amount of each funding type (federal portion + match)
		ODOT Responsibility	MPO Responsibility	
Metropolitan Planning (PL) funds (#21857)	\$17,714.31	\$2,027.48	N/A	\$19,741.79
Safe & Access Transportation Option*	929.16	N/A	N/A	929.16
Federal 5303 funds (#21857)	\$6,051.34	N/A	\$692.60	\$6,743.94
TOTALS	\$24,694.81	\$2,027.48	\$692,60	Total Cost: \$27,414.89

*The 2021 Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act) requires each MPO to use at least 2.5% of its PL funds on specified planning activities to increase safe and accessible options for multiple travel modes for people of all ages and abilities. 23 USC 134 note.

4. The term of this Agreement shall begin on July 1, 2023. The Work shall begin after the effective date of this Agreement and after the Federal Highway Administration (FHWA) has approved Project funding. ODOT and FHWA approval must be obtained prior to commencement of the Work. FHWA approval is required prior to approval by ODOT. The

Work shall be completed no later than June 30, 2024, on which date this Agreement terminates unless extended by an executed amendment.

5. The federal funding for this Project is contingent upon approval by the FHWA. Any work performed prior to approval by FHWA or outside the scope of work will be considered nonparticipating and paid for at MPO expense.
6. ODOT considers MPO a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.

MPO OBLIGATIONS

1. MPO shall perform the Work described in Terms of Agreement Paragraph 1.
2. MPO shall present invoices for 100 percent of actual costs incurred by MPO in performance of the Work directly to ODOT's Project Manager for review and approval. Such invoices shall be in a form acceptable to ODOT, identifying the Project and Agreement number, and shall be itemized in the following manner:
 - a. A column identifying the work tasks in the UPWP.
 - b. A column stating the budget for each work task in the UPWP.
 - c. A column showing what has been expended to date for each work task in the UPWP.
 - d. A column showing the remaining budget balance for each work task in the UPWP.
 - e. A column stating the percentage of the Work completed for each work task identified in the UPWP.
 - f. If Work is not being completed according to schedule, MPO will provide an explanation for the delay in the work.
3. Invoices shall be presented for periods of not less than one (1) month duration, based on actual expenses incurred. The final invoice must be received by ODOT no later than thirty (30) days from the end date of this Agreement. Under no conditions shall ODOT's fiscal year 2024 obligations exceed \$26,722.29, including all expenses. Travel expenses shall be reimbursed to MPO in accordance with the current State of Oregon Department of Administration Services' rates.
4. MPO shall provide a report to ODOT annually outlining the progress of the Work, unless more frequent reporting is determined to be necessary by ODOT. Reports will be provided to ODOT's Project Manager and State Planning and Research (SPR) Program Manager.

5. MPO shall not enter into any subcontracts for any of the Work scheduled under this Agreement without obtaining prior written approval from ODOT.
6. MPO shall 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 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, MPO expressly agrees 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. In addition, MPO agrees to comply with the Code of Federal Regulation (CFR) 23 CFR 420.121(g) and 49 CFR Part 20 regarding lobbying restrictions on influencing certain Federal activities are applicable to all tiers of recipients of FHWA and FTA planning and research funds.
7. MPO shall perform the services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its 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.
8. All employers, including MPO, 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. MPO shall ensure that each of its subcontractors complies with these requirements. Employers Liability insurance with coverage limits of not less than \$500,000 must be included.
9. MPO's Project Manager for this Project is Andy Gomez, MPO Executive Director, Walla Walla Valley Metropolitan Planning Organization, 107 South 3rd Ave, Walla Walla, WA 99362; phone: (509) 876-8002; email: andy@wwwvmpo.org, or assigned designee upon individual's absence. MPO shall notify the other Party in writing of any contact information changes during the term of this Agreement.

ODOT OBLIGATIONS

1. In consideration for the services performed during the term of this Agreement, ODOT agrees to pay MPO, within forty-five (45) days of receipt of each approved Project invoice, up to a total maximum amount of \$26,722.29 for all Work performed under this Agreement. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall be reimbursed to MPO in accordance with the current State of Oregon Department of Administration Services' rates.

2. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within ODOT's current appropriation or limitation of current biennial budget.
3. ODOT's Project Manager for this Agreement is Teresa Penninger, 3012 Island Avenue, La Grande, OR 97850-9497; phone: (541) 963-1344; email: tesesa.b.penninger@odot.oregon.gov; designated Transportation Planner of the ODOT Region 5 Planning Section, or assigned designee upon individual's absence. ODOT shall notify the other Party in writing of any contact information changes during the term of this Agreement.
4. ODOT's SPR Program Manager for this Agreement is Arlene Santana, 555 13th Street NE, Suite 2, Salem, OR 97301-4178; phone: (503) 986-4126; email: arlene.santana@odot.oregon.gov; or assigned designee upon individual's absence. ODOT shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. ODOT may terminate this Agreement effective upon delivery of written notice to MPO, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If MPO fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If MPO 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 ten (10) days or such longer period as ODOT may authorize.
 - c. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - 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 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. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or MPO with

respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

5. With respect to a Third Party Claim for which ODOT is jointly liable with MPO (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by MPO in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of MPO on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of MPO on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
6. With respect to a Third Party Claim for which MPO is jointly liable with ODOT (or would be if joined in the Third Party Claim), MPO shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of MPO on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of MPO on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. MPO's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall 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 incorporated herein by reference and made a part hereof. Without limiting the generality of the forgoing, the Parties expressly agrees 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) ORS 659A.142 and the Americans

with Disabilities Act of 1990 as Amended by the ADA Amendments Act of 2008; (iv) all regulation 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. In addition, MPO expressly agrees to comply with 23 CFR 420.121(g) and 49 CFR Part 20 regarding lobbying restrictions on influencing certain Federal activities, which are applicable to all tiers of recipients of FHWA and FTA planning and research funds.

8. Americans with Disabilities Act Compliance:
 - a. MPO shall ensure that its activities under this Agreement complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendment Act of 2008 (together, "ADA"), including ensuring that all planning products, processes, work tasks, and deliverables identified in the MPO's UPWP are ADA-compliant, and that all options and alternatives evaluated as part of such planning products, processes, work tasks, and deliverables meet ADA requirements.
 - b. In performing the Work under this Agreement, including but not limited to any survey or data collection activities, MPO shall ensure that temporary pedestrian routes are provided through or around any work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. MPO shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the establishment of any work zone.
9. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
10. MPO acknowledges and agrees that ODOT, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of MPO which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of is reimbursable by requesting Party.
11. 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 MPO representative.
12. MPO, as a recipient of federal funds, pursuant to this Agreement with the ODOT, shall assume sole liability for MPO's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon MPO's breach of any

such conditions that requires ODOT to return funds to the Federal Highway Administration, hold harmless and indemnify ODOT for an amount equal to the funds received under this Agreement.

13. Indirect Cost Rate

- a. As required by 2 CFR 200.331(a)(4), the indirect cost rate(s) for this project at the time the agreement is written is 0 percent (0%). This rate may change during the term of this Agreement upon notice to ODOT and ODOT's subsequent written approval.
- b. If the approved rate(s) change(s) during the term of this Agreement, MPO shall invoice ODOT using the current indirect cost rate(s) for the project on file with ODOT at the time the work is performed. If MPO does not have approved indirect cost rate(s) on file with ODOT at the time the work is performed, MPO shall invoice ODOT using the zero percent (0%) rate.

14. 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.

15. 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.

16. By signing this Federal-Aid Agreement Agency agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act (FFATA) and is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>. If, in the preceding fiscal year, Agency received more than 80% of its gross revenues from the federal government, those federal funds exceed \$25,000,000 annually, and the public does not have access to information about the compensation of executives through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986, Agency shall report the total compensation and names of its top five executives to State. Agency shall report said information to State within 14 calendar days of execution of this Agreement and annually thereafter, utilizing the FFATA form attached hereto as Exhibit "C".

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Director of ODOT, under delegated authority from the Oregon Transportation Commission, approved this Project on March 21, 2023.

MPO, by and through its Board of Directors

By Andres Gomez
Executive Director

Date June 22, 2023

LEGAL REVIEW APPROVAL (If required in
MPO's process)

By Joel Hall
Counsel

Date June 22, 2023

MPO Contact:

Andy Gomez
Executive Director
Walla Walla Valley MPO Organization
107 South 3rd Ave.
Walla Walla WA 99362
Phone: (509) 876-8002
Email: andy@wwwmpo.org

STATE OF OREGON, by and through
its Department of Transportation

By Amanda PIETZ
Amanda PIETZ (Jun 27, 2023 10:25 PDT)

Amanda Pietz, Division Administrator, Policy,
Data and Analysis Division

Date 06/27/2023

APPROVED AS TO LEGAL SUFFICIENCY

Exempt per DOJ Class Exemption letter dated
October 4, 2019

ODOT Contact:

Teresa Penninger
ODOT Region 5 Planning and Development
Manager
3012 Island Avenue
La Grande, OR 97850-9497
Phone: (541) 963-1344
Email: tesesa.b.penninger@odot.oregon.gov

For purposes of Exhibits A, B and C, references to Department shall mean ODOT, references to Contractor shall mean MPO 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.

EXHIBIT B

Federal Provisions
Oregon Department of Transportation

I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

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

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this 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

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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.

Exhibit C

**Federal Funding Accountability and Transparency Act (FFATA)
Subaward Reporting**

(For purposes of this Exhibit, references to “your organization” shall mean “Agency” and references to “ODOT” shall mean “State.”)

The Oregon Department of Transportation (ODOT) is required to fulfill a federal requirement for contracting under the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). FFATA reporting is a requirement for subawards (also known as subrecipients) of federal awards in excess of \$25,000,000. Your organization will enter into an agreement with ODOT where the funding source is a federal grant with a subrecipient relationship. Your organization is required to submit the information below to the Oregon Department of Transportation within fourteen calendar days of execution of the Agreement and annually thereafter, if applicable. (See the following page for further details.)

Legal entity name: _____

Data Universal Number System (DUNS) number: _____

Executive compensation

Executive compensation information is also required to determine whether or not the following information must be reported in FSRS:

- a.** In your organization’s previous fiscal year, did your organization receive 80% or more of its annual gross revenue and \$25,000,000 or more in federal procurement contracts, subcontracts, loans, grants, subgrants, cooperative agreements and federal financial assistance awards subject to the Transparency Act? (Include parent organization, all branches, and all affiliates worldwide.)

☐ Yes ☐ No If “yes,” proceed to b. If “no,” no further action is required and submittal of this form is not required.

- b.** Does the public have access to information about the compensation of the senior executives in your organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

☐ Yes ☐ No If “yes,” provide a link to the SEC: <http://www.sec.gov> where this information is located and return form to the ODOT contact shown at the bottom of this form.

Provide link here:

If “no,” provide compensation information below.

Names and annual compensation amounts of the five most highly compensated executives:

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$

Business entity contact information (person completing form):

Type name	Title	Date
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Return completed form to: Alice Bibler, Program and Funding Services Manager; Oregon Department of Transportation; 355 Capital Street NE; Salem, OR 97301; Alice.Bibler@odot.oregon.gov

DRAFT

*Rogue Valley Council of Governments/ODOT
State Fiscal Year 2005*

Background on FFATA requirements

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of the Act is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

Definition of compensation

Your organization is considered a subrecipient of federal funds. Unless your organization is exempt, FFATA requires you to report total compensation for each of your five most highly compensated executives for the preceding completed year. Total compensation means the cash and non-cash dollar value earned by the executive during the subrecipient's preceding fiscal year and includes the following: salary and bonus; awards of stock, stock options, and stock appropriation rights; earnings for services under non-equity incentive plans; change in pension value; above-market earnings on deferred compensation which is not tax-qualified; and other compensation as defined in 2 CFR Part 170, Section 170.330(b)(5)(vi).

More detailed information about the FFATA can be found at:
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

If you have any questions, contact:

Alice Bibler
Program and Funding Services Manager
Oregon Department of Transportation
355 Capital Street NE
Salem, OR 97301
Alice.Bibler@odot.oregon.gov
Telephone: 971-719-6313