



# **Request for Proposals 3750**

## **Montgomery Park to Hollywood Transit & Land Use Development Strategy**

Notice is hereby given that proposals for RFP 3750 for Montgomery Park to Hollywood Transit & Land Use Development Strategy Title/Description shall be received by Metro, 600 NE Grand Avenue, Portland OR 97232 until 2:00 p.m. Pacific Time on October 22, 2019. It is the sole responsibility of the Proposer to ensure that Metro receives the Proposal by the specified date and time. All late Proposals shall be rejected. Proposers shall review all instructions and contract terms and conditions.

**[oregonmetro.gov](http://oregonmetro.gov)**

Metro  
600 NE Grand Ave.  
Portland, OR 97232-2736

## I. Introduction

Metro is requesting proposals for the Montgomery Park to Hollywood Transit & Land Use Development Strategy. Proposals will be due as indicated on the RFP cover page.

A voluntary pre-proposal conference will be held in Room 501 of the Metro Regional Center, 600 N.E. Grand Avenue, Portland, Oregon, on **Friday, October 4, 2019 at 10:30 a.m.** Interested proposers and subcontractors are encouraged to attend the conference in order to gain information about the RFP requirements. Details concerning the project and proposal are contained in this document.

## II. Background/History of Project

This work is funded by a Federal Transit Administration (FTA) grant to Metro, in partnership with the City of Portland.

The project seeks to create an equitable development plan for two future transit-oriented districts – one in NW Portland and one in Inner East Portland. This project is intended to complement potential transit improvements to better connect Montgomery Park with the Hollywood District. The project will identify the land use and urban design opportunities, economic development and community benefit desires and opportunities leveraged under a transit-oriented development scenario. The project will now consider how such opportunities could support the City's racial equity, climate justice, employment and housing goals, and the 2035 Comprehensive Plan.

The study will assess affordable housing, economic development and business stabilization opportunities associated with potential transit investments. The study will evaluate existing or future transit service and a potential 6.1-mile streetcar line. An initial Phase 1 transit expansion would extend the streetcar, or other high-quality transit service to Montgomery Park, linking Portland's Central Eastside to an underserved area of Northwest Portland. Phase 2 will explore alignment options and development potential to extend this line to the Hollywood District.

Project partners will examine how transit alternatives can better support inclusive development, affordable housing and access. Major transit investments are seen as a land use tool to shape the future growth of the Central City and surrounding areas. Accordingly, the workplan will quantify the ability of different transit and land use scenarios to support compact development along the corridor with an emphasis on identifying tools to help advance equitable development.

## III. Proposed Scope of Work/Schedule/Budget

The Montgomery Park to Hollywood Transit & Land Use Development Strategy consists of the 10 work tasks described below. The Bureau of Planning and Sustainability (BPS) and The Bureau of Transportation (PBOT) will undertake a portion of the project work, working with consultant staff to deliver on key tasks in the project. The work is expected to be performed in a collaborative fashion with frequent interaction between city staff and the consultant team.

Metro is seeking proposals from qualified firms to perform the services and deliver the products described for Consultant in work tasks 2, 6, 7, 8, and 9 listed below. See Consultant Deliverables listed within each Task. Tasks 1, 3 and 10 have no specific consultant role and are shown for context and informational purposes. Tasks 4 and 5 have no consultant role in the creation of deliverables, but the consultant is expected to become familiar with the information in these products.

### 1. Grant Administration (Metro, no consultant role)

Metro will provide grant administration and oversight, including communication with the FTA, consultant procurement, and disbursement of grant funds. Metro will also review all deliverables for adequacy before submittal to the FTA.

### **Agency Deliverables:**

- Intergovernmental Agreement (signed IGA with City of Portland)
- Grant progress reporting to the FTA
- Consultant procurement process, contracting and contract management
- Documentation of grant compliance as needed
- Coordination of Regional Transportation Plan and 2040 Comprehensive Plan efforts

## **2. Project Management** (PBOT/BPS co-lead, ongoing through project completion)

PBOT and BPS will provide substantive project leadership and management, including convening a bi-weekly Project Managers meeting, completing technical review of project deliverables, and managing any project interaction with the Portland Streetcar (PSI) Board, agency partners, and private sector supporters. The City expects that the consultant project manager will attend the bi-weekly Project Management Team (PMT) meetings, monthly steering committee meetings (overlapping some months), and other management meetings as needed to strategically move the project forward.

### **City Deliverables:**

- Project team meeting agendas

### **Consultant Deliverable:**

- Attendance and participation in management team meetings (bi-weekly).

**Community Engagement Plans and Process** (BPS lead, PBOT participation, Prosper Portland (Prosper) Support; Community-Based Organization (CBO) or supplemental contactor process support; ongoing through project completion)

The City will develop an outreach effort to engage community members throughout the whole project process, providing input and reaction at project milestones.

City and project staff will engage existing local advisory bodies to ensure institutional, community, and private sector input. Staff will explicitly focus on the needs of underserved communities and how development along the project corridor can advance outcomes for historically marginalized communities. Consultants and/or community base organizations will be contracted to engage these communities. Staff will draw from the equity analysis report created early in project development phases, including recommendations for community engagement.

### **City Deliverables:**

- Community Engagement Plan for grant activities in both NW Portland and one in Inner East Portland. This will outline specific actions and methods to be used to involve stakeholders, property owners, businesses, residents and employees living and working in the corridor. The plan may also identify some elements of engagement that will be handled by project consultants.
- Engagement of under-represented communities. The Project partners will solicit proposals from community-based organizations that represent communities of color or other traditionally-marginalized groups. These contracts or grants will be for services related to engagement of communities of color and under-represented groups.

- Communications. A project website will be created and maintained with project documents, events calendars, news, and information about advisory committees.

### 3. Existing Conditions – Land Use (BPS lead; due 12/31/19)

BPS will provide a profile of existing land uses, businesses, residents, jobs and housing in the potential NW Portland and Inner East Portland corridors. This will include:

- a breakdown of current and forecasted housing types and their affordability profiles
- a summary of existing job types and wage levels; and
- an assessment of the accessibility of the existing housing and jobs to area residents.

#### City Deliverables:

- Existing Land Use Conditions reports (NW and Inner East Portland).

### 4. Existing Conditions – Transportation (PBOT lead; due 12/31/19)

PBOT will provide a summary of the existing transportation conditions in the NW Portland and Inner East Portland corridors. PBOT will present:

- Infrastructure condition, including: roadway classifications, crash history, overlay designations, transit service and stops, and sidewalk coverage
- Modal volumes including vehicles, bikes, scooters, and transit ridership
- Demographic data along proposed corridor related to transportation needs (low-vehicle households, commute share, etc.) Other important demographic data will be presented in the Existing Conditions: Land Use report.
- Identified missing system elements

#### City Deliverables:

- Existing Transportation Conditions report (NW and East side)

### 5. Urban Design Analysis and Concepts (BPS lead, PBOT Support; Consultant; due 3/31/21)

Urban design is closely linked to land use and transportation analysis tasks and will be conducted throughout the project. Urban design work will be phased to begin with a framework guided by the project purposes and goals. Findings from the housing and equitable community development needs analysis will guide urban design. The timeline for potential development varies widely between the NW District and the East Portland corridors, so the deliverables will reach different levels of detail. In general, the urban design analysis will describe desired land uses, potential open space and public facilities investments, street functions, and physical form. The consultant is expected to collaborate with city staff on this task.

For NW Portland (Phase 1):

Analysis will be conducted on key sites, documenting site constraints, infrastructure needs, zoning refinement options and concept planning. The team will evaluate how well urban design concepts align with agreed upon project goals, community values, and the needs uncovered by the housing and equitable community development needs analysis. This work will inform specific land use/zoning and infrastructure proposals to complement the planned transit investment to be developed in Tasks 8 and 9.

For Inner East Portland (Phase 2):

A high-level analysis will be conducted on three possible alignments. The team will evaluate how well initial urban design concepts align with agreed upon project goals, community values, and the needs uncovered by the housing and equitable community development needs analysis. This work will inform

transit investment planning (alignment, etc.), and the scope of potential future zoning actions identified as part of Tasks 8 and 9.

**City Role:** BPS and PBOT staff will provide direction, generate ideas, provide supporting technical materials and review drafts of consultant work products.

**Consultant Role:** In NW Portland, the consultant will refine existing design concepts previously developed by City staff into three distinct options and design a decision-making tool to select a preferred recommendation. For Inner East Portland, the consultant will develop three urban design concepts - one concept for each of the three possible alignments. Participation in staff and community meetings, as needed.

**Consultant Deliverables:**

- Urban design framework reports for the two areas, with urban design diagrams, illustrations, and supporting explanatory text – with an emphasis on the areas of the NW Portland and Inner East Portland corridors where land use changes are being evaluated.

**6. Community Equitable Needs and Opportunities** (Prosper Portland and BPS Co-lead; consultant))

BPS will work with Prosper Portland and the Portland Housing Bureau to understand the impact of the potential rezoning and transit expansion on low-income people and people of color working and living in the area and develop an equitable development strategy. The work will include engagement with communities of color, residents, employees, and businesses at risk of displacement. In addition, the project will engage private developers and property owners to vet land use assumptions and market dynamics on key opportunity sites, focusing on the potential equity benefits.

The strategy will include:

- an assessment of housing and jobs displacement risk and the necessary community benefits to off-set displacements and to keep on advancing the City equity goals;
- an estimate of costs for identified community needs due to the changes; and
- identification of opportunities to advance City equity goals under different land use scenarios.

**Consultant Role:** Technical assistance preparing a community benefits or equity package. Needed expertise is likely to include development agreement expertise, financial analysis of feasibility gaps, or assistance in the development of a financial plan to pay for community benefits. Participation in staff and community meetings, as needed.

**City Deliverables:**

- Equitable Development Report including housing inventory, needs assessment, employment/economic development impacts and opportunities assessment.
- Value of community benefits needed to off-set potential displacements.

**Consultant Deliverables:**

- Technical assistance in the form of meetings, memorandum, or other to-be-scoped methods to assist the City in producing the equitable development report.

**7. Land Use Analysis and Recommendations** (BPS lead; consultant; due 9/30/20)

This task will develop and analyze land use choices and develop proposals that best support the transit investment and are informed by the urban design concepts developed as part of Task 6.

This includes characterizing the various opportunities and challenges of the several alignment choices from a land use perspective.

In the NW Portland Corridor, the team will develop and analyze three detailed land use scenarios, including alternatives that allow more flexible employment uses and increase housing supply and affordability. The analysis will consider the potential social and economic benefits and impacts of the land use changes. This will build on previous analysis of the alignment.

In the Inner East Portland area, the team will evaluate new higher-level land use alternatives for three distinctly different alignment options. The team will evaluate the Banfield Portal area as it relates to the Hollywood extension, and consider the possibility of adding the area to the Central City Plan District and develop proposals to revise entitlements accordingly.

The team will develop concepts for the redevelopment of strategic opportunity sites in both the NW Portland and Inner East Portland areas. These could include design concepts, programming, site-specific exploration of infrastructure needs and challenges, and testing economic viability.

**Consultant Role:** Develop land use opportunities and challenges matrix and supporting narrative, develop descriptions, illustrations and maps explaining the land use proposals for the NW Portland and Inner East Portland study areas. These deliverables will be inserted into a larger City-prepared report. Develop market-feasible concepts for the redevelopment of several opportunity sites in the corridor. Participation in staff and community meetings, as needed.

#### **City Deliverables:**

- Draft land use proposals for the NW Portland Corridor
- Draft land use concept for the Inner East Portland/Hollywood extension, with next steps identified.

#### **Consultant Deliverables:**

- Opportunities and challenges matrix and report.
- Maps, graphics, diagrams and economic and other analyses needed to support draft land use proposals for the NW Portland Corridor and Inner East Portland/Hollywood extension, with next steps identified.
- Opportunity site report(s).

### **8. Transportation Planning Analysis and Recommendations** (PBOT lead, consultant; due 6/30/21)

This task will evaluate transportation corridor needs and summarize how the networks operate under new transit investment and land use scenarios. While task 9 will summarize transportation benefits, costs, and needed supporting infrastructure for both Phase 1 (NW Portland) and Phase 2 (Inner East Portland) corridors, more specificity will be given to the Phase 1 corridor. Task 9 will consider circulation networks, street treatments, cross section design and other multimodal planning tasks where land use changes are being evaluated in the NW district.

The project team will evaluate urban design and land use scenarios, and develop transportation proposals to meet transportation demands, accommodate growth in jobs and housing, and address equitable development goals. The team will build on transportation work from the planning analysis phase to include specific capital project recommendations to add to the Transportation System Plan, a potentially new transportation grid with street classifications and design standards to serve the NW District corridor.

**Consultant role:** Evaluate the impacts and opportunities of the proposed land use and street plan changes, including multimodal network connections for pedestrians, bicyclists, transit, freight, and other roadway

users. Conduct traffic circulation and trip analysis to measure impacts to the greater neighborhood, and adjacent facilities. Calculate traffic impacts and changes to VMT or mode split. Coordinate with ODOT to assess access and queueing near on-ramps. Develop street plans and design standards, identify new multimodal connections, develop concepts potential new capital projects.

### **City Deliverables:**

- High-level alternatives analysis of transportation costs and benefits from different transit investment scenarios

### **Consultant Deliverables:**

- Report summarizing transportation benefits and costs of various transit alternative or alignments choices and supporting infrastructure in the right-of-way for Phase 1 and Phase 2 corridors.
- Multi-modal street plan for the Phase 1 study area and district. The street plan will include all multimodal elements, such as pedestrian and bicycle connections, transit station locations, and right-of-way needs for existing or new street designs.
- Traffic analysis via simulation and modeling software, including modeling trip growth, circulation, impacts to existing and new intersections, and impacts to ODOT facilities. The analysis will include between 4 and 8 intersection locations, as determined through scope discussion.
- Traffic mitigation strategies aimed at mitigating transportation issues identified during analysis phase. Strategies could include multimodal investments, parking management policies, right-of-way standards, signalization or other traffic control.
- Utility location identification for potential new roadway easement, and other locations not previously identified.
- Planning-level cost estimates for recommended capital projects and transportation programs. Planning costs base on agreed-upon templates.
- A report with recommended Transportation System Plan project list amendments, street classification recommendations, master street plans, and street design standards (as appropriate).

### **9. City Legislative Process (BPS and PBOT co-lead, due 12/31/21).**

BPS, PBOT, and Prosper Portland will work on City Legislative processes including consideration of zoning proposals, TSP amendments, and other possible implementation agreements with property owners or the community. Prosper Portland will work as an economic development and equity advisor and lead potential development agreement efforts with private partners and/or community partners.

### **City Deliverables:**

- Planning and Sustainability Commission Hearings
- City Council Hearings and briefings

Metro intends to award this to a single or multiple firm(s) to provide the services required. If services are proposed to be provided by a team of firms, one firm shall be the lead and the others shall be subconsultants.

### **VIII. Suggested Budget**

The Montgomery Park to Hollywood Transit Investment and Land Use Strategy is largely funded through a Transit Oriented Development grant from the Federal Transit Administration. The funding allocated to the consultant tasks cannot exceed \$370,798. The project budget that accompanied the FTA scope broke out funding for consultant tasks according to the table below. We ask firms to propose a

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funding allocation in their proposals, and invite firms to propose reallocation of the funding for tasks as appropriate to best achieve project outcomes, within the total consultant budget.

Task	Description	Funds allocated to Consultants
2	Project Management	\$18,500
6	Urban Design Analysis and Concepts	\$48,450
7	Community Equitable Needs and Opportunities	\$19,000
8	Land Use Analysis and Recommendations	\$95,000
9	Transportation Planning Analysis and Recommendations	\$189,809
	<b>Total</b>	<b>\$370,798</b>

## IV. Qualifications/Experience

Proposers shall have the following:

- Proven record of experience in complex land use planning, transportation analysis, transit-oriented development, urban design, and economic analysis work.
- Ability to think strategically, balance competing interests, and move projects forward amongst a variety of agency, private, and public stakeholders
- Proven track record completing projects that effectively inform public policy decisions and collaborative, public-private funding strategies
- Proven track record applying an equity lens to complex public policy development and planning processes
- Experience engaging stakeholders in local government and regional planning processes
- Experience creating clear, attractive, informative materials that can communicate complex topics to the public and decision-makers

## V. Proposal Instructions

### A. Submission of Sealed Proposals

One (1) paper copy and one (1) electronic version of the proposal shall be furnished to Metro in a sealed envelope, addressed to:

Metro Procurement Services  
 Attn: Julie Hoffman, RFP 3750  
 600 NE Grand Avenue  
 Portland, OR 97232-2736

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

### C. RFP as Basis for Proposals

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to [bidsandproposals@oregonmetro.gov](mailto:bidsandproposals@oregonmetro.gov). Any questions, which in the opinion of Metro, warrant a written reply or RFP addendum will be furnished to all parties receiving this RFP. Metro will not respond to questions received after 2:00 pm on October 14, 2019.

D. Information Release

All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all Proposers agree to such activity and release Metro from all claims arising from such activity.

E. Confidential and Proprietary Information:

Proposals and other documentation associated with this solicitation process are subject to Oregon's Public Records Laws (ORS 192.311-431). If you believe that any part of your proposal is exempt from disclosure under Oregon's Public Records Law because the information is confidential or proprietary, you must specify page-by-page the parts of the response that you believe are exempt. In addition, you must also specify which exemption(s) under state public records law are applicable and provide detailed reasons to substantiate the exception(s).

You must provide this information on the "Acknowledge and Acceptance of Metro's Public Records Procedure" form included as Exhibit A. If any information is unmarked, Metro will consider it non-exempt public information and Metro will release that information if it is requested under the Public Records Law.

The Office of Metro Attorney will make the final determination of whether the specified information is confidential, proprietary or otherwise exempt from disclosure. Thus, it is important that you provide sufficient information to explain *why* you believe certain information is exempt. **Vague and general claims to confidentiality are not acceptable.** Under state law the information must "*reasonably* be considered confidential" to qualify for an exemption. ORS 192.355(4).

You are advised to consult with your legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

## VI. Proposal Contents

The proposal should contain no more than ten (10) pages of written material (excluding biographies, resumes and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers, folders, binders or non-recyclable materials should be included in the proposal.

A proposal template is available at <http://www.oregonmetro.gov/how-metro-works/contract-opportunities/current-requests-bids-and-proposals>. The proposal template is optional to use and proposers will not receive any preference or penalty for using the provided template. The template is not customized to each RFP. It is the proposer's responsibility to ensure that proposals include all information requested and follow the instructions listed in this RFP document.

A. Transmittal Letter: Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days.

B. Approach/Project Work Plan: Describe the firm's understanding of the required work and how the work will be done within the given timeframe and budget. Include a proposed work plan and schedule. Project Staff are interested in your perspective on some of the challenges that face this type of integrated land use, urban design, and transportation planning work. Please address the following questions as part of your proposal:

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- How does the City balance existing policies that both support dense, mixed development in the City Center while also supporting the preservation of industrial jobs?
- What are some examples of programs, strategies or negotiated agreements between developers and community groups to further equitable outcomes?
- What are some examples of transportation-leverage districts that provide housing and/or jobs for a diverse range of household incomes and educational attainment? Feel free to draw on both domestic and international examples. What public policies and/or market conditions contributed to that outcome?

- C. Staffing/Project Manager Designation: Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and special qualifications they may bring to the project. Include resumes of individuals proposed for this contract.
- D. Experience: Indicate how your firm meets the experience requirements listed in section III. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.
- E. Budget/Allocation: Firms shall propose a funding allocation and a reallocation of the funding for tasks as appropriate to best achieve project outcomes, within the total consultant budget.
- F. Diversity in Employment and Contracting: Metro defines diversity as the variance or difference amongst people such as race, ethnicity, gender, age, religion, nationality, language preference, socioeconomic status, disability, sexual orientation, gender identity and others. Metro's Equity in Contracting Program encourages the use of minority-owned businesses, woman-owned businesses, businesses that service disabled veterans own and emerging small businesses, as defined under State law in ORS Chapter 200 and as certified by the Certification Office of Business Inclusion and Diversity (referred to here as COBID Certified Businesses) to the maximum extent practical.

Indicate whether your proposal includes subcontractors. If your proposal does not include subcontractors, complete Section 1 only. If your proposal does include subcontractors, complete both Section 1 and Section 2.

## Section 1: *To be completed by all proposers*

- **Certification**: Is your firm a COBID Certified Business? If yes, indicate all certification types and your firm's certification number.
- **Demographics**: Describe the diversity in demographics of the proposal team (yourself, your firm and/or any proposed subcontractors). Include race, gender, veteran status and disability. You may also include other measures of diversity, as defined in Section F above. Identify the diverse nature of the people that will perform work in substantive roles and percentage of work on this project.
- **Support**: Describe specific examples of how you and/or your firm support workforce diversity within your firm and/or your local community.
- **Firm Activity**: Identify an activity promoting workforce diversity within your firm that you and/or your firm will commit to undertake if awarded this project. Explain how these results will be reported to Metro.

- **Community Activity:** Identify an activity promoting workforce diversity within your local community that you and/or your firm will commit to undertake if awarded this project. Explain how these results will be reported to Metro.

Section 2: *To be completed by proposers utilizing subcontractors for this project*

- **Subcontractor Information:** Provide the following information for each subcontractor included in this project team:
  - Firm's name
  - Is the subcontractor a COBID Certified Business? If yes, indicate the state of certification, all certification types and subcontractor's certification number.
  - Method of choosing identified subcontractor
  - Specific scope of work tasks
  - Percentage of project dollars
- **Projects:** Identify up to three projects worked on during the last 24 months in which COBID Certified Businesses participated. Provide the following information for each project:
  - Project name
  - Project contact's name, phone number and email address
  - Contract award date, amount and completion date
  - COBID Certified Business goal percentage, if applicable, and COBID Certified Business achievement percentage
  - COBID Certified Business award and expenditure amount

G. Sustainable Business Practices

Environment

- Describe in general terms how your firm lessens its negative operational impacts on the environment and include details of three activities that demonstrate significant results. Provide documents, when available, such as your firm's environmental policies or other information that describes your firm's commitment to environmentally conscious business practices.
- Describe specifically how your firm will incorporate these environmentally conscious business practices into the delivery of the requested goods and/or services of this project. Explain how these results will be reported to Metro.

Economy

- Describe in general terms how your firm supports your local community and Metro regional businesses and markets. Provide documents, when available, such as your firm's economic policies, specific examples outlining past activities, or other information that describes your firm's commitment to supporting these economies.
- Describe specifically how your firm will support your local community and Metro regional businesses and markets in the delivery of the requested goods or services of this project. Explain how these results will be reported to Metro.

Community

- **Firms with employees:** Describe how your firm supports its employees by providing living wages and benefits. Describe your employee compensation structure, healthcare and other benefits provided to your employees. Provide documents, when available, that detail wage scales, annual cost of living adjustments (COLA), healthcare program, vacation and sick time, and any other related benefits or incentives.

- Firms without employees: Describe how your firm gives back to your local community through charitable or civic involvement.

H. Exceptions to Standard Agreement and RFP: Carefully review the Standard Agreement attached hereto as Exhibit B and incorporated herein. This is the standard agreement that successful respondents to this RFP will be required to execute. RFP respondents wishing to propose any exceptions or alternative clauses to the agreement or to any specified criteria within this RFP must propose those exceptions or alternative clauses in their proposal; Metro shall not be required to consider contract revisions proposed during contract negotiation and award. Proposed exceptions or alternative clauses should be accompanied by explanatory comments that are succinct, thorough and clear.

## VII. General Proposal/Contract Conditions

- A. Limitation and Award: This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Billing Procedures: Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include the Metro contract number, an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice. Invoices shall be delivered to [metroaccountspayable@oregonmetro.gov](mailto:metroaccountspayable@oregonmetro.gov).
- C. Validity Period and Authority: The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. Conflict of Interest: A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.
- E. Equal Employment and Nondiscrimination Clause: Metro and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability for which a reasonable accommodation can be made, or any other status protected by law. Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Complaint Form, see [www.oregonmetro.gov](http://www.oregonmetro.gov).
- F. Federal Funding. The awarded contract could be paid with federal funds in which case Contractor shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including (without limitation) the following:
- all applicable terms and conditions set forth in the most recent FTA Master Agreement

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- Uniform Administration Requirements, Cost Principles and Audit Requirements for Federal Awards - SuperCircular
- FTA Circular 5010.1E
- FAR 31.2 – Contracts with Commercial Organizations

Back-up documentation, that meets federal requirements, is required for all reimbursement requests

## VIII. Evaluation of Proposals

### A. Evaluation Procedure:

Proposals received that conform to the proposal instructions will be evaluated. The initial evaluation will take place using the evaluation criteria identified in the following section.

Metro may request interviews with the highest ranked proposers prior to final selection of firm(s). Interviews are intended to allow selected proposers to clarify or expand on their proposal and will be worth 25 points.

Award will be made to the highest ranked Proposer according to the evaluation criteria and interview score, if interviews are conducted. If contract negotiations are unsuccessful with the highest ranked firm, Metro reserves the right to enter into negotiations with the next highest ranked Proposer.

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

Evaluation Criteria	Score Breakdown		Percentage of Total Score
<b>Project Work Plan/Approach</b>			<b>35</b>
Demonstration of understanding of the project objectives	20		
Project approach	15		
<b>Project Staffing Experience</b>			<b>30</b>
Project consultant/staff experience	15		
Similar project experience	15		
<b>Budget Allocation</b>	5		<b>5</b>
Budget approach			
<b>Diversity in Employment and Contracting</b>	Utilizing subcontractor	Not utilizing subcontractor	<b>20</b>
Section 1:			
• Certification	5	5	
• Demographics	3	5	
• Support	3	5	
• Firm Activity	2	2	
• Community Activity	3	3	
Section 2:			
• Subcontractor Information	2	0	
• Projects	2	0	
<b>Sustainable Business Practices</b>			<b>10</b>
Environment	4		
Economy	4		
Community	2		

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<b>TOTAL</b>		<b>100%</b>
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**IX. Protest of Contract Award**

Aggrieved proposers who wish to Protest the award of this contract must do so in writing within seven (7) days of issuance of the notice of intent to award by Metro. Protests must be submitted to Metro Procurement Officer, 600 NE Grand, Portland Oregon 97232 and must state the specific deviation of rule or statute in the contract award. Metro will issue a written response to the protest in a timely manner.

**X. Notice to All Proposers – Standard Agreement**

The attached agreement included herein reflects preliminary, draft contract language and selected, proposed contract terms for this procurement. Proposers should be aware that such language terms and provisions are for illustrative purposes only and that Metro reserves the right, following submission and ranking of all proposals submitted in response to this procurement, to amend, modify or negotiate over any and all such contract language, terms and provisions before making a final determination regarding the issuance of the Notice of Intent to Award the agreement arising from this procurement. By submitting a proposal in response to this procurement, proposers acknowledge that they are aware of and do not object to any later, potential amendment and modification of such preliminary, draft language and terms. In addition, by responding to this procurement, proposers acknowledge that they are aware of their ability to offer alternatives to any of the preliminary, draft contract language and proposed contract terms set forth herein.

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



## Exhibit A, Acknowledgment and Acceptance of Metro's Public Records Procedure

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*Your signature below certifies acceptance of Metro's Public Records Procedure, except as noted below (additional pages may be attached if necessary).*

**Check one of the following responses below to acknowledge and accept Metro's Public Records Procedure:**

- I acknowledge Metro's Public Records Procedure and declare that no information submitted with his proposal, or any part of the proposal, is exempt from disclosure under Oregon's Public Records Laws.
- I declare the following information to be confidential, a trade secret or otherwise proprietary and therefore exempt from disclosure under the Public Records Law.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*(Note: You must specify page-by-page which parts of the response you believe are exempt. You must also specify which exception(s) apply and provide detailed reasons to substantiate the exception(s).)*

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



Exhibit B, Standard Agreement

Metro Contract No. XXXXXX

THIS AGREEMENT is between **Metro**, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and **Company Name**, referred to herein as "Contractor," located at address, City, State Zip.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. **Duration.** This personal services agreement shall be effective Month XX, 201X and shall remain in effect until and including Month XX, 201X, unless terminated or extended as provided in this Agreement. IF CONTRACT IS SUBJECT TO RENEWAL OR EXTENSION, INCLUDE SUCH LANGUAGE i.e. This agreement may be renewed or extended for XX additional one-year periods at Metro's sole discretion.
2. **Scope of Work.** Contractor shall provide all services and materials specified in the attached "Attachment A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. **Payment.** Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed XXXXXXXX AND XX/100THS DOLLARS (\$XXXXXX.XX). Payment shall be made by Metro on a Net 30 day basis upon receipt of Contractor invoice.
4. **Insurance.** Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
  - (a) The most recently approved ISO (Insurance Services Office) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. The policy will include coverage for bodily injury, property damage, personal injury, contractual liability, premises and products/completed operations. Contractor's coverage will be primary as respects Metro;
  - (b) Automobile insurance with coverage for bodily injury and property damage and with limits not less than minimum of \$1,000,000 per occurrence;
  - (c) Workers' Compensation insurance meeting Oregon statutory requirements including Employer's Liability with limits not less than \$500,000 per accident or disease; and
  - (d) Professional Liability Insurance, with limits of not less than \$1,000,000 per occurrence, covering personal injury and property damage arising from errors, omissions or malpractice. PROFESSIONAL LIABILITY REQUIRED FOR ARCHITECTURAL & ENGINEERING SERVICES - DELETE PROFESSIONAL LIABILITY INSURANCE LANGUAGE IF NOT REQUIRED

Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED on Commercial General Liability and Automobile policies.

Contractor shall provide to Metro 30 days notice of any material change or policy cancellation.

Contractor shall provide Metro with a Certificate of Insurance complying with this article upon return of the Contractor signed agreement to Metro. Contractor shall email Certificate of Insurance to [submitdocuments@oregonmetro.gov](mailto:submitdocuments@oregonmetro.gov). Certificate of Insurance shall identify the Metro contract number.

5. **Indemnification.** Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



## Exhibit B, Standard Agreement

Metro Contract No. XXXXXX

6. Ownership of Documents and Maintenance of Records. Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this agreement are Work Products and are the property of Metro, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling, electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon Metro request, Contractor shall promptly provide Metro with an electronic version of all Work Products that have been produced or recorded in electronic media. Metro and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such Work Products.
- a. Contractor and subcontractors shall maintain all fiscal records relating to such contracts in accordance with generally accepted accounting principles. In addition, Contractor and subcontractors shall maintain any other records necessary to clearly document:
    - (1) The performance of the contractor, including but not limited to the contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the contractor or subcontractor under the terms of the contract or subcontract;
    - (2) Any claims arising from or relating to the performance of the contractor or subcontractor under a public contract;
    - (3) Any cost and pricing data relating to the contract; and
    - (4) Payments made to all suppliers and subcontractors.
  - b. Contractor and subcontractors shall maintain records for the longer period of (a.) six years from the date of final completion of the contract to which the records relate or (b.) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.
  - c. Contractor and subcontractors shall make records available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.
  - d. Contractor and subcontractors authorize and permit Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of Contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provisions of section E.
  - e. Contractor and subcontractors agree to disclose the records requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.
  - f. Contractor and subcontractors agree that in the event such records disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted, the Contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum that is due or that becomes due from Metro.

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



Exhibit B, Standard Agreement

Metro Contract No. XXXXXX

g. Failure of the Contractor or subcontractor to keep or disclose records as required by this document or any solicitation document may result in debarment as a bidder or proposer for future Metro contracts as provided in ORS 279B.130 and Metro Code Section 2.04.070(c), or may result in a finding that the Contractor or subcontractor is not a responsible bidder or proposer as provided in ORS 279B.110 and Metro Code Section 2.04.052.

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

8. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

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

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

Metro considers \_\_\_\_\_ to be a **Contractor** compensated with federal funds. Funding for this project is obtained from a Grant between Metro and the Federal Transit Administration (FTA), utilizing FY 18 20005(b) MAP-21 Pilot Program for TOD Planning funds, CFDA No. 20.500.

As federal funds are involved in this Agreement, **Exhibit B, Federal Clauses, Attachment A – Debarment and Attachment B – Lobbying**, are attached and by this reference are hereby made part of this Agreement and incorporated herein as if set forth in full.

Contractor shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including (without limitation) the following:

- all applicable terms and conditions set forth in the most recent FTA Master Agreement
- Uniform Administration Requirements, Cost Principles and Audit Requirements for Federal Awards - SuperCircular
- FTA Circular 5010.1E
- FAR 31.2 – Contracts with Commercial Organizations

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

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



## Exhibit B, Standard Agreement

Metro Contract No. XXXXXX

12. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party without Metro's written consent.
13. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor seven (7) days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.
14. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.
15. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties. Metro may approve changes and modifications to the original contract, including deletions of work, order of additional materials, and additional services reasonably related to the original work scope. Contractor may propose changes in the work that Contractor believes are necessary, will result in higher quality work, improve safety, decrease the amount of the contract, or otherwise result in a better or more efficient work product. If such changes are approved by Metro, they shall be executed by written contract amendment signed by both parties. Such changes shall not relieve Contractor of any obligation or warranty under the contract. No oral statements by either party shall modify or affect the terms of the contract.
16. Severability. The parties agree that any provision of this Contract that is held to be illegal, invalid, or unenforceable under present or future laws shall be fully severable. The parties further agree that this Contract shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never been a part of them and the remaining provisions of the Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Contract. Furthermore, a provision as similar to the illegal, invalid, or unenforceable provision as is possible and legal, valid and enforceable shall be automatically added to this Contract in lieu of the illegal, invalid, or unenforceable provision. Any failure by Metro to enforce a provision of the Contract is not to be construed as a waiver by Metro of this right to do so.
17. Counterparts. This Contract may be executed in counterparts or multiples, any one of which will have the full force of an original.
18. Delivery of Notices. Any notice, request, demand, instruction, or any other communications to be given to any party hereunder shall be in writing, sent by registered or certified mail or fax as follows:

To Contractor: Contractor Contact  
Firm Name  
Address  
City State Zip  
XXX-XXX-XXXX phone  
email

To Metro: Metro Procurement Services  
600 N.E. Grand Avenue  
Portland, Oregon 97232-2736  
503-797-1791 fax

With Copy to: Project Manager  
Metro  
600 N.E. Grand Avenue  
Portland, Oregon 97232-2736  
503.XXX-XXXX phone  
Email

# RFP 3750 - Montgomery Park to Hollywood Transit & Land Use Development Strategy



Exhibit B, Standard Agreement

Metro Contract No. **XXXXXX**

19. Intergovernmental Cooperative Agreement. Pursuant to ORS 279A and the Metro contract code, Metro participates in an Intergovernmental Cooperative Purchasing program by which other public agencies shall have the ability to purchase the goods and services under the terms and conditions of this awarded contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to Metro under this agreement. Any estimated purchase volumes listed herein do not include volumes for other public agencies, and Metro makes no guarantee as to their participation in any purchase. Any Contractor may decline to extend the prices and terms of this solicitation to any or all other public agencies upon execution of this contract. Unless the Contractor specifically declines to participate in the program by marking the box below, the Contractor agrees to participate in the Intergovernmental Cooperative Purchasing program. **Contractor declines to participate in the Intergovernmental Cooperative Purchasing program as indicated by the following initials \_\_\_\_\_.**

**Contractor**

**Metro**

By \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# Attachment A – Scope of Work

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Metro Contract No. XXXXXX

**1. Purpose and Goal of Work**

**2. Description of the Scope of Work**

**3. Deliverables/Outcomes**

**4. Payment and Billing**

Contractor shall perform the above work for a maximum price not to exceed XXXXXXXX AND XX/100<sup>TH</sup> DOLLARS (\$XXXXXX.XX).

**INCLUDE HOURLY RATES OR TASK BASED PAYMENTS IF APPLICABLE**

The maximum price includes all fees, costs and expenses of whatever nature. Each of Metro's payments to Contractor shall equal the percentage of the work Contractor accomplished during the billing period. Contractor's billing invoices shall include the Metro contract number, Contractor name, remittance address, invoice date, invoice number, invoice amount, tax amount (if applicable), and an itemized statement of work performed and expenses incurred during the billing period, and will not be submitted more frequently than once a month. Contractor's billing invoices shall be sent to [metroaccountspayable@oregonmetro.gov](mailto:metroaccountspayable@oregonmetro.gov). The Metro contract number and contractor name shall be referenced in the email subject line. Metro requests that contractors submit billing invoices for services within 10 business days of performance. Payment shall be made by Metro on a Net 30 day basis upon approval of Contractor invoice.

# Exhibit B – Federal Clauses

# \$100,000 and above

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

The Contractor agrees to comply with all applicable Federal Clauses as outlined in the **October 1, 2018 FTA Master Agreement [FTA MA 25]**, or most recent, including, but not limited to, the following:

## **A. Application of Federal, State, and Local Laws, Regulations and Guidance.**

For purposes of this Master Agreement:

(1) Federal requirement. A Federal requirement includes, but is not limited to a:

- (a) An applicable Federal law,
- (b) Applicable Federal regulation,
- (c) Provision of the Recipient's Underlying Agreement, or
- (d) Provision of this Master Agreement,

(2) Federal guidance. Federal guidance includes, but is not limited to:

(a) Federal guidance such as a:

- 1 Presidential Executive Order,
- 2 Federal order that applies to entities other than the Federal Government,
- 3 Federal published policy,
- 4 Federal administrative practice,
- 5 Federal guideline,
- 6 Letter signed by an authorized Federal official, and
- 7 Other applicable Federal guidance as defined at section 1.j of this Master Agreement, or

(b) Other Federal publications or documents providing official instructions or advice about a Federal program that:

- 1 Are not designated as a "Federal Requirement" in section 2.c (1) of this Master Agreement, and
- 2 Are signed by an authorized Federal official,

(3) Compliance. The Recipient understands and agrees that:

(a) Federal Requirements. It must comply with all Federal requirements that apply to itself and its Project,

(b) Federal Guidance. FTA strongly encourages the Recipient and each of its Third Party Participants to follow Federal guidance as described in the preceding section 2.c(2) of this Master Agreement to ensure satisfactory compliance with Federal requirements,

(c) Alternative Actions. It may violate Federal requirements if it:

- 1 Adopts an alternative course of action not expressly authorized by the Federal Government in writing, and
- 2 Has not first secured FTA's approval of that alternative in writing,

*[FTA Master Agreement §2.c (1) (2) (3)]*

**B. No Federal Government Obligations to Third Parties.**

Except as the Federal; Government expressly consents in writing, the Recipient agrees that:

- (1) The Federal Government shall not be subject to any obligations or liabilities related to:
  - (a) The Project,
  - (b) Any Third Party Participant at any tier, or
  - (c) Any other person or entity that is not a party (Recipient or FTA) to the underlying Agreement for the Project, and
  
- (2) Notwithstanding that the Federal Government may have concurred in or approved any solicitation or third party agreement at any tier that has affected the Project, the Federal Government shall not have obligation or liability to any:
  - (a) Third Party Participant, or
  - (b) Other entity or person that is not a party (Recipient or FTA) to the Underlying Agreement.

*[FTA Master Agreement, §2.f]*

**C. False or Fraudulent Statements or Claims.**

- (1) Civil Fraud. The Recipient acknowledges and agrees that:
  - (a) Federal law and regulations apply to itself and its Project, including:
    - (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.*, and
    - (2) U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31,
  - (b) By executing the Underlying Agreement, the Recipient certifies and affirms the:
    - (1) Truthfulness and accuracy of any
      - (a) Claim,
      - (b) Statement,
      - (c) Submission,
      - (d) Certification,
      - (e) Assurance, or
      - (f) Representation, and
    - (2) For which the Recipient has made, makes, or will make to the Federal Government, and
  - (c) The Recipient acknowledges that the Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient:
    - (1) Presents, submits, or makes available any information in connection with any:

## Exhibit B – Federal Clauses

\$100,000 and above

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

- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,

(2) Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323 (1) (1), authorizes the Federal Government to impose the penalties authorized by 18 U.S.C. § 1001 if the Recipient:

(1) Presents, submits, or makes available any information in connection with any:

- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,  
*[FTA Master Agreement §3.f]*

### **D. Procurement**

Access to Third Party Contract Records. The Recipient agrees to require, and assures that its Subrecipients will require, its Third Party Contractors at each tier, to provide:

(1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the State, or their duly authorized representatives, access to all third party contract records (at any tier) as required by 49 U.S.C. § 5325(g), and

(2) Sufficient access to all third party contract records (at any tier) as needed for compliance with applicable Federal laws and regulations or to assure proper Project management as determined by FTA.

*[FTA Master Agreement §17(u)]*

### **E. Project Implementation**

Changes to Federal Requirements and Guidance.

(1) Requirements and Guidance. New Federal Requirements and Guidance may:

a. Become effective after the FTA Authorized Official signs the Recipient's

Underlying Agreement awarding funds for the Project, and

b. Apply to the Recipient or its Project,  
*[FTA Master Agreement, §2.d (1)]*

## F. Civil Rights.

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Specifically:

a. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will:

(1) prohibit discrimination based on:

- (a) race,
- (b) color, or
- (c) national origin

(2) Comply with:

- (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*,
- (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. Part 21 and
- (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the previous section 13.a of this Master Agreement, and

(3) Except as FTA determines otherwise in writing, follow

- (a) The most recent edition of FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance.
- (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964, 28 C.F.R. § 50.3, and
- (c) other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity.

(1) Federal Requirements and Directives. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and:

- (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*
- (b) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note,
- (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13.a of this Master Agreement, and,
- (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing.

## Exhibit B – Federal Clauses

\$100,000 and above

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

(2) General. Recipient agrees to

(a) Ensure that applicants for employment and employees are treated during employment without discrimination on the basis of their:

- 1 Race,
- 2 Color,
- 3 Religion,
- 4 Sex,
- 5 Disability,
- 6 Age, or
- 7 National origin.

(b) Take affirmative action that includes, but is not limited to:

- 1 Recruitment advertising,
- 2 Recruitment,
- 3 Employment,
- 4 Rates of pay,
- 5 Other forms of compensation,
- 6 Selection for training, including apprenticeship,
- 7 Upgrading,
- 8 Transfers,
- 9 Demotions,
- 10 Layoffs, and
- 11 Terminations.

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with:

(a) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and

(b) Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Project as follows:

(1) Requirements. The Recipient agrees to comply with:

- (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note,
- (b) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. Part 26 and
- (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13a. of this Master Agreement,

(2) Assurance. As required by 49 C.F.R. § 26.13(a), the Recipient provides assurance that:

The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*,

g. Nondiscrimination of the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

(1) Federal laws, including:

(a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,

(b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities;

(c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities;

(d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and

(e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities,

(2) The following Federal regulations including:

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

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

(c) U. S. DOT regulations "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39,

(d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and

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

## Exhibit B – Federal Clauses

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- (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36,
- (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630,
- (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F,
- (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and
- (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and

(1) Other applicable Federal civil rights and nondiscrimination guidance,  
[FTA Master Agreement §13(b) (c) (d) (g)]

### **G. Private Enterprise.**

The Recipient agrees to protect the interests of private enterprise affected by Federal public transportation programs by:

- a. Participation. Encouraging private enterprise to participate in the planning of public transportation and the programs that provide public transportation, to the extent permitted by  
(1) 49 U.S.C. § 5306,  
[FTA Master Agreement §15(a)]

### **H. Right of the Federal Government to Terminate.**

- a. Justification. After providing notice, the Federal Government may suspend, suspend then terminate, or terminate all or any part of the Federal funding awarded for the Project if:
  - (1) The Recipient has violated the Underlying Agreement or this Master Agreement, especially if that violation would endanger substantial performance of the Project,
  - (2) The Recipient has failed to make reasonable progress on the Project,
  - (3) The Federal Government determines that the continuation of the Federal funding for the Project does not adequately serve the purposes of the law authorizing the Project.
- b. Financial Implications.
  - (1) In general, termination of Federal funding for the Project will not invalidate obligations properly incurred before the termination date to the extent those obligations cannot be canceled, and
  - (2) The Federal Government may:
    - (a) Recover Federal funds it has provided for the Project if it determines that the Recipient has willfully misused Federal funds by:

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- 1 Failing to make adequate progress,
- 2 Failing to make appropriate use of Project property, or
- 3 Failing to comply with the underlying Agreement or this Master Agreement

(b) Require the Recipient to refund

- 1 The entire amount of Federal funds provided for the Project, or
- 2 Any lesser amount as the Federal Government may determine, and

c. Expiration of Project Time Period. Except for a Full Funding Grant Agreements, expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the underlying Agreement.

[FTA Master Agreement §12]

### **I. Debarment and Suspension.**

The Recipient agrees that:

(1) It will not engage Third Party Participants that are debarred or suspended except as authorized by:

- (a) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. Part 1200,
- (b) U.S. OMB, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. Part 180, including any amendments thereto, and
- (c) Executive Orders Nos. 12549 and 12689. “Debarment and Suspension,” 31 U.S.C. § 6101 note,

(2) It will review the “Excluded Parties Listing System” at <http://epls.gov/> (to be transferred to <https://www.sam.gov>), if required by U.S. DOT regulations, 2 C.F.R. Part 1200, and

(3) It will include, and require its Third Party Participants to include a similar condition in each lower tier covered transaction, assuring that all lower tier Third Party Participants:

- (a) Will comply with Federal debarment and suspension requirements, and
- (b) Review the “Excluded Parties Listing System” at <http://www.epls.gov/> (to be transferred to <https://www.sam.gov>), if necessary to comply with U.S. DOT regulations 2 C.F.R. part 1200.

[FTA Master Agreement §3.b]

### **J. Preference for United States Products and Services.**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA’s U. S. domestic preference requirements and follow Federal guidance, including:

a. Buy America. Domestic preference procurement requirements of:

- (1) 5323 (j), as amended by MAP-21, and
- (2) FTA regulations, “Buy America Requirements,” 49 C.F.R. part 661, to the extent consistent with MAP-21

b. Fly America. Air transportation requirements of:

- (1) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and
- (2) U.S. GSA regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 - 301-10.143.

[FTA Master Agreement §16(a)(c)]

**K. Disputes, Breaches, Defaults or Other Litigation.**

The Recipient understands and agrees that:

a. FTA Interest. FTA has a vested interest in the settlement of any disagreement involving the Project including, but not limited to:

- (1) a major dispute,
- (2) A breach,
- (3) A default, or
- (4) Litigation,

b. Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges:

- (1) The Recipient agrees to notify immediately:
  - (a) The FTA Chief Counsel, or
  - (b) The FTA Regional Counsel for the Region in which the Recipient is located,
- (2) The types of legal matters that require notification include, but are not limited to:
  - (a) A major dispute,
  - (b) A breach,
  - (c) A default,
  - (d) Litigation, or
  - (e) Naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason, and
- (3) The types of matters that may affect the Federal Government include, but are not limited to:
  - (a) The Federal Government's interests in the Project, or
  - (b) The Federal Government's administration or enforcement of Federal laws or regulations,

c. Federal Interest in Recovery.

(1) General. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the Federal share for the Project, but

(1) Liquidated Damages. Notwithstanding the preceding section 96.c(1) of this Master Agreement, the Recipient may return all liquidated damages it receives to its Project Account rather than return the Federal share of those liquidated damages to the Federal Government,

d. Enforcement. The Recipient agrees to pursue its legal rights and remedies available under:

- (1) Any third party agreement,
- (2) Any Federal law or regulation,
- (3) Any State law or regulation, or
- (4) Any local law or regulation

e. FTA Concurrence. If a legal matter described in section 96(2) and (3) of this Master Agreement involves the Project or the Recipient, FTA reserves the right to concur in any:

- (1) Compromise, or

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(2) Settlement, and

f. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

[FTA Master Agreement §96]

### **L. Lobbying Restrictions.**

The Recipient agrees that, as provided by 31 U.S.C. §1352(a):

(1) Prohibition on Use of Federal Funds. It will not use Federal funds

(a) To influence any:

1. Officer or employee of a Federal Agency
2. Member of Congress,
3. Officer or employee of Congress, or
4. Employee of a Member of Congress

(b) To take any action involving the Project or the Underlying Agreement for the Project, including any:

1. Award,
2. Extension, or
3. Modification

(2) Laws and Regulations. It will comply, and will assure that each Third Party Participant complies with:

- (a) 31 U.S.C. § 1352 as amended,
- (b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with as necessary by 31 U.S.C. § 1352, as amended, and
- (c) Other applicable Federal laws and regulations prohibiting the use of Federal funds for any activity concerning legislation or appropriations designed to influence:

1. The U.S. Congress, or
2. A State legislature, but

(3) Exception. The prohibitions of the preceding section 3.d(1) – (2) of this Master Agreement do not apply to any activity that is undertaken through proper official channels, if permitted by the underlying law or regulations,

[FTA Master Agreement §3.d (1)(2)]

### **M. Environmental Protections.**

a. Air Quality. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Air Act, as amended, 42 U.S.C. §§ 7401 - 7671q, and implementing Federal regulations, as provided in Federal guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

(1) Public Transportation Operators. It will comply with:

- (a) U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85;

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- (b) U.S. EPA regulations “Control of Emissions from New and In-Use Highway Vehicles and Engines,” 40 C.F.R. Part 86, and
- (c) U.S. EPA regulations “Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles,” 40 C.F.R. Part 600 and any revisions to these regulations.

(2) State Implementation Plans. It will support State Implementation Plans by:

- (a) Implementing each air quality mitigation or control measure incorporated in the documents accompanying the approval of the Project,
- (b) Assuring that any Project identified as a Transportation Control Measure in its State Implementation Plan will be wholly consistent with the design concept and scope of the Project described in the State Implementation Plan, and
- (c) Complying with:
  1. Subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c),
  2. U.S. EPA regulations, “Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects developed, Funded or Approved Under Title 23, U. S. C. or the Federal Transit Laws,” 40 C.F.R. Part 93, subpart A, and
  3. Other applicable Federal conformity regulations that may be promulgated at a later date, and

(3) Violating Facilities. It will:

- (a) Comply with the notice of violating facility provisions of section 306 in the Clean Air Act, as amended, 42 U.S.C. § 7414, and
- (b) Facilitate compliance with Executive Order No. 11738, “ Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

**b. Clean Water**. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377, and implementing Federal regulations, and follow Federal implementing guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

(2) Drinking Water. It will protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f - 300j-6.

(3) Violating Facilities. It will.

- (a) Comply with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and
- (b) Facilitate compliance with Executive Order No. 11738, “Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

*[FTA Master Agreement §29(c),(d)]*

## **N. Employee Protections.**

The Recipient agrees to comply, and assures that each Third Party Participant will comply, with all of the following:

- a. Construction Activities. Federal laws and regulations providing protections for construction employees involved in Project activities, including:

(1) Prevailing Wage Requirements.

- (a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA’s “Davis-Bacon Related Act”),
- (b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and
- (c) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5,

(2) Wage and Hour Requirements.

- (a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and
- (b) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5,

(3) “Anti -Kickback” Prohibitions.

- (a) Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874,
- (b) Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145, and
- (c) U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 C.F.R. part 3,

(4) Safety at the Construction Site.

- (a) Section 107 of that Contract Work Hours and Safety Standards Act, as amended, U. S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*,and
- (b) U.S. DOL regulations, “Safety and Health Regulations for Construction,” 29 C.F.R. part 1926,

*[FTA Master Agreement §28.a]*

**O. Energy Conservation.**

The Recipient agrees to and assures its Subrecipients will:

a. State Energy Conservation Plans. Comply with the mandatory energy standards and policies of its State energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 *et seq.*, except as the Federal Government determines otherwise in writing, and

b. Energy Assessment. Perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. Part 622, Subpart C.  
*[FTA Master Agreement §30]*

# Exhibit B, Attachment A

# Debarment Certification

Metro Contract

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

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this Agreement, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by **Metro**. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to **Metro**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Agreement. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Organization \_\_\_\_\_

Date \_\_\_\_\_

# Exhibit B, Attachment B

# Debarment Certification

Metro Contract

## CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned, \_\_\_\_\_ certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such expenditure or failure.

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

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
D