



**CITY OF MILWAUKIE**  
*"Dogwood City of the West"*

**Resolution No. 55-2014**

**A resolution of the City Council of the City of Milwaukie, Oregon, authorizing execution of an Intergovernmental Agreement with the State of Oregon to prepare a Monroe Street Neighborhood Greenway Concept Plan.**

**WHEREAS**, City staff applied for and received a grant from the State of Oregon's Transportation and Growth Management (TGM) Program to fund the City's Monroe Street Neighborhood Greenway Concept Plan; and

**WHEREAS**, City staff worked with the TGM Program staff and its consultants to develop a Statement of Work (SOW) for this project that took into consideration the City's desire to make Monroe Street a safer route for bicyclists and pedestrians; and

**WHEREAS**, the SOW provides for the development of a Monroe Street Neighborhood Greenway Concept Plan; and

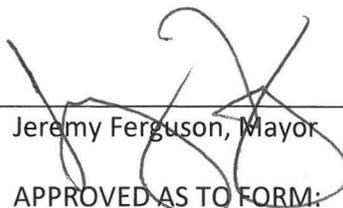
**WHEREAS**, the State of Oregon requires an intergovernmental agreement with the City for the expenditure of the grant money for this project; and

**WHEREAS**, the intergovernmental agreement obligates City staff to work with the TGM Program staff and its consultants to complete the work described in the SOW by June 2015;

**NOW, THEREFORE, BE IT RESOLVED** that the Council authorizes the City Manager to sign an intergovernmental agreement with the State of Oregon to fund the City's 2014-15 Monroe Street Neighborhood Greenway Concept Plan project.

Introduced and adopted by the City Council on 6/17/14.

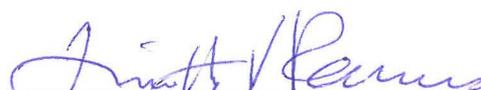
This resolution is effective on 6/17/14.

  
\_\_\_\_\_  
Jeremy Ferguson, Mayor

APPROVED AS TO FORM:  
Jordan Ramis PC

ATTEST:

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney

## **INTERGOVERNMENTAL AGREEMENT**

City of Milwaukie, Monroe Street Bike Boulevard/Neighborhood Greenway

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation (“ODOT” or “Agency”), and the City of Milwaukie (“City” or “Grantee”).

### **RECITALS**

1. The Transportation and Growth Management (“TGM”) Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.
2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.
3. This TGM Grant (as defined below) is financed with federal Moving Ahead for Progress in the 21<sup>st</sup> Century (“MAP-21”) funds. Local funds are used as match for MAP-21 funds.
4. By authority granted in ORS 190.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.
5. City has been awarded a TGM Grant which is conditional upon the execution of this Agreement.
6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **SECTION 1. DEFINITIONS**

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

A. "City's Amount" means the portion of the Grant Amount payable by ODOT to City for performing the tasks indicated in Exhibit A as being the responsibility of City.

B. "City's Matching Amount" means the amount of matching funds which City is required to expend to fund the Project.

C. "City's Project Manager" means the individual designated by City as its project manager for the Project.

D. "Consultant" means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

E. "Consultant's Amount" means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

F. "Direct Project Costs" means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

G. "Federally Eligible Costs" means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by City and Consultant during the term of this Agreement.

H. "Grant Amount" or "Grant" means the total amount of financial assistance disbursed under this Agreement, which consists of the City's Amount and the Consultant's Amount.

I. "ODOT's Contract Administrator" means the individual designated by ODOT to be its contract administrator for this Agreement.

J. "PSK" means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

K. "Project" means the project described in Exhibit A.

L. "Termination Date" has the meaning set forth in Section 2.A below.

M. "Total Project Costs" means the total amount of money required to complete the Project.

N. "Work Product" has the meaning set forth in Section 5.I below.

## SECTION 2. TERMS OF AGREEMENT

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. This Agreement terminates on June 30, 2015 ("Termination Date").

B. Grant Amount. The Grant Amount shall not exceed \$79,510.

C. City's Amount. The City's Amount shall not exceed \$0.

D. Consultant's Amount. The Consultant's Amount shall not exceed \$79,510.

E. City's Matching Amount. The City's Matching Amount is \$10,842 or 12% of the Total Project Costs.

## SECTION 3. CITY'S MATCHING AMOUNT

A. Subject to submission by City of such documentation of costs and progress on the Project (including deliverables) as are satisfactory to ODOT, the City may use as part of the City's Matching Amount, only Direct Project Costs that are Federally Eligible Costs that City incurs after the execution of this Agreement. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.

B. City shall present cost reports, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. City shall submit cost reports for 100% of City's Federally Eligible Costs.

C. ODOT shall limit use, as part of the City's Matching Amount, travel expenses in accordance with current State of Oregon Accounting Manual, General Travel Rules, effective on the date the expenses are incurred.

## SECTION 4. CITY'S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION

A. City represents and warrants to ODOT as follows:

1. It is a municipality duly organized and existing under the laws of the State of Oregon.

2. It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of City.

4. This Agreement has been executed and delivered by an authorized officer(s) of City and constitutes the legal, valid and binding obligation of City enforceable against it in accordance with its terms.

5. The authorization, execution and delivery of this Agreement by City, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which City or its property is bound.

6. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of City.

B. As federal funds are involved in this Grant, City, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

#### **SECTION 5. GENERAL COVENANTS OF CITY**

A. City shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. City shall complete the Project; provided, however, that City shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant.

B. City shall, in a good and workmanlike manner, perform the work on the Project, and provide the deliverables for which City is identified in Exhibit A as being responsible.

C. City shall perform such work identified in Exhibit A as City's responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. City shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126(2). Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall require each of its subcontractors, if any, to comply with, and shall ensure that each of its subcontractors, if any, complies with these requirements.

E. City shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

F. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

G. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, City expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

H. City shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this Agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized

representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

City shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

I. (1) All of City's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and City intend that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. City forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT hereby grants to City a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) City shall ensure that any work products produced pursuant to this Agreement include the following statement:

"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21<sup>st</sup> Century ("MAP-21"), local government, and State of Oregon funds.

"The contents of this document do not necessarily reflect views or policies of the State of Oregon."

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its "home page".

J. Unless otherwise specified in Exhibit A, City shall submit all final products produced in accordance with this Agreement to ODOT's Contract Administrator in the following form:

- (1) two hard copies; and
- (2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

K. Within 30 days after the Termination Date, City shall

- (1) pay to ODOT City's Matching Amount less Direct Project Costs that are Federally Eligible Costs previously reported as City's Matching Amount. ODOT may use any funds paid to it under this Section 5.K (1) or any of the City's Matching Amount that is applied to the Project pursuant to Section 3.A to substitute for an equal amount of federal MAP-21 funds used for the Project or use such funds as matching funds; and
- (2) provide to ODOT's Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:
  - (a) The permanent location of Project records (which may be subject to audit);
  - (b) A summary of the Total Project Costs, including a breakdown of those Project costs that are being treated by City as City's Matching Amount;
  - (c) A list of final deliverables

#### **SECTION 6. CONSULTANT**

If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than City is the party to the PSK with the Consultant, ODOT and City agree that as between themselves:

- A. Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of City;
- B. ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from City;

- C. City shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (A) and (B) above; and
- D. City will appoint a Project Manager to:
  - (1) be City's principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
  - (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and City personnel, as necessary;
  - (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
  - (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

#### **SECTION 7. ODOT'S REPRESENTATIONS AND COVENANTS**

- A. ODOT certifies that, at the time this Agreement is executed, sufficient funds are authorized and available for expenditure to finance ODOT's portion of this Agreement within the appropriation or limitation of its current biennial budget.
- B. ODOT represents that the statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.
- C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.
- D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

#### **SECTION 8. TERMINATION**

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to City, or

at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. City fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. Consultant fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

C. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.

D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A, B, C or D above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

## **SECTION 9. GENERAL PROVISIONS**

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or City at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's

Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and City are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons (including but not limited to any Consultant) unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(H), 5(I), and 9 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. The parties agree as follows:

(a) Contribution.

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or Grantee ("Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which ODOT is jointly liable with the Grantee (or would be if joined in the Third Party Claim ), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts.

ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including but not limited to the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

(b) Choice of Law; Designation of Forum; Federal Forum.

(1) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

(2) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(3) Notwithstanding Section 9.E (b)(2), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section 9.E(b)(3) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section 9.E(b)(3) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

(c) Alternative Dispute Resolution.

The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding mediation or non-binding arbitration) to resolve the dispute short of litigation.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments from the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK. No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

G. This Agreement may be executed in several counterparts (facsimile or otherwise), all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

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

**City**

*City of Milwaukie*

By: \_\_\_\_\_  
(Official's Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

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

**ODOT**

STATE OF OREGON, by and through  
its Department of Transportation

By: \_\_\_\_\_  
Jerri Bohard, Division Administrator  
Transportation Development Division

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

**Contact Names:**

Dennis Egner  
City of Milwaukie  
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Milwaukie, OR 97206  
Phone: 5037867652  
Fax: 503-774-8236  
E-Mail: EgnerD@milwaukieoregon.gov

Ross Kevlin, Contract Administrator  
Transportation and Growth Management Program  
123 NW Flanders  
Portland, OR 97209-4037  
Phone: 503-731-8232  
Fax: 503-731-3266  
E-Mail: ross.p.kevlin@odot.state.or.us

**Exhibit A**  
**Statement of Work**  
**Monroe Street Neighborhood Greenway Conceptual Plan**

**DEFINITIONS & ABBREVIATIONS**

Agency/ODOT – Oregon Department of Transportation  
APM – Agency Project Manager  
City – City of Milwaukie  
County – Clackamas County  
NDA – Neighborhood District Association  
PAC – Project Advisory Committee  
TSP – Transportation System Plan

This statement of work describes the responsibilities of all entities involved in this cooperative project.

The work order contract (for the purposes of the quoted language below the “WOC”) with the work order consultant (“Consultant”) shall contain the following provisions in substantially the form set forth below:

**“PROJECT COOPERATION**

This statement of work describes the responsibilities of the entities involved in this cooperative Project. In this Work Order Contract (WOC), the Consultant shall only be responsible for those deliverables assigned to the Consultant. All work assigned to other entities are not Consultant’s obligations under this WOC, but shall be obtained by Agency through separate intergovernmental agreements which contain a statement of work that is the same as or similar to this statement of work. The obligations of entities in this statement of work other than the Consultant are merely stated for informational purposes and are in no way binding, nor are the named entities parties to this WOC. Any tasks or deliverables assigned to a subcontractor shall be construed as being the responsibility of the Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity as described in this statement of work shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to Oregon Department of Transportation (Agency) Work Order Contract Project Manager (WOCPM) of any deliverables that may be delayed due to lack of cooperation by other entities referenced in this statement of work.
2. WOCPM shall contact the non-cooperative entity or entities to discuss the matter and attempt to correct the problem and expedite items determined to be delaying the Consultant.

If Consultant has followed the notification process described in item 1, and Agency finds that delinquency of any deliverable is a result of the failure of other referenced entities to provide

information, resources, assistance, or cooperation, as described in this statement of work, the Consultant will not be found in breach of contract; nor shall Consultant be assessed or liable for any damages arising as a result of such delinquencies. Neither shall ODOT be responsible or liable for any damages to Consultant as the result of such non-cooperation by other entities. WOCPM will negotiate with Consultant in the best interest of the State, and may amend the delivery schedule to allow for delinquencies beyond the control of the Consultant.”

### **Project Purpose/Transportation Relationship and Benefit**

The City of Milwaukie’s (City) Transportation System Plan (TSP) identifies Monroe Street as a key east-west bicycle route across Milwaukie, one that is also important for pedestrians as a connection through several neighborhoods. The Milwaukie TSP (adopted in 2007 and revised in 2013) classifies Monroe as a greenway, which includes a shared-lane bikeway, sidewalks, and green-street stormwater facilities. The Monroe Street Neighborhood Greenway Conceptual Plan will identify possible improvements (such as signage, pavement markings, intersection signalization, curb extensions, refuge islands, speed humps, and mini traffic circles) that would result in appropriate traffic volumes and speeds that are appropriate for a shared bikeway, in the form of a conceptual design for improvements to accommodate bikes, pedestrians, and stormwater. Deliverables for the Project include concept design plans for each section of Monroe Street, consisting of a plan view, typical cross-sections, and conceptual drawings where necessary to illustrate specific proposed improvements.

### **Study Area**

The Study Area centers on Monroe Street between 21<sup>st</sup> Ave in the west and Linwood Ave in the east, including the Linwood/Monroe intersection, a linear distance of approximately 2 miles. The width of the Study Area includes all of the lots adjacent to the Monroe Street right-of-way, on both sides of the street.

### **Background**

The Milwaukie TSP classifies Monroe Street as a collector street within the city limits. The roadway connects downtown Milwaukie in the west (starting at Hwy 99E, aka McLoughlin Blvd) with residential neighborhoods in the east. Monroe Street has several sections with different characteristics—starting downtown, Monroe Street moves through higher density housing and commercial areas to lower density housing areas in the eastern part of the City and beyond. Based on an initial assessment of traffic data obtained from speed reader boards posted at three locations on Monroe Street, existing daily traffic volumes and average speeds are low and within the range necessary to safely accommodate a bikeway.

Between 21<sup>st</sup> Ave and 42<sup>nd</sup> Ave, there are curbs and sidewalks on Monroe Street, typically on both sides of the street but with sidewalk widths of 5 ft or less. The right-of-way width in this western section of Monroe Street ranges from 40 ft (21<sup>st</sup> Ave to 29<sup>th</sup> Ave) to 50 ft (29<sup>th</sup> Ave to Campbell St/Oak St) to 60 ft (Oak St to 42<sup>nd</sup> Ave). Monroe Street crosses the Union Pacific Railroad line at Oak St, where higher traffic counts and the railroad tracks present a safety challenge. Between 42<sup>nd</sup> Ave and Linwood Ave, the street has a more rural cross section, with no curbs or sidewalks and with varying pavement width. The right-of-way width in this eastern section ranges from 60 ft (42<sup>nd</sup> Ave to 52<sup>nd</sup> Ave) to 45 ft (52<sup>nd</sup> Ave to Linwood Ave).

- From the city limits at Linwood Ave, Monroe Street extends almost 1 mile farther east into unincorporated Clackamas County (County), terminating at Fuller Rd. A project to make bicycle

enhancements on Monroe Street from the City limit at Linwood Ave east to 72<sup>nd</sup> Ave is a Tier 1 priority in the County's TSP (approved in December 2013 and scheduled for adoption in 2014) and for the North Clackamas Revitalization Area, the urban renewal area just east of Milwaukie at Monroe Street. The County recognizes the intersection of Linwood Ave and Monroe Street as a location in need of safety and traffic improvements. It is important that the Monroe Street Neighborhood Greenway Conceptual Plan consider potential improvements to the Linwood-Monroe intersection, to the extent that those improvements become known. The Linwood intersection is in County jurisdiction, but this project must identify tools and develop concepts for potential greenway crossing treatments of Linwood and discuss their pros, cons, applicability, and trade-offs, as County staff will be participating in this project through the Project Advisory Committee, and project results may inform a subsequent bikeway planning project along the County's segment of Monroe, starting with the Linwood intersection. Depending on information from Clackamas County received during this project, it is possible that the proposed conceptual design for Monroe Street at the Linwood intersection will include one or more potential design treatments, with City/County concurrence on a final conceptual intersection design to be addressed in a later planning project for the County segment of the Monroe greenway.

Although the Monroe Street Neighborhood Greenway Conceptual Plan is specific to Monroe Street within the City limits, the recommended design concepts that emerge from the plan may also be applicable to the County section of Monroe Street (east of Linwood Ave). Likewise, the concepts and principles may also be applicable to the other Neighborhood Greenways designated in the Milwaukie TSP, such as Stanley Ave, 19<sup>th</sup> Ave, and the 29<sup>th</sup> Ave/Harvey St/40<sup>th</sup> Ave route.

### **Project Objectives**

The primary objective of this Project is to develop a conceptual plan for street design treatments along SE Monroe Street between SE 21<sup>st</sup> Avenue and SE Linwood Avenue, to better accommodate multimodal circulation, improve safety for all modes, support adjacent land use and development, and address options for treatment of stormwater runoff related to recommended improvements.

More specific objectives include the following:

- Create a corridor design that will encourage and support bicycle and pedestrian transportation modes and reduce reliance on the automobile. Also, provide better bicycle and pedestrian links between downtown Milwaukie and central and eastern neighborhoods and significant destinations such as local commercial areas, schools, and parks.
- Use design features as necessary so that vehicle volumes and speeds are conducive to shared-lane bicycle use.
- Address the potential need for additional right-of-way, identify associated property impacts, and address acquisition and mitigation strategies.
- Identify options to address stormwater runoff from impervious surface in the right-of-way, considering green street treatments as well as more conventional measures.
- Identify project phasing and potential funding sources for improvements.
- Involve the public and stakeholders in designing the streetscape for Monroe Street, with outreach to disadvantaged populations in accordance with the requirements of Title VI.

## **Deliverables Overview**

- The City shall be responsible for meeting logistics, including providing meeting locations and meeting notification. City shall prepare meeting agenda, convene meetings, and facilitate the non-technical portion of meetings. The Consultant shall present, facilitate, and lead discussion on technical materials to be discussed at each meeting. All draft materials must be submitted to the City Project Manager and Oregon Department of Transportation (ODOT) Agency Project Manager (APM) at least one week prior to the packet mailing date for the meeting at which they are to be presented. It is expected that draft deliverables shall be professionally written and substantially complete and that changes or revisions needed to address comments will be minor. Consultant shall not be required to provide written review and comment on any City prepared deliverables unless explicitly mentioned herein.
- Consultant shall prepare originals of materials to be distributed or presented at meetings, and City shall be responsible for reproductions. Consultant shall provide originals to City in hard copy and electronic form at least two days prior to the packet mailing date for the meeting at which they will be used (or two days prior to the meeting itself, if no packet will be sent in advance).
- Except as specified, Consultant shall provide three hard copies of all products, as well as an electronic file (in Word format for all written products; in PDF format for graphic products, as well as in MXD or AutoCAD format as appropriate).
- Adoption ready: As necessary, final plans and amendments to plans must be prepared as final policy statements of the local government and must not include language such as “it is recommended ...” or “City should ...” New and amended code language must be prepared as final regulatory statements of City. Final plan, plan amendments, code, code amendments, or other documents to be adopted must include all necessary amendments or deletions to existing City plans or code to avoid conflicts and enable full integration of proposed plan with existing City documents.
- The following text must appear in the final version of all final deliverables:

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

- Final plans, headers and footers, graphics, etc. must not include Consultant names and logos, Transportation and Growth Management Program or Oregon Department of Transportation logos or project codes, etc. These items must only be on the acknowledgement page.

## **Task 1: Public Involvement and Interagency Coordination**

### **Objectives**

- Develop an open planning process that solicits and considers input from direct stakeholders and community members.

- Coordinate the Project with affected local jurisdictions and organizations.

### **Methodology**

- 1.1 PAC Roster – City shall identify representatives to comprise a Project Advisory Committee (PAC) and prepare a PAC Roster. The PAC must include designated representatives from each of the directly affected Neighborhood District Associations (NDAs)—Historic Milwaukie, Ardenwald, Hector Campbell, and Linwood—as well as representatives from the Public Safety Advisory Committee, the Bike Milwaukie advocacy group, City Engineering department, City Public Works department (both the Streets and Stormwater divisions), Clackamas County Planning Department, Clackamas Fire District, Clackamas County Pedestrian/Bikeway Advisory Committee, and ODOT.

The purpose of the PAC is to review draft materials prior to public presentation, so that products are consistent with applicable policies and standards, and to provide suggestions and recommendations to enhance products and meet project objectives.

- 1.2 Adjacent Parties List – City shall prepare an Adjacent Parties List identifying all property owners and tenants, both business and residential, with property abutting the Monroe Street right-of-way. Adjacent Parties List must include contact information; the address is sufficient for residential tenants.
- 1.3 Letter to Adjacent Parties – City shall prepare a Letter to Adjacent Parties, to describe the Project Objectives and public involvement opportunities, and to encourage public input. City shall distribute the Letter to those owners and tenants on the Adjacent Parties List. Distribution to property owners shall be by mail. Distribution to tenants may occur by mail or through door hangers or comparable method.
- 1.4 Project Publicity – City shall prepare materials to publicize the project to the community. Project Publicity materials must include project information and public involvement opportunities. Project Publicity materials shall be provided throughout the duration of the project to Adjacent Parties, NDAs along Monroe Street, and interested bicycle and pedestrian groups.
- 1.5 Organizational Meeting / Refined Project Schedule – City shall arrange and Consultant shall conduct an Organizational Meeting to coordinate schedules for meetings, workshops, and project publicity. Subsequent to, and as part of the Organizational Meeting, Consultant shall prepare the Refined Project Schedule, showing target dates for meetings and workshops.
- 1.6 Project Web Page – City shall establish a Project Web Page on the City website to provide an online resource for interested parties. City shall maintain and update Project Web Page throughout the duration of the project.
- 1.7 Project Management Team Meetings – City, Consultant, and ODOT shall participate in up to 20 hours of meeting time for Project Management Team Meetings throughout Project to discuss and coordinate work program and deliverables, and to resolve outstanding design issues identified at PAC meetings or public workshops. Project Management Team Meetings are not deliverables

themselves but are necessary for project management; the cost of Consultant attendance is reflected in the cost of other Consultant deliverables. City Project Manager shall determine, subject to WOCPM approval, how many and when Project Management Team Meetings are held. At the City Project Manager's discretion, Project Management Team Meetings may be conducted in person or by conference call.

- 1.8 Community Outreach and Engagement Plan – City shall develop a Community Outreach and Engagement Plan tailored to the specific community composition in and near the Project Area to meet Title VI, Civil Rights goals. Community Outreach and Engagement Plan must identify community composition, environmental justice, and social equity considerations, including concentration of transportation disadvantaged communities and non-native English speaking populations and their native language. Community Outreach and Engagement Plan must identify outreach strategies specific to these communities, including community newspapers and other media outlets, community associations, groups or congregations, meeting locations, and contacts.

#### **City Deliverables**

- 1a PAC Roster
- 1b Adjacent Parties List
- 1c Letter to Adjacent Parties
- 1d Project Publicity
- 1e Organizational Meeting
- 1f Project Web Page
- 1g Community Outreach and Engagement Plan

#### **Consultant Deliverables**

- 1a Organizational Meeting and Refined Project Schedule
- 1b

### **Task 2: Document Existing Conditions**

#### **Objectives**

- Identify and describe existing physical features, traffic characteristics, plans, and policies that affect the Monroe Street corridor in terms of neighborhood greenway design.
- Identify and describe examples of bikeways and neighborhood greenways in similar environments as Monroe Street, including how their design features support multiple modes of transportation and adjacent land uses.
- Identify environmental conditions (i.e. hydrology, steep slopes, access, sight distance, etc.) that may present needs, opportunities, or constraints to street design.

#### **Methodology**

- 2.1 Traffic Volume and Speed Counts – City shall gather 24-hour counts of vehicles and their travel speeds at up to four locations on the Monroe Street corridor. For valid results, count method must be inconspicuous (e.g. must not include a reader board alerting drivers to slow down). The

Consultant shall consider the data presented by the City however, no processing or presentation of data has been budgeted.

- 2.2 Base Maps – Using existing available data, Consultant shall prepare draft plus one revision of scale-able Base Maps describing:
- i. Land Use. Using data available from GIS resources, develop land use base map(s) that must identify parcels; applicable comprehensive plan, zoning, and design overlay designations; property ownership, including street right-of-way; building footprints; topography; significant destinations; and environmental or historic features (such as mature trees or stone walls) that could impact design or feasibility of a new roadway design.
  - ii. Transportation. Based on available GIS and aerial photographic resources, the Consultant shall prepare transportation base map(s) that must be in same scale as land use base map. Transportation base map must depict existing right-of-way; travel lane width; intersection configurations, including crosswalks; bike lane width; sidewalk width; missing sidewalk and bike lane segments; existing transit facilities; driveways; and other property access. Size of base maps must be sufficient for use at community workshops and similar public presentations, as determined by the City Project Manager.
  - iii. Geography/Hydrology. Based on available GIS resources, the Consultant shall prepare Geography/Hydrology base map, which must be in same scale as land use base map and must include contours (maximum 5-ft), soil types per United States Department of Agriculture data, and all structural features (i.e., catch basins, stormwater conveyance systems and treatment facilities) in the project area as well as surface water features (i.e., creeks and drainages).

Individual base maps may be overlaid into a single map, as determined by the City Project Manager, to consolidate geographic information. Base Maps include a draft and a revision to incorporate PAC Meeting #2, City, and APM comments.

- 2.3 PAC Meeting #1 (Field Trip) – City shall conduct a field trip of the Monroe Street project area with members of the PAC. City shall present project objectives and summarize the project process for PAC participants. Depending on the weather and the physical ability of PAC members, the tour may include bicycling and walking. The City shall plan and lead the tour along with assistance from the Consultant, and Consultant shall take note of conditions and participant comments. In addition, the Consultant shall prepare a list of comparable Portland area Neighborhood Greenways. The list must be provided to PAC members at the meeting and they will be encouraged to visit these facilities on their own.
- 2.4 Needs, Opportunities, Constraints, and Tools Memo – Consultant shall prepare draft and revised Needs, Opportunities, Constraints, and Tools Memo discussing the needs that must be addressed to develop a neighborhood greenway and summarizing policies and the physical, environmental, and historic features, as well as the transportation system features identified in Traffic Volumes and Speed Counts and the Base Maps.

Needs, Opportunities, Constraints, and Tools Memo is not intended to reiterate information contained in Base Maps, but to highlight factors that, in the Consultant's professional opinion,

should be considered in the development of the Conceptual Plan in Task 3. Needs, Opportunities, Constrains, and Tools Memo also must discuss the opportunities and constraints that these factors present toward achieving Project Objectives. Needs, Opportunities, Constraints, and Tools Memo must also discuss the design elements that generally comprise a neighborhood greenway (including bikeways and pedestrian ways), and discuss the design tools that may be applied in the design of Monroe Street, considering identified needs, opportunities, and constraints.

Discussion text and graphics must cover street design elements, including bikeway marking and signage; methods for traffic calming and volume redistribution; pedestrian facilities, including walkway widths and surface materials; safe bike and pedestrian crossings of higher-volume and higher-speed streets (e.g. Hwy 224, Linwood Ave); green stormwater treatments; streetscape improvements, including landscaping and lighting; and Americans with Disabilities Act requirements; and must discuss the pros, cons, and applicability of each. Needs, Opportunities, Constraints, and Tools Memo must consider and discuss design elements in terms of their impact on total right-of-way width, general construction costs (linear-foot costs for each component, and total costs to meet corridor needs), and impacts to private property and on-street parking. Needs, Opportunities, Constraints, and Tools Memo must also state which design tools are, in the Consultant's professional opinion, most appropriate for the Monroe Neighborhood Greenway design and why. Needs, Opportunities, Constraints, and Tools Memo must consider design examples from at least the following sources: the Metro Green Street Handbook, the Portland Stormwater Management Manual, Washington County's Bicycle Facility Design Toolkit and Guidelines for Bikeway Treatments, and Cully Commercial Corridor and Local Street Plan. Consultant shall revise Memo in response to comments from PAC Meeting #1.

- 2.5 PAC Meeting #2 – City shall arrange and conduct PAC Meeting #2 for review of and comment on Base Maps and Needs, Opportunities, Constraints, and Tools Memo. Consultant shall attend and present Base Maps and content of Needs, Opportunities, Constraints, and Tools Memo (graphics and text descriptions). Consultant shall record PAC comments and revise draft deliverables in response to comments.

**City Deliverables**

- 2a Traffic Volume and Speed Counts
- 2b PAC Meeting #1 (Field Trip) (Agenda and summary meeting notes)
- 2c PAC Meeting #2 (Agenda and summary meeting notes)

**Consultant Deliverables**

- 2a Base Maps
- 2b PAC Meeting #1 (Field Trip) and list of comparable Neighborhood Greenways
- 2c Needs, Opportunities, Constraints, and Tools Memo (Draft and Revised)
- 2d PAC Meeting #2 (Present Base Maps and content of Needs, Opportunities, Constraints and Tools Memo)

### **Task 3: Conduct Public Workshops**

#### **Objectives**

- Present stakeholders with information gathered in Task 2, including opportunities and constraints to achieving Project Objectives.
- Enable workshop participants to understand multimodal and green street design features; their advantages, disadvantages, and impacts; and how they affect multimodal circulation and adjacent development.
- Facilitate the development and refinement of a consensus-based conceptual design, consistent with Project Objectives and supported by technical and community stakeholders.
- Conduct an engaging public process that encourages community participation.
- Inform PAC members of community concerns and desires that arise from the public process, and provide a vetting opportunity so that the process outcome is technically sound.

#### **Methodology**

- 3.1 Public Workshop #1 – City shall arrange and Consultant shall present at Public Workshop #1 to address project background; existing conditions, opportunities, and constraints; street design elements; and stormwater management alternatives. Workshop discussion must be based on information gathered and documented in Task 2. Public Workshop #1 must include presentation of information and discussions (facilitated by Consultant and City staff) to gather participants' input on the topics presented.

Consultant shall document participants' input, including opinions on design criteria and project objectives, as well as ideas and opinions on potential street design elements. Consultant shall identify participants' prevailing preferences for street design, if any, for use in developing a proposed design concept for Monroe Street, including for accommodating bicyclists and pedestrians on Monroe Street. Consultant shall prepare a response to the ideas and comments presented in Public Workshop#1 (for instance, addressing the validity of the concern, or pointing out how the concern will be addressed in the conceptual street design).

- 3.2 Proposed Conceptual Design – Consultant shall prepare draft and revised Proposed Conceptual Design for Monroe Street based on results of Public Workshop #1. Proposed Conceptual Design must include:
- i. Plan and cross-section drawings for one conceptual street design for Monroe Street that addresses Project Objectives. The plan view must show the entire Study Area and must illustrate design elements in the right-of-way, including sidewalks or pathways, structural elements such as retaining walls, green stormwater features, streetscape improvements including landscaping and other unifying design elements, lighting, bike lanes or sharrows, travel lanes, on-street parking, crosswalk improvements, and traffic-calming elements. Three to five typical cross-sections must be provided, as determined by the City Project Manager. All drawings must include preferred dimensions for each design element; however, if an exact dimension cannot be specified, a range of dimensions may be indicated, along with accompanying text describing factors to consider at a later date

when developing a preferred dimension. Drawings must include notes describing alternative materials where appropriate. Design elements not consistent with the appropriate jurisdictions' current standards must be noted and explained.

Drawings may include up to four locations where deviations in the cross-section are necessary to address site-specific concerns. These deviations must be called out with text and/or graphics to describe the deviation, explain its rationale, and provide guidance to subsequent project development. Additionally, drawings may include up to four locations where two or more optional designs may be considered; for example, where prior workshop participants did not agree on a preference of design elements. To facilitate a decision, these optional designs must be described with graphics and text describing their major features and differences, with a discussion of pros and cons.

- ii. Conceptual level drawings and written descriptions of potential stormwater drainage or green street treatments (such as landscaping) that, in the Consultant's professional opinion, may be incorporated in the roadway design. Descriptions, if provided, must indicate the type of treatment, general dimensions, suggestions and principles for the construction of improvements, and special considerations to be taken into account at later stages of project development.
- iii. Preliminary implementation concepts that address phased improvements, provide rough estimates of unit costs, and describe the array of funding options, in order to compare construction cost estimates with generally available revenue.

Proposed Conceptual Design includes an initial draft, a possible revision after PAC Meeting #3, and a revision after PAC Meeting #4.

- 3.3 PAC Meeting #3 – City shall arrange and Consultant shall present at PAC Meeting #3 to present the Proposed Conceptual Design and the results of Public Workshop #1. Consultant shall record PAC members' comments. The City and Consultant shall seek PAC consensus regarding the Proposed Conceptual Design. Consultant shall note concerns of the PAC and modify the Proposed Conceptual Design to address the concerns prior to Public Workshop #2.
- 3.4 Public Workshop #2 – City shall arrange and Consultant shall present at Public Workshop #2 to present the Proposed Conceptual Design for Monroe Street. Workshop #2 discussion must address the results of Public Workshop #1 and how those results were used in developing the Proposed Conceptual Design. Public Workshop #2 must include discussions (facilitated by Consultant and City staff) to solicit input from participants, including opinions of and recommended changes to the Proposed Conceptual Design. Consultant shall document participants' input.
- 3.5 PAC Meeting #4 – City shall arrange and Consultant shall present at PAC Meeting #4 to review results of Public Workshop #2, including recommended changes to the Proposed Conceptual Design. Consultant shall note PAC member comments and concerns to be used in the revision of the Proposed Conceptual Design.

- 3.6 Contingent Task: No work under this contingent task shall be done without the prior written approval (e-mail acceptable) of APM.

Contingency Public Workshop, Contingency PAC Meeting, and Contingency Revision – If needed (as determined by City Project Manager and subject to APM approval), City shall arrange and Consultant shall present at a Contingency Public Workshop. If needed, it is anticipated that the Contingency Public Workshop will focus on discussion of design considerations or features of the Proposed Conceptual Design with more significant impacts, in which case Consultant shall help City facilitate a discussion aimed at resolving issues with the Proposed Conceptual Design. Consultant shall note participant comments, including opinions of and recommended changes to the Proposed Conceptual Design. The process must be designed to achieve community consensus in support of an acceptable design consistent with project objectives.

The Contingency Public Workshop must be followed by a Contingency PAC Meeting to review the results of the Contingency Public Workshop, including recommended changes to the Proposed Conceptual Design. Consultant shall note PAC member comments and concerns, and shall modify the Proposed Conceptual Design in response to PAC comments. As determined by City Project Manager, the Contingency PAC Meeting may be a meeting, a telephone conference call, or an e-mail exchange.

#### **City Deliverables**

- 3a Preparation for and participation in Public Workshops #1 and #2 and PAC Meetings #3 and #4 (Agendas and summary meeting notes)
- 3b Contingency Deliverable: Preparation for and participation in Contingency Public Workshop and Contingency PAC Meeting

#### **Consultant Deliverables**

- 3a Public Workshop #1 (Prepare materials, document input, prepare response)
- 3b Proposed Conceptual Design (Draft + up to 2 revisions)
- 3c PAC Meeting #3
- 3d Public Workshop #2 (Prepare materials, document input, prepare response)
- 3e PAC Meeting #4
- 3f Contingency Deliverable: Contingency Public Workshop, Contingency PAC Meeting, and Contingency Revision

#### **Task 4: Prepare Final Report**

##### **Objectives**

- Provide a review by the PAC and City Council of the Final Report containing the Proposed Conceptual Design developed in Task 3.
- Prepare adoption-ready materials for incorporation into City of Milwaukie's Comprehensive Plan and/or Public Works Standards.

**Methodology**

4.1 Final Report – Consultant shall prepare a draft and revised Final Report that contain the conceptual design developed in Task 3. The Final Report must include a plan view illustration, an overview of the planning process, a description of the conceptual design’s major features and how they respond to technical and public issues, principles for implementation phasing, and a discussion of potential costs and alternative financing strategies. Final Report must include break-out descriptions by segment of the conceptual design for Monroe Street, as well as applicable cross-sections, for possible inclusion in City’s Public Works Standards.

Consultant shall revise Final Report as necessary, in response to comments from PAC and City Council. Consultant shall provide copies of the revised Final Report to City and APM in PDF and Word format. City shall receive 10 hard copies and one CD and APM shall receive three hard copies and two CDs.

4.2 PAC Meeting #5 – City shall arrange and Consultant shall present at PAC Meeting #5 to present the Final Report. Consultant shall record PAC member comments.

4.3 City Council Work Session – City shall prepare for and make presentation of Final Report to Milwaukie City Council for review and comment. Consultant shall attend Work Session to present Final Report.

4.4 Title VI Report – City shall prepare a report to document outreach efforts to low-income, minority, and other local disadvantaged populations, in accordance with the requirements of Title VI.

**City Deliverables**

- 4a PAC Meeting #5 (Agenda and summary meeting notes)
- 4b City Council Work Session
- 4c Title VI Report

**Consultant Deliverables**

- 4a Final Report
- 4b PAC Meeting #5 (Agenda and summary meeting notes)
- 4c City Council Work Session

**Project Schedule**

<i>Task</i>	<i>Description</i>	<i>Months From Notice to Proceed</i>
1	<b>Public Involvement and Interagency Coordination</b>	Ongoing
2	<b>Document Existing Conditions</b>	September 30, 2014
3	<b>Conduct Public Workshops</b>	December 31, 2014
4	<b>Prepare Final Report</b>	March 31, 2015

**CONSULTANT AMOUNTS PER DELIVERABLE**

<i>Task</i>	<i>Description</i>	<i>Total Fixed Amount Payable to Consultant Per Deliverable</i>
<b>1</b>	<b>Public Involvement and Interagency Coordination</b>	
1A	Organizational Meeting and Refined Project Schedule	\$2,170
	<b>Subtotal</b>	\$2,170
<b>2</b>	<b>Document Existing Conditions</b>	
2A	Base Maps	\$4,310
2B	PAC Meeting #1 (field trip) and list of comparable Neighborhood Greenways	\$2,420
2C	Needs, Opportunities, Constraints and Tools Memo	\$13,000
2D	PAC Meeting #2	\$3,800
	<b>Subtotal</b>	\$23,530
<b>3</b>	<b>Conduct Public Workshops</b>	
3A	Public Workshop #1	\$5,490
3B	Proposed Conceptual Design	\$11,850
3C	PAC Meeting #3	\$4,120
3D	Public Workshop #2	\$5,210
3E	PAC Meeting #4	\$4,120
3F	Contingency Deliverables: Contingency Public Workshop, Contingency PAC Meeting, and Contingency Revision	\$6,970
	<b>Subtotal</b>	\$37,760
<b>4</b>	<b>Prepare Final Report</b>	
4A	Final Report	\$8,850
4B	PAC Meeting #5	\$4,120
4C	City Council Work Session	\$3,080
	<b>Subtotal</b>	\$16,050
	<b>Project Total</b>	\$79,510

**EXHIBIT B (Local Agency or State Agency)**

**CONTRACTOR CERTIFICATION**

Contractor certifies by signing this contract that Contractor has not:

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

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

**AGENCY OFFICIAL CERTIFICATION (ODOT)**

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

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

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

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**EXHIBIT C**

Federal Provisions  
Oregon Department of Transportation

**I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION**

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

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
- 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

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

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

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

**EXCEPTIONS:**

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

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

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

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.

4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

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

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

- Appendix B of 49 CFR Part 29 -

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

##### Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

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

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be

entitled to rely on the accuracy, competence, and completeness of Contractor's services.

**V. NONDISCRIMINATION**

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

1. **Compliance with Regulations.** Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. **Solicitation for Subcontractors, including Procurement of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. **Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act).** During the performance of this contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment,

without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

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

direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

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

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

#### DBE POLICY STATEMENT

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

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

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

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

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

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

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

#### CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL   0   %

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

#### VII. LOBBYING

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to

influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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

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

EXHIBIT D
ELIGIBLE PARTICIPATING COST
DESCRIPTION
<b>PERSONNEL SERVICES</b>
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.
<b>SERVICES AND SUPPLIES</b>
<b>In-State Travel - Per Rates Identified in State Travel Handbook</b>
<i>Meals &amp; Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.
<i>Lodging &amp; Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon. Fares, Taxi, Bus, Air, Etc.
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.
<b>Office Expense</b>
<i>Direct Project Expenses Including:</i>
<i>Photo, Video &amp; Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.
<i>Printing, Reproduction &amp; Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.
<i>Postage</i> - Payment for direct project postage.
<i>Freight &amp; Express Mail</i> - Payment for direct project freight services on outgoing shipments.
<b>Telecommunications</b>
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.
<b>Publicity &amp; Publication</b>
<i>Publish &amp; Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.
<i>Conferences</i> (costs to put on conference or seminars)
<b>Equipment \$250 - \$4,999</b>
NOT ELIGIBLE
<b>Employee Training, Excluding Travel</b>
NOT ELIGIBLE
<b>Training In-State Travel</b>
NOT ELIGIBLE
<b>CAPITOL OUTLAY</b>
NOT ELIGIBLE