

RESOLUTION NO. 6011

A RESOLUTION ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT TO ACCEPT A TRANSPORTATION AND GROWTH MANAGEMENT GRANT FROM THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION (ODOT) TO COMPLETE THE CITY OF ALBANY, SOUTH ALBANY AREA PLAN.

WHEREAS, the City of Albany submitted a work program to the state of Oregon for consultant services for the South Albany Area Plan; and

WHEREAS, the state of Oregon has awarded the City of Albany a \$178,000 Transportation and Growth Management (TGM) Grant for consultant service to assist in the preparation of the City of Albany South Albany Area Plan; and


WHEREAS, the budget authority was included in the FY 2011-2012 budget; and


WHEREAS, the state of Oregon acting by and through ODOT requires the City to take official action to authorize and adopt the Intergovernmental Agreement attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Albany accepts this TGM Grant in the amount of \$178,000 from the State of Oregon for the purpose of completing the South Albany Area Plan, and authorizes the City Manager to execute the intergovernmental agreement.

DATED AND EFFECTIVE THIS 8th DAY OF JUNE 2011.

ATTEST:

  
\_\_\_\_\_  
City Clerk



  
\_\_\_\_\_  
Mayor

# EXHIBIT "A"

TGM Grant Agreement No. 27505  
TGM File Code 2D-10  
EA # TGM0LA56

## INTERGOVERNMENTAL AGREEMENT

City of Albany, South Albany Area Plan

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 City of Albany ("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 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") funds. Local funds are used as match for SAFETEA-LU 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, 2012 ("Termination Date").

B. Grant Amount. The Grant Amount shall not exceed \$178,000.

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

D. Consultant's Amount. The Consultant's Amount shall not exceed \$178,000.

E. City's Matching Amount. The City's Matching Amount is \$22,000 or 11% of the Total Project Costs.

## SECTION 3. DISBURSEMENTS

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 be reimbursed by ODOT for, or may use as part of the City's Matching Amount, as the case may be, only Direct Project Costs that are Federally Eligible Costs that City incurs after the execution of this Agreement up to the City's Amount or the City's Matching Amount, respectively. 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. **Reserved**

D. **Reserved**

E. **Reserved**

F. ODOT shall limit reimbursement of, or 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 the 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 and Section 504 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 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), 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 Federally Eligible Costs previously reported as City’s Matching Amount. ODOT may use any funds paid to it under this Section 5.K (1) to substitute for an equal amount of federal SAFETEA-LU 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 reimbursable hereunder and those costs which are being treated by City as City’s Matching Amount;
  - (c) A list of final deliverables; and
  - (d) [Reserved].



## **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. 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. The 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.

On December 29, 2008, the Oregon Transportation Commission ("Commission") approved Delegation Order No. 2, which authorizes the Director of ODOT to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program ("STIP") or a line item in the biennial budget approved by the Commission.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the

Deputy Director, Highways; Deputy Director, Central Services and the Chief of Staff, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission such as the Oregon Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director. The Director may also delegate to other Administrators the authority to execute intergovernmental agreements over \$75,000 for specific programs such as transportation safety, growth management and public transit.

**City**

*City of Albany*

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

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

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

**ODOT**

STATE OF OREGON, by and through  
its Department of Transportation

By: \_\_\_\_\_  
Barbara Fraser, Interim Division  
Administrator  
Transportation Development Division

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

**ATTORNEY GENERAL'S OFFICE**

Approved as to legal sufficiency by the  
Attorney General's office.

By: Lynn Nagasako  
(Official's Signature)

Date: via e-mail dated June 2, 2011

**Contact Names:**

Heather Hansen  
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Albany, OR 97321-0144  
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Fax: 541-917-7511  
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David Helton, Contract Administrator  
Transportation and Growth Management Program  
644 A St.  
Springfield, OR 97477  
Phone: 541-726-2545  
Fax: 541-744-8088  
E-Mail: David.I.Helton@odot.state.or.us

**Statement of Work  
TGM 2D-10  
City of Albany  
South Albany Area Plan**

Name: Address:  Phone: Fax: Email:	<b><u>Agency Work Order Contract Project Manager (WOCPM)</u></b> David Helton ODOT Region 2 644 A St Springfield, OR 97477 541-726-2545 541-726-2509 David.I.Helton@odot.state.or.us	Name: Address:  Phone: Fax: Email:	<b><u>Consultant Project Manager</u></b> David Siegel Otak, Inc. 17355 SW Boones Ferry Road Lake Oswego, OR 97035 503-699-2454 503-635-5395 David.siegel@otak.com
Name: Address:  Phone: Fax: Email:	<b><u>City Project Manager</u></b> Heather Hansen City of Albany PO Box 490 Albany, OR 97321 541-917-7564 541-917-7511 heather.hansen@cityofalbany.net		

**Definitions**

Agency/ODOT	Oregon Department of Transportation
City	City of Albany
PAC	Project Advisory Committee
Project	South Albany Area Plan project
TAC	Technical Advisory Committee
TSP	Transportation System Plan
WOC	Work Order Contract
WOCPM	Work Order Contract Project Manager

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 (“SOW”) 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 tasks and deliverables assigned to the Consultant. All services and other work assigned to other entities are not Consultant’s obligations under this WOC, but shall be obtained by Agency through separate agreements which may contain a statement of work that is the same as or similar to this SOW, but with clarifications regarding services or work to be performed under those agreements. The obligations of entities in this SOW, other than the Consultant, are merely stated for informational purposes and are in no way binding on the Consultant, nor are the named entities parties to this WOC. Any tasks or deliverables that are described with references to one or more of Consultant’s subcontractors are nevertheless the contractual 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 SOW shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to the 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 SOW.
2. The Agency 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 above, 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 SOW, the Consultant will not be found in breach of contract, absent any separate non-compliance with the terms and conditions of this WOC by Consultant. 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 and Transportation Relationship and Benefit**

The Project involves the update of the Comprehensive Plan, Transportation System Plan (“TSP”) adopted by the City of Albany (the “City”) in 2010, the development code, and the facility standards to ensure that urbanization of the Project “study area” (defined below) occurs in an integrated, connected manner that facilitates use of alternative modes, reduces reliance on the automobile, reduces use of state highways for local travel, provides certainty about planned transportation investments to encourage economic development, and lowers future emissions thereby helping to reduce the effects of climate change. The Project will assure consistency of recommended plan and code amendments with local and state policies, plans, and rules, including the Transportation Planning Rule (as amended July 14, 2006). The planning period for the South Albany Area Plan is generally 2010 to 2030.

### **Project Study Area**

The Project “study area” is bounded by the City’s urban growth boundary on the south, Interstate 5 (“I-5”) on the east, land developed to urban densities on the north and Oregon Route 99E on the west (the “Project Study Area.”



The Consultant's transportation analysis for proposed facilities and land uses within the Project Study Area may need to consider impacts on transportation facilities outside the Project Study Area. The Project will plan for integration of development in South Albany with existing and planned urban development adjacent to the Project Study Area.

### **Background**

The Project Study Area contains the largest remaining undeveloped industrial and urban residential reserve lands inside the City's urban growth boundary--approximately 1,400 acres. Preliminary visioning and conceptual work was done for the Project Study Area as part of the "Balanced Development Patterns" project (1999-2001). The Balanced Development Patterns vision for the Project Study Area is a new vibrant mixed-use area with a village center, a greenway along Oak Creek, public open spaces, a mix of housing and transportation choices and commercial and industrial development.

In 2006, PepsiCo signed a development agreement with the City to develop a manufacturing and bottling plant in the western portion of the Project Study Area, adjacent to the Union Pacific Railroad. According to the "Oregon Rail Study", PepsiCo desired to obtain rail service at this site and found that this would require construction of a siding along the mainline Union Pacific Railroad track. Consideration was given to connecting a rail segment to connect the Pepsi site with the Albany and Eastern Railroad which operates a rail line in the northern portion of the Project Study Area. (Oregon Rail Study, p. 145) Ultimately, PepsiCo chose not to pursue development at this location. In addition, the State of Oregon recently awarded two "Connect Oregon III" grants totaling over \$5 million to the Albany and Eastern Railroad to upgrade 26 miles of track between Albany, Lebanon, and Sweet Home.

The Project will also refine the vision of the Balanced Development Patterns project by identifying an efficient, environmentally sensitive mix and density of land uses that are both financially and politically feasible. The South Albany Area Plan will refine the 2010 TSP to include transportation facilities to support the land use vision in the South Albany Area Plan.

While the planning period for the South Albany Area Plan is generally 2010 to 2030, the planning period used in currently adopted plans such as Balanced Development Patterns may have planning periods short of or beyond 2030. The Project must include assessment of the implications of planned growth for the Project Study Area over the 2010 to 2030 period, to the extent possible given the format and content of existing plans.

### **Project Objectives**

The City seeks to create a vibrant new neighborhood that will be appealing to residents and businesses seeking new sites. The South Albany Area Plan will seek to create this neighborhood by integrating planning for land uses, transportation, parks and recreation, schools, infrastructure, economic development, natural and cultural resources, and place making. The South Albany Area Plan will:

- Identify feasible patterns of land uses that are consistent with the City's goals for urbanization and environmental protection.
- Consider the capacity of existing, planned, and needed infrastructure facilities to serve the new development in a logical and orderly manner.
- Identify transportation facilities needed for circulation of motor vehicles and people walking and cycling.

- Provide rail service to industrial properties by protecting existing and future right-of-way for service to industrial properties.
- Reduce reliance on automobiles for short trips within the Project Study Area, and between the Project Study Area and surrounding development.
- Prepare recommendations for Planning Commission and City Council consideration, including Comprehensive Plan and Zoning designations, plan and development code amendments, and facility standards to implement the Preferred Alternative for land use and transportation.
- Establish alignment and design standards for the Oak Creek Parkway to create a street that defines the southern edge of open space along Oak Creek, provides accessibility to parks and recreation facilities and that is integrated with surrounding development and other transportation facilities; prepare recommendations for low-impact development for environmentally-sensitive areas within the vicinity of Oak Creek.

## **PROJECT APPROACH**

### **Project Management and Roles**

The City shall provide day-to-day management of the Project. As defined in the SOW "Tasks" detailed below, the City shall provide Consultant with available data and obtain data from Cascades West Council of Governments, and other sources, for the Project. Consultant shall collect other data needed for this Project. City shall review and comment on Project deliverables within one week of receipt by the City, unless additional time is authorized in writing by the WOCPM (e-mail acceptable). City shall report local match expenditures every two months to the Agency's WOCPM.

City shall ensure involvement of City staff, Planning Commission and Mayor and City Council members throughout the Project (e.g., through periodic briefings and committee assignments), to help assure that final Consultant work products have the City's support.

Consultant shall maintain regular communication with the City and the Agency's WOCPM to ensure satisfactory completion of deliverables in accordance with the Project schedule.

### **Methods of Analysis**

Consultant's assessment of transportation conditions, deficiencies, and needs, and facility designs, must use established and generally accepted methods, published guidelines, and established policies, including Highway Capacity Manual methods and procedures for modeling transportation conditions (e.g., Synchro/SimTraffic) and the Oregon Transportation Analysis Procedures Manual. Consultant's Services associated with the assessment and update of the 2010 TSP must follow guidance in the Transportation System Planning Guidelines 2008. Consultant's analysis of motor vehicle traffic conditions must be performed by or under the guidance of an Oregon licensed professional engineer (Civil or Traffic specialty), using methods specified in the ODOT Analysis Procedure Manual. Consultant's other analysis detailed in the SOW must be based on established and generally accepted methods, published guidelines, and established policies.

### **Written and Graphic Deliverable Requirements**

All written (text) and graphic deliverables must be submitted electronically.

Electronic versions of written (text) deliverables must be in Microsoft Word (.doc) or Portable Document format (.pdf). Written deliverables must include the Project name, a title that refers to the contract deliverable, draft number, and date of preparation. Any deliverables specified for posting on the Consultant Project Web Site must be submitted in .pdf.

Graphic deliverables may be developed in ArcMap, Adobe Illustrator, Auto CAD, PCMaps, or other applications appropriate to the deliverable. Graphic deliverables submitted for review must be converted to .pdf for readability. Electronic files of final graphics submitted to the City and ODOT may be in the native format but must also be converted to .pdf. All graphic deliverables must be well-documented, with Project name, a title that corresponds to the contract deliverable, draft number, a legend, and the date of preparation.

Electronic versions of base and plan maps and Project documents may be in color but must be readable when reproduced in black and white. Maps, aerial photos, and other graphic material prepared for Project memoranda and the South Albany Area Plan must be suitable for enlargement to create wall displays for Project meetings and presentations. Display-sized maps for Project meetings must be printed in color when important to public comprehension and must be mounted on foam core to allow display on an easel or wall; display of graphics by projector only is not acceptable.

Project memoranda and meeting materials must be developed in a manner suitable for their eventual incorporation into the South Albany Area Plan.

Final plans, codes, and plan and code amendments must be prepared as recommendations for adoption-ready 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 shall be prepared as final regulatory statements of the local government. Final plan, plan amendments, code, and code amendments must include all necessary amendments or deletions to existing local government plans or code to avoid conflicts and enable full integration of proposed plan with existing local government 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 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU"), 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.

### **Meeting Requirements**

The City is responsible for committee meeting arrangements including scheduling, timely distribution of agendas and meeting materials, reserving a suitable location, advertising, posting notice, and mailing notice as required. The City is responsible for all arrangements, including legal notice, for the Planning Commission and City Council public hearings.

Notice of Project meetings must include reference to the Consultant Project Web Site where Consultant is responsible for posting the Project objectives, schedule, and deliverable products.

“Public Involvement” must allow the community an opportunity to provide input into the planning process. City shall consider “environmental justice” issues, which is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. “Fair treatment” means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. “Meaningful involvement” means that: (1) potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.

The “public involvement” program must include specific steps to provide opportunities for participation by federal Title VI communities. The City and the Consultant shall utilize the ODOT Title VI (1964 Civil Rights Act) Plan guidance to identify Title VI populations, formulate public involvement strategies, and report outreach efforts to and participation by Title VI communities.

### **Task 1: Project Kickoff**

#### **Objective**

Lay the Project groundwork by gathering and reviewing pertinent background information, forming an advisory committee, coordinating Project team roles and responsibilities, establishing goals and objectives for the Project, and building a web site intended to involve and inform the general public about the Project, as more particularly described in the following Task 1 sections:

#### **1.1 Background Information**

City shall provide to Consultant available Project background information, consisting of local, regional and state policy and regulatory documents and existing data, which the Consultant shall review in preparation for development of, or inclusion in, Project deliverables that are the responsibility of the Consultant. This background information will include the following:

- Albany Comprehensive Plan
- Balanced Development Patterns
- Albany Transportation System Plan
- Albany Strategic Plan
- Draft Concept Diagram
- Any relevant inventories or updates related to the transportation system, including data on area traffic counts, accidents, and car, truck, bicycle, and pedestrian circulation;
- Transit routes, key bus stops, and usage data as available;
- Environmental constraints or hazards;
- Baseline GIS mapping and data as exists related to the Study Area, including parcel-scale data of land ownership, comprehensive plan designations, zoning designations, existing land uses;

buildable lands; location and dimensions of streets, alleyways, sidewalks, rail right-of-way, and utilities; planimetric mapping data of site improvements; pedestrian, bicycle, and Americans with Disabilities Act-related system inventories; and relevant environmental data as exists including wetlands, topography, and Federal Emergency Management Agency flood hazard areas.

- Linn County Coordinated Population Forecast
- Housing Needs Analysis
- Economic Opportunities Analysis
- Parks & Open Space Plan
- Goal 5 / Natural Resource Inventory (e.g. wetlands, riparian corridor)
- Water, Sanitary Sewer, Stormwater Master Plans
- GAPS Master Plan
- Any other relevant local plans, studies, and inventories that relate to the Study Area

### **1.2 Project Kickoff Meeting**

Consultant shall participate in Project Kickoff Meeting with City and the WOCPM to review the Project Objectives, work plan, methods for public participation, schedule, key deliverables, and other items related to management of Project. The City shall prepare the meeting agenda and provide materials the City deems relevant to discussion items.

The Project Kickoff Meeting must include a discussion of methods and techniques for effective public process. This discussion must take into account the unique property ownership patterns and limited existing population in the Project Study Area, and include suggestions to involve a broad cross-section of the Albany community in the Project. Particular attention must be given to the format and audience for Public Events in Tasks 3, 5 and 7.

Consultant shall prepare a summary of the Project Kickoff Meeting that includes:

- Summary minutes with key points raised during the meeting;
- Refined Project schedule showing tasks by months and dates for meetings and deliverable products.

Consultant shall provide this summary to the City and WOCPM within one week of the Project Kickoff Meeting.

### **1.3 Stakeholder Interviews**

Consultant shall conduct a minimum of 10 one-on-one or small-group "Stakeholder Interviews" with stakeholders as selected by City. Consultant shall prepare interview questions that will help inform the preparation of Project Memorandums 1, 2, and 3. The Consultant must hold interviews on the same day as the Kick-off Meeting. The City shall set up the interview schedule and arrange logistics. The Consultant shall prepare a written summary of the Stakeholder Interviews.

### **1.4 PAC Roster and Interested Parties List**

The City shall take the lead in forming a Project Advisory Committee ("PAC"). The PAC shall meet periodically to review Project deliverables and provide guidance on Project. City shall invite key stakeholders to participate on the PAC, including representatives of:

- School Districts
- Project Study Area residents, land owners, and business owners

- Major employers in or near the Project Study Area
- Members of City committees and commissions, including the Bike Advisory Committee and Tree Commission
- Representatives of Native American tribes historically present in the Project Study Area
- Other citizens interested in land use or transportation issues in the Project Study Area

The City shall maintain an "Interested Parties List" of PAC members and other parties expressing interest in the Project for notification of Project progress, meetings, and presentations.

### **1.5 TAC Roster**

The City shall take the lead in formation of a Technical Advisory Committee ("TAC"). TAC membership must be focused on staff from the City and neighboring jurisdictions, and topical experts relevant to the Project. The TAC shall meet periodically to review Project deliverables and provide guidance on Project, particularly in relation to legal requirements, generally accepted methods of analysis, inter-jurisdictional coordination, and similar technical issues.

The City shall invite key stakeholders to participate on the TAC, including representatives of:

- Linn County
- Oregon Department of Land Conservation and Development
- ODOT Region 2 and Rail Division
- Emergency service providers
- City of Albany Public Works, Parks and Recreation, and Economic Development Departments

### **1.6 Consultant Project Web Site**

Consultant shall develop and maintain a Project web site (the "Consultant Project Web Site") hosted by Consultant. Initial material for the Consultant Project Web Site must include an overview of Project Objectives, the refined schedule showing major Project tasks, tentative dates for public meetings and deliverables, a list of Project deliverables and information clearly identifying the Consultant Project Web Site as a web site developed, owned, operated and controlled by the Consultant (and not by ODOT or the City).

The Consultant Project Web Site must facilitate public input on existing conditions and future needs for land uses and transportation facilities in the Project Study Area.

Consultant shall maintain a log of public comments received through the Consultant Project Web Site and other means, and incorporate this public comment log into summaries of public input prepared after each Public Event in this Project.

Draft and final Project Memoranda and final presentation material used at Public Events must be published on the Consultant Project Web Site. Additional material may be posted to Consultant Project Web Site.

The City Project Manager and the ODOT WOCPM shall approve all material posted to the Consultant Project Web Site, prior to the Consultant's posting of the material on the Consultant Project Web Site. Consultant shall provide to ODOT, within ten (10) days of the Consultant's initial development of the Consultant Project Web Site, all information required to allow ODOT to access the Consultant Project Web Site to remove any material not authorized by this WOC, to post information or correct any erroneous information on the Consultant Project Web Site, or to take any other action required to enforce

the terms of this WOC which apply to the Consultant Project Web Site, in the event the Consultant is unable or unwilling to take any action required.

**1.7 Draft Project Memorandum #1: Vision Elements and Evaluative Criteria**

Consultant shall develop "Draft Project Memorandum #1", which must include a summary and timeline of prior planning efforts identified by the City, and an assessment of what these prior efforts recommend or imply for planning future land uses and transportation facilities in the Project Study Area. Documents and prior planning efforts reviewed in Draft Project Memorandum #1 must include:

- Albany Comprehensive Plan
- Balanced Development Patterns
- Albany Transportation System Plan
- Albany Strategic Plan
- Draft Concept Diagram

Draft Project Memorandum #1 must include "evaluation criteria" for assessment of proposed land uses and transportation facilities developed by this Project. Evaluation Criteria must be based on Project Objectives and the prior planning efforts summarized in Draft Project Memorandum #1.

**1.8 TAC Meeting #1**

The City shall arrange and lead, and the Consultant shall attend, TAC Meeting #1 in Albany to review the goals and objectives of the Project, the Project scope and schedule, methods of public participation, evaluation criteria in Draft Project Memorandum #1, and issues and needs related to the Project.

**1.9 PAC Meeting #1**

The City shall arrange and Consultant shall lead PAC Meeting #1 in Albany to review the goals and objectives of the Project, the Project scope and schedule, methods of public participation, and issues and needs related to the Project.

Consultant shall facilitate a discussion at PAC Meeting #1 of Draft Project Memorandum #1 to review elements of previous planning efforts in Albany, including the Balanced Development Patterns project, that are relevant to planning for the pattern and characteristics of future development in the Project Study Area. Consultant shall seek PAC member input on the Evaluation Criteria included in Draft Project Memorandum #1.

Consultant shall prepare a summary of PAC Meeting #1 that includes key points raised during the meeting and provide this summary to the City and WOCPM within one week of the PAC Meeting #1.

**City Deliverables**

- A. Background Information
- B. Project Kickoff Meeting
- C. Stakeholder Interview Logistics
- D. PAC Roster and Interested Parties List
- E. TAC Roster
- F. TAC Meeting #1
- G. PAC Meeting #1
- H. Review and comment on draft Consultant deliverables

**Consultant Deliverables**

- A. Project Kickoff Meeting
- B. Stakeholder Interviews and summary
- C. Consultant Project Web Site
- D. Draft Project Memorandum #1
- E. TAC Meeting #1
- F. PAC Meeting #1 and summary

**Task 2: Existing and Future Conditions**

**Objective**

To assess existing and planned future conditions and the likely level of market support for development and redevelopment in the Project Study Area.

**2.1 Draft Project Memorandum #2: Existing and Planned Conditions**

Consultant shall prepare "Draft Project Memorandum #2" that summarizes existing and planned future conditions in the Project Study Area and to establish the context for planning land uses and transportation in the Project Study Area. Draft Project Memorandum #2 must summarize conditions in and adjacent to the Project Study Area including:

- Plan Designation and Zoning maps
- Total land and buildable land area by Plan Designation, zoning, and development status
- Land parcelization and ownership
- Existing land uses by type
- Existing and planned public facilities
- Environmental and physical constraints on development (including the location of the floodway, wetlands, open space zoning, known archeological and biological resources, railroad right-of-way, high-voltage power lines, other easements and rights-of-way)
- Planned growth, public facility provision, and conservation, based on adopted plans including:
  - Linn County Coordinated Population Forecast
  - Housing Needs Analysis
  - Economic Opportunities Analysis
  - Parks & Open Space Plan
  - Goal 5 / Natural Resource Inventory (e.g. wetlands, riparian corridor)
  - Transportation System Plan
  - Water, Sanitary Sewer, Stormwater Master Plans
  - GAPS Master Plan
- Population characteristics for the Project Study Area and the City as a whole

Draft Project Memorandum #2 must assess the implications of planned citywide population growth, housing needs, and economic opportunities for the level and type of growth needed or desired in the Project Study Area over the next twenty (20) years.

Draft Project Memorandum #2 must identify the timing of planned provision of public facilities in the Project Study Area, including streets, water, sewer, and stormwater facilities, and the funding mechanisms



that have been identified for these planned facilities. Draft Project Memorandum #2 must summarize the development density assumed to exist in the Project Study Area by the City's public facilities plans to the extent that those assumptions are documented in those plans. Draft Project Memorandum #2 must summarize the assumptions about development in the Project Study Area developed for analysis of future transportation conditions (the "Most Likely Land Use Scenario" and the "Preferred Alternative") in the 2010 TSP.

Draft Project Memorandum #2 must provide an assessment of environmental conditions. This assessment must consist of the review of maps, aerial photos, documents and similar material related to environmental constraints in the Project Study Area, with non-intrusive field work to help identify locations of wetlands, endangered or threatened species (or their habitat), and archeological resources. Consultant shall coordinate with the City as needed to identify and assess locations where environmental constraints or other conditions that could affect the location of transportation facilities may exist in the Project Study Area. The City shall provide Consultant with maps, aerial photos, documents and similar materials related to environmental constraints that are available to the City, and City shall assist Consultant with obtaining similar material from Linn County, and from State and Federal agencies. The City shall seek property owner permission for Consultants to conduct limited field work on private property in the Project Study Area.

## **2.2 Draft Project Memorandum #3: Market Analysis**

Consultant shall prepare "Draft Project Memorandum #3" that reports the findings of a market analysis for potential development in the Project Study Area. Draft Project Memorandum #3 must describe long-run market conditions for development in the Project Study Area by type. Draft Project Memorandum #3 must consider the range of development types envisioned by the "Balanced Development Patterns" project and similar initiatives by the City of Albany in the following categories:

- Residential
- Retail, including grocery-anchored neighborhood commercial
- Office
- Industrial
- Mixed-Use

Draft Project Memorandum #3 must identify a range for the type, level, density, and mix of development that can be supported in the Project Study Area over the planning period. Draft Project Memorandum #3 must consider likely market conditions and assume the absence of additional City policies or incentives to encourage desired development.

## **2.3 TAC Meeting #2**

City shall arrange and lead, and Consultant shall attend, TAC Meeting #2 to seek input on the format for "Public Event #1" that will be most effective at encouraging public input, issues to address at Public Meeting #1, how to frame issues at Public Meeting #1 to facilitate public comment relevant to development of the South Albany Area Plan, and the implications of findings from Draft Project Memoranda #1, #2, and #3 for development of the South Albany Area Plan.

## **2.4 PAC Meeting #2**

City shall arrange and Consultant shall attend and lead PAC Meeting #2 to review findings from Draft Project Memoranda #2 and #3. Consultant shall seek input on the format for Public Event #1 that will be

most effective at encouraging public input, issues to address at Public Event #1, and how to frame issues at Public Event #1 to facilitate public comment relevant to development of the South Albany Area Plan.

Consultant shall prepare a summary of PAC Meeting #2 that includes key points raised and comments made by attendees during the meeting, and provide this summary to the City and the WOCPM within one week of the PAC Meeting #2.

#### **City Deliverables**

- A. TAC Meeting #2
- B. PAC Meeting #2
- C. Review and comment on draft Consultant deliverables

#### **Consultant Deliverables**

- A. Draft Project Memorandum #2
- B. Draft Project Memorandum #3
- C. TAC Meeting #2
- D. PAC Meeting #2 and summary

#### **Task 3: Public Event #1**

##### **Objective**

To solicit public input on existing and future conditions that may affect development in the Project Study Area.

##### **3.1 Presentation Material for Public Event #1**

Consultant shall prepare "Presentation Material" for Public Event #1, in a form acceptable to the City. Presentation Materials for Public Event #1 must include graphical examples of elements and components that may become part of the vision for future land uses and transportation facilities in the Project Study Area. Presentation Material for Public Event #1 must include graphic examples of neighborhood design elements, including:

- Mixed use development;
- Neighborhood compatible commercial development; and
- Green street (parkway, greenway) design;

Consultant shall provide Presentation Material for Public Event #1 to the City for review at least two weeks before Public Event #1. Consultant shall revise Presentation Material for Public Event #1 to respond to comments received by the Consultant at least one week before Public Event #1.

In preparing Presentation Materials for Public Event #1, Consultant shall coordinate with the City to review and approve the format for Public Event #1.

##### **3.2 Public Event #1**

City shall arrange and Consultant shall attend and lead Public Event #1 to seek public input on existing conditions, planned growth, and market conditions in the Project Study Area. Consultant shall lead a discussion about community desires for the type and characteristics of future development in the Project Study Area and the impacts of the findings of Project Memoranda 1, 2, and 3.

Consultant shall prepare a summary of Public Event #1 that includes key points raised and comments made during Public Event #1 and provide this summary to the City and WOCPM within one week of the Public Event #1.

**3.3 Revised Project Memorandum #1**

Consultant shall revise Draft Project Memoranda #1, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #1.

**3.4 Revised Project Memorandum #2**

Consultant shall revise Draft Project Memoranda #2, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #1.

**3.5 Revised Project Memorandum #3**

Consultant shall revise Draft Project Memoranda #3, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #1.

**3.6 Joint City Council and Planning Commission Briefing**

City and Consultant shall brief the City Council and Planning Commission at a joint session on the progress of the Project to date. Consultant shall provide presentation materials for the briefing.

**City Deliverables**

- A. Public Event #1
- B. Joint City Council and Planning Commission Briefing
- C. Review and comment on draft Consultant deliverables

**Consultant Deliverables**

- A. Presentation Material for Public Event #1
- B. Public Event #1 and Summary
- C. Revised Project Memorandum #1
- D. Revised Project Memorandum #2
- E. Revised Project Memorandum #3
- F. Joint City Council and Planning Commission Briefing

**Task 4: Land Use and Transportation System Alternatives**

**Objective**

To develop alternative patterns of land development and transportation facilities consistent with plan policies and market conditions in the Project Study Area.

**4.1 Team Workshop**

Consultant shall facilitate a team workshop to brainstorm and develop initial land use and transportation plan concepts that address the Project objectives and Project Memoranda #1 and #2. The City project manager and others deemed appropriate by the City are invited to participate in the team workshop.

#### **4.2 Draft Project Memorandum #4: Land Use and Transportation System Alternatives**

Consultant shall develop "Draft Project Memorandum #4" that describes four Land Use Alternatives and associated Transportation System improvements for the Project Study Area.

##### *Land Use*

Each Land Use Alternative must include a mix and density of land uses that appear financially feasible based on the "Market Analysis" in Revised Project Memorandum #3. Each Land Use Alternative must reflect the Project Objectives and Evaluation Criteria established in Revised Project Memorandum #1. Draft Project Memorandum #4 must include maps showing the location of proposed land uses by type, and text and tables that quantify acres of land use by type, the number of dwelling units by type, and square feet of other development by type.

Land Use Alternatives in Draft Project Memorandum #4 must each consider a range of potential land use types for the Project Study Area, including

- Single-Family and Multi-Family Residential
- Retail and Commercial
- Industrial
- Mixed-Use: Residential with Retail or Commercial
- Parks & Open Space
- Schools and other Public Facilities

Project Memorandum #4 must include consideration of neighborhood-building in the Project Study Area based on identification of components and characteristics of a desirable neighborhood and application of those components and characteristics to proposed development patterns in the Project Study Area. Project Memorandum #4 must include an assessment of the impact of spatial relationships of neighborhood components on demand for transportation in the Project Study Area.

Project Memorandum #4 must also identify potential industrial development types (e.g., industrial park vs. manufacturing) that may be developed on sites designated for industrial development in and adjacent to the Project Study Area, and assess how these industrial land uses can be integrated with other development in the Project Study Area while buffering non-industrial uses from noise, lighting, odors, and other impacts typically associated with industrial uses.

##### *Transportation System*

Draft Project Memorandum #4 must include qualitative consideration of likely transportation impacts and costs in the development of Land Use and Transportation System Alternatives. Consultant shall develop recommendations for the type and general location of future transportation facilities for each Land Use Alternative developed for the Project Study Area in Draft Project Memorandum #4. Transportation facilities identified in Project Memorandum #4 must include streets with provisions for transit and people walking or cycling; multi-use off-street trails; and freight rail right-of-way to properties designated for industrial development. Some recommended transportation facilities may be common to several or all Land Use Alternatives, such as the alignment of the Oak Creek Parkway or the alignment of future arterial or collector streets.

Draft Project Memorandum #4 must consider the timing of planned transportation facilities in relation to anticipated timing of development, particularly for the proposed realignment of Ellingson Road in the

2010 TSP. To the extent that development in the Project Study Area may occur before the planned realignment of Ellingson Road, interim changes to Ellingson Road in its current alignment may be needed to accommodate changes in traffic.

Draft Project Memorandum #4 must identify environmental constraints and other conditions that may affect the location of transportation facilities in the Project Study Area, including conditions identified in Revised Project Memorandum #2. Environmental constraints and other conditions considered in Draft Project Memorandum #4 must include the location of the Oak Creek floodway and floodplain, wetlands, endangered or threatened species, archeological resources and other natural and cultural resources identified in Revised Project Memorandum #2.

The future transportation facilities recommended for each Land Use Alternative must be based on the Consultant's qualitative assessment of future conditions based on the review of the 2010 TSP and previous traffic analysis completed for the Pepsi Co site and Ellingson Road realignment, environmental constraints, and other relevant conditions in the Project Study Area. Transportation System Alternatives in Project Memorandum #4 must not include any new interchanges on I-5, and proposed facilities that connect to Oregon Highway 34 must be consistent with agreements between ODOT and Linn County for the Columbus Road intersection with Highway 34.

#### **4.3 TAC Meeting #3**

City shall arrange and lead, and Consultant shall attend, "TAC Meeting #3" to review findings from Draft Project Memoranda #4 for the Project Study Area.

#### **4.4 PAC Meeting #3**

City shall arrange and Consultant shall attend and lead PAC Meeting #3 to review findings from Draft Project Memoranda #4. Consultant shall seek input on the format for Public Event #2 that will be most effective at encouraging public input, issues to address at Public Event #2, and how to frame issues at Public Event #2 to facilitate public comment relevant to development of the South Albany Area Plan.

Consultant shall prepare a summary of PAC Meeting #3 that includes key points raised and comments made during the meeting and provide this summary to the City and WOCPM within one week of PAC Meeting #3.

#### **City Deliverables**

- A. TAC Meeting #3
- B. PAC Meeting #3
- C. Review and comment on draft Consultant deliverables

#### **Consultant Deliverables**

- A. Team Workshop
- B. Draft Project Memorandum #4
- C. TAC Meeting #3
- D. PAC Meeting #3 and summary

## **Task 5: Public Event #2**

### **Objective**

To solicit public input on land use and transportation system alternatives for development in the Project Study Area, and identify a Preferred Land Use and Transportation System Alternative for the Project Study Area.

### **5.1 Presentation Material for Public Event #2**

Consultant shall prepare Presentation Material for Public Event #2, in a form acceptable to the City, which must include graphical representation of proposed Land Use Alternatives, with maps showing proposed land use designations and transportation facilities, and illustrations of potential developments in the Project Study Area showing the scale and types of buildings and transportation facilities.

Illustrations of potential developments in the Project Study Area must include:

- Single-family and multi-family residential development
- Mixed use development;
- Compatible neighborhood commercial development; and
- Green street (parkway, greenway) design;

Consultant shall provide Presentation Material for Public Event #2 to the City for review at least two weeks before Public Event #2. Consultant shall revise Presentation Material for Public Event #2 to respond to comments received by Consultant at least one week before Public Event #2.

In preparing Presentation Materials for Public Event #2, Consultant shall coordinate with the City to review and approve the format for Public Event #2.

### **5.2 Public Event #2**

City shall organize and Consultant shall attend, lead and facilitate Public Event #2 to seek public input on land use and transportation system alternatives for development in the Project Study Area. Consultant shall lead a discussion about the land use and transportation system alternatives relative to applicable City goals and policies, and evaluation criteria developed for the project in Revised Project Memorandum #1.

Consultant shall prepare a summary of Public Event #2 that includes key points raised and comments made, and provide summary to the City and WOCPM within one week of the Public Event #2.

### **5.3 Revised Project Memorandum #4**

Consultant shall revise Draft Project Memorandum #4, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #2. Revised Project Memorandum #4 must identify the Preferred Alternative for the Project.

### **5.4 Joint City Council and Planning Commission Briefing**

City and Consultant shall brief the City Council and Planning Commission at a joint session on the progress of the Project to date. Consultant shall provide presentation materials for the briefing, in a form acceptable to the City.

**City Deliverables**

- A. Review and comment on Presentation Material for Public Event #2
- B. Public Event #2
- C. Joint City Council and Planning Commission Briefing
- D. Review and comment on draft Consultant deliverables

**Consultant Deliverables**

- A. Presentation Material for Public Event #2
- B. Public Event #2 and summary
- C. Revised Project Memorandum #4
- D. Joint City Council and Planning Commission Briefing

**Task 6: Plan Implementation**

**Objective**

To provide the City with the tools to implement the Preferred Alternative for the Project by developing amendments to the City's Comprehensive Plan, 2010 TSP, development code, and facility standards needed to implement the preferred land use and transportation system alternatives, and by recommending a strategy for implementing the Preferred Alternative for the Project.

**6.1 Draft Project Memorandum #5: South Albany Area Plan Outline**

Consultant shall prepare "Draft Project Memorandum #5: South Albany Area Plan Outline" that identifies Project deliverables that will be included in the South Albany Area Plan and Project deliverables that will be included in Plan appendices or other documentation provided to the City. The outline for the South Albany Area Plan must identify elements critical for implementation of the vision for the Project Study Area, and will likely include recommended goals, land use designations, zoning, transportation facilities, and other policies or regulations.

The Plan Outline in Draft Project Memorandum #5 must identify any Plan appendices with Project deliverables or other material provided to the City by this Project. Plan appendices must include Project deliverables that provide background data for the Plan or that can be considered for adoption by the City at a later date, including recommended revisions to development codes, facility standards, and funding mechanisms. Preparation of Draft Project Memorandum #5 must be based on guidance from the City about which Project deliverables to include in the South Albany Area Plan for recommendation to the Planning Commission and City Council, and which deliverables to include as Plan appendices or other formats for consideration by the City at a later date.

**6.2 Draft Project Memorandum #6: 2010 TSP Amendments**

Consultant shall prepare "Draft Project Memorandum #6: 2010 TSP Amendments" that identifies amendments needed to the 2010 TSP to implement transportation system changes needed to support the transportation system components of the Preferred Alternative identified in Revised Project Memorandum #4. Draft Project Memorandum #6 must include amendments needed to add or alter the location of proposed transportation facility changes including railroad right-of-way, and amendments needed to add projects and policies for mitigation of the impacts of the Preferred Alternative on the transportation system as determined by the impact analysis in Draft Project Memorandum #6.

Draft Project Memorandum #6 must include an assessment of the transportation impact of the Preferred Land Use Alternative, including impacts to transportation facilities outside of the Project Study Area, relative to future conditions forecast for the Most Likely Land Use scenario and the Preferred Alternative for transportation system improvements in the City's 2010 TSP. Assessment of the transportation impacts of the Preferred Land Use Alternative must be based on outputs from the Albany Travel Demand Model, using methods specified in the Transportation Analysis Procedure Manual (ODOT 2010). Consultant shall facilitate coordination among City, Linn County, ODOT Region 2, and Transportation Planning Analysis Unit to identify the geographic scope and methods used to assess transportation impacts associated with the Preferred Land Use Alternative. The level of effort anticipated for traffic analysis assumes minor or no increases in overall land use intensity as compared to the "Most Likely Land Use" scenario from the 2010 TSP and is intended rather to evaluate the best placement of various land uses. The Albany Travel Demand Model data must be used to estimate the changes in traffic volumes that can be anticipated as a result of the Preferred Land Use Alternative. The analysis of potential impacts of these changes must be based on the projected 2030 intersection volumes and 2030 Synchro model used for the 2010 TSP and are not require new traffic counts. Consultant's analysis of intersections not documented in the TSP is not required, with the exception of potential intersections resulting from proposed new roadway connections to Highway 99.

Assessment of the transportation impact of the Preferred Alternative for the Project must occur before development of Comprehensive Plan Amendments and Development Code Amendments to implement the Preferred Alternative, so that elements of the Preferred Alternative can be changed if necessary to mitigate potential transportation impacts. If changes to the Preferred Alternative are needed to mitigate transportation impacts, Draft Project Memorandum #6 must identify the changes needed and these changes must be reflected in subsequent development of Comprehensive Plan Amendments, Development Code Amendments and the South Albany Area Plan.

To the extent that the transportation impact of the Preferred Alternative would affect agreements between the City and ODOT around future mobility on State of Oregon facilities, Project Memorandum #6 must identify how those agreements may be affected.

Draft Project Memorandum #6 must include a plan to phase transportation system changes in the Project Study Area in a manner that supports planned development. Draft Project Memorandum #6 must include cost estimates for proposed or revised transportation facilities, at a level of detail similar to cost estimates in the City's current TSP. Draft Project Memorandum #6 must be in a ready-to-adopt format, with additions to the current TSP shown underlined and edits in strikeout text.

### **6.3 Draft Project Memorandum #7: Comprehensive Plan Amendments**

Consultant shall prepare "Draft Project Memorandum #7" that shows amendments needed to the Albany Comprehensive Plan to implement the land use components of the Preferred Alternative identified in Revised Project Memorandum #4. Comprehensive Plan amendments must include revisions to the Comprehensive Plan Designation map and any changes to goals, policies, and other Comprehensive Plan elements to implement the Preferred Alternative, other than amendments needed to the 2010 TSP which are addressed in Draft Project Memorandum #6.

Draft Project Memorandum #7 must be in a ready-to-adopt format, with additions to the current Comprehensive Plan shown underlined and edits in strikeout text.



**6.4 Draft Project Memorandum #8: Development Code Amendments**

Consultant shall prepare "Draft Project Memorandum #8: Development Code Amendments" that recommends amendments to the City's Development Code that are needed to implement the Preferred Alternative for the Project. Draft Project Memorandum #8 must identify any changes to the City's standards for streets, sidewalks, multi-use off-street trails, and other public facilities that are needed to implement the Preferred Alternative. Draft Project Memorandum #8 must be in a ready-to-adopt format, with additions to the current Development Code shown underlined and edits in strikeout text. City shall provide guidance to the Consultant on the types of Development Code amendments that are likely to be accepted by the Planning Commission and City Council for development of Draft Project Memorandum #8.

**6.5 Draft Project Memorandum #9: Funding and Implementation**

Consultant shall prepare "Draft Project Memorandum #9: Funding and Implementation" that identifies potential funding sources for proposed public investments that support the Preferred Alternative for the Project, potential phasing options for the logical extension of public facilities and a strategy for implementation of planned public investments. Draft Project Memorandum #9 must validate and update funding sources identified in City public facility plans, and add funding sources and financing mechanisms as needed to identify a comprehensive set of funding sources and financing mechanisms that can be used by municipalities in Oregon for extension of public facilities and services.

**6.6 TAC Meeting #4**

City shall arrange and lead, and Consultant shall attend, "TAC Meeting #4" to review recommended plan and code amendments, and the proposed implementation strategy, in Project Memoranda #5, #6, #7, #8, and #9.

**6.7 PAC Meeting #4**

City shall arrange and Consultant shall attend and lead "PAC Meeting #4" to review findings from Draft Project Memoranda #5, #6, #7, #8, and #9. Consultant shall seek input on the format for Public Event #3 that will be most effective at encouraging public input and key issues to address at Public Event #3.

Consultant shall prepare a summary of PAC Meeting #4 that includes key points raised and comments made during the meeting and provide this summary to the City and WOCPM within one week of the PAC Meeting #4.

**City Deliverables**

- A. TAC Meeting #4
- B. PAC Meeting #4
- C. Review and comment on draft Consultant deliverables

**Consultant Deliverables**

- A. Draft Project Memorandum #5
- B. Draft Project Memorandum #6
- C. Draft Project Memorandum #7
- D. Draft Project Memorandum #8
- E. Draft Project Memorandum #9
- F. TAC Meeting #4
- G. PAC Meeting #4 and summary

## **Task 7: Public Event #3**

### **Objective**

To solicit public input on recommended plan and development code amendments needed to implement the preferred land use and transportation system alternative for development in the Project Study Area.

#### **7.1 Presentation Material for Public Event #3**

Consultant shall prepare "Presentation Material for Public Event #3" in a form acceptable to the City. Presentation Materials for Public Event #3 must include graphical representation of the Preferred Land Use Alternative identified in Revised Project Memorandum #4, with maps showing recommended land use designations and transportation facilities, and illustrations of potential developments in the Project Study Area consistent with the preferred land use alternative showing the scale and types of buildings and transportation facilities.

Consultant shall provide Presentation Material for Public Event #3 to City for review at least two weeks before Public Event #3. Consultant shall revise Presentation Material for Public Event #3 to respond to comments received by Consultant at least one week before Public Event #3.

In preparing Presentation Materials for Public Event #3, Consultant shall coordinate with the City to review and approve the format for Public Event #3.

#### **7.2 Public Event #3**

City shall arrange and Consultant shall attend, lead and facilitate "Public Event #3" to seek public input on the Preferred Alternative. Consultant shall lead a discussion about the preferred land use and transportation system alternatives relative to applicable City goals and policies, and evaluation criteria developed for the project in Revised Project Memorandum #1.

Consultant shall prepare a summary of Public Event #3 that includes key points raised and comments made, and provide this summary to the City and WOCPM within one week of the Public Event #3.

#### **7.3 Revised Project Memorandum #5**

Consultant shall revise Draft Project Memorandum #5, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #3.

#### **7.4 Revised Project Memorandum #6**

Consultant shall revise Draft Project Memorandum #6, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #3.

#### **7.5 Revised Project Memorandum #7**

Consultant shall revise Draft Project Memorandum #7, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #3.

**7.6 Revised Project Memorandum #8**

Consultant shall revise Draft Project Memorandum #8, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #3.

**7.7 Revised Project Memorandum #9**

Consultant shall revise Draft Project Memorandum #9, with guidance from City, to incorporate edits in response to comments received from reviewers and participants in committee meetings and Public Event #3.

**7.8 Joint City Council and Planning Commission Briefing**

City and Consultant shall brief the City Council and Planning Commission at a joint session on the progress of the project to date. Consultant shall provide presentation materials for the briefing.

**City Deliverables**

- A. Public Event #3
- B. Joint City Council and Planning Commission Briefing
- C. Review and comment on draft Consultant deliverables

**Consultant Deliverables**

- A. Presentation Material for Public Event #3
- B. Public Event #3 and summary
- C. Revised Project Memorandum #5
- D. Revised Project Memorandum #6
- E. Revised Project Memorandum #7
- F. Revised Project Memorandum #8
- G. Revised Project Memorandum #9
- H. Joint City Council and Planning Commission Briefing

**Task 8: Plan Adoption and Code Amendment Recommendations**

**Objective**

To support adoption by the City Council of the South Albany Area Plan and associated recommended plan and code amendments.

**8.1 Draft South Albany Area Plan**

Consultant shall prepare the "Draft South Albany Area Plan", appendices to that plan, and other material developed through this Project according to the outline in Revised Project Memorandum #5. While the South Albany Area Plan, appendices, and other material must be composed primarily of material developed throughout this Project, Consultant shall provide additional text necessary to create a coherent and complete Draft South Albany Area Plan document.

**8.2 Presentation Material for Planning Commission and City Council Hearings**

Consultant shall prepare "Presentation Material for Planning Commission and City Council Hearings" in a form acceptable to the City. Presentation Material for Planning Commission and City Council Hearings must include graphical representation of the Preferred Alternative identified in Revised Project Memorandum #4, with maps showing recommended land use designations and transportation facilities,

and illustrations of potential developments in the Project Study Area consistent with the Preferred Alternative showing the scale and types of buildings and transportation facilities. Presentation Material for Planning Commission and City Council Hearings must also include display-sized summaries of proposed amendments to the City's Comprehensive Plan, 2010 TSP, Development Code, and Facility Standards, and facility costs and potential funding sources for improvements in the Preferred Alternative.

Consultant shall provide Presentation Material for Planning Commission and City Council Hearings to City for review at least two weeks before the Planning Commission Hearing. Consultant shall revise Presentation Material for Planning Commission and City Council Hearings to respond to comments received by Consultant at least one week before the Planning Commission Hearing.

### **8.3 Planning Commission Hearing**

City shall arrange and Consultant shall attend one hearing of the Albany Planning Commission to present the Draft South Albany Area Plan, including the Preferred Alternative, the public involvement and analyses performed to develop the Preferred Alternative, and recommendations for amendments to City plans, policies, and development regulations.

### **8.4 Contingent Task: Adoption Draft South Albany Area Plan**

With written approval from the WOCPM (e-mail acceptable), Consultant shall revise the Draft South Albany Area Plan with guidance from City Project Manager to reflect any changes necessary to make the Draft Plan consistent with the recommendation of adoption by the City Planning Commission.

### **8.5 City Council Hearing**

City shall arrange and Consultant shall attend one hearing of the Albany City Council to present the Draft South Albany Area Plan, or, if prepared, the Adoption Draft South Albany Area Plan, including the Preferred Alternative, the public involvement and analyses performed to develop the Preferred Alternative, and recommendations for amendments to City plans, policies, and development regulations.

### **8.6 Final South Albany Area Plan**

Consultant shall produce the "Final South Albany Area Plan" by revising the Draft South Albany Area Plan or Adoption Draft Plan to reflect any changes consistent with its adoption by the City Council. Consultant shall remove any references to the "Draft" nature of the document. Consultant shall provide to both the City and WOCPM the following copies of the Final South Albany Area Plan: three hard copies and two CD's; CD's must contain both .pdf and modifiable versions.

### **City Deliverables**

- A. Planning Commission Hearing
- B. City Council Hearing
- C. Review and comment on draft Consultant deliverables

### **Consultant Deliverables**

- A. Draft South Albany Area Plan
- B. Presentation Material for Planning Commission and City Council Hearings
- C. Planning Commission Hearing
- D. Contingent Deliverable: Adoption Draft South Albany Area Plan
- E. City Council Hearing
- F. Final South Albany Area Plan

**Task 9: Contingent Meetings**

**Objective**

To provide flexibility in the Project by allowing up to two additional in-person meetings with Consultant.

**9.1 Contingent Meeting #1**

With written approval from the WOCPM (e-mail acceptable), Consultant shall attend one meeting in Albany with City staff or others as determined by the City Project Manager.

**9.2 Contingent Meeting #2**

With written approval from the WOCPM (e-mail acceptable), Consultant shall attend one meeting in Albany with City staff or others as determined by the City Project Manager.

**City Deliverables**

- A. Contingent Meeting #1
- B. Contingent Meeting #2

**Consultant Deliverables**

- A. Contingent Meeting #1
- B. Contingent Meeting #2

**Consultant Deliverable Table**  
(Fixed Price Per Deliverable—Price Agreement, Exhibit B)

<b>Task</b>	<b>Deliverable</b>	<b>Deliverable Amount</b>	<b>Schedule</b>
<b>Task 1</b>	<b>Project Kickoff</b>	<b>\$17,000</b>	<b>Month 1</b>
A	Project Kickoff Meeting	\$4,200	
B	Stakeholder Interviews and Summary	\$4,900	
C	Consultant Project Web Site	\$1,100	
D	Draft Project Memorandum #1	\$3,500	
E	TAC Meeting #1	\$1,700	
F	PAC Meeting #1 and summary	\$1,600	
<b>Task 2</b>	<b>Existing and Future Conditions</b>	<b>\$43,300</b>	<b>Months 2-3</b>
A	Draft Project Memorandum #2	\$28,100	
B	Draft Project Memorandum #3	\$9,500	
C	TAC Meeting #2	\$2,900	
D	PAC Meeting #2 and Summary	\$2,800	
<b>Task 3</b>	<b>Public Event #1</b>	<b>\$12,200</b>	<b>Month 3</b>
A	Presentation Material for Public Event #1	\$4,200	
B	Public Event #1 and Summary	\$2,900	
C	Revised Project Memorandum #1	\$400	
D	Revised Project Memorandum #2	\$2,000	
E	Revised Project Memorandum #3	\$1,200	
F	Joint City Council and Planning Commission Briefing	\$1,500	
<b>Task 4</b>	<b>Land Use and Transportation System Alternatives</b>	<b>\$33,900</b>	<b>Months 4-5</b>
A	Team Workshop	\$6,100	
B	Draft Project Memorandum #4	\$22,400	
C	TAC Meeting #3	\$3,300	
D	PAC Meeting #3 and Summary	\$2,100	
<b>Task 5</b>	<b>Public Event #2</b>	<b>\$12,500</b>	<b>Month 5</b>
A	Presentation Material for Public Event #2	\$4,200	
B	Public Event #2 and summary	\$3,000	
C	Revised Project Memorandum #4	\$2,900	
D	Joint City Council and Planning Commission Briefing	\$2,400	
<b>Task 6</b>	<b>Plan Implementation</b>	<b>\$28,100</b>	<b>Months 6-8</b>
A	Draft Project Memorandum #5	\$1,200	
B	Draft Project Memorandum #6	\$2,700	
C	Draft Project Memorandum #7	\$6,700	
D	Draft Project Memorandum #8	\$2,900	

<b>Task</b>	<b>Deliverable</b>	<b>Deliverable Amount</b>	<b>Schedule</b>
E	Draft Project Memorandum #9	\$11,300	
F	TAC Meeting #4	\$1,700	
G	PAC Meeting #4 and Summary	\$1,600	
<b>Task 7</b>	<b>Public Event #3</b>	<b>\$12,400</b>	<b>Month 8</b>
A	Presentation Material for Public Event #3	\$1,900	
B	Public Event #3 and summary	\$3,000	
C	Revised Project Memorandum #5	\$600	
D	Revised Project Memorandum #6	\$600	
E	Revised Project Memorandum #7	\$1,300	
F	Revised Project Memorandum #8	\$600	
G	Revised Project Memorandum #9	\$2,000	
H	Joint City Council and Planning Commission Briefing	\$2,400	
	<b>Plan Adoption and Code Amendment</b>	<b>\$15,200</b>	<b>Months 9-12</b>
<b>Task 8</b>	<b>Recommendations</b>		
A	Draft South Albany Area Plan	\$8,400	
	Presentation Material for Planning Commission and	\$700	
B	City Council Hearings		
C	Planning Commission Hearing	\$1,700	
	Contingent Deliverable: Adoption Draft South Albany	\$1,200	
D	Area Plan		
E	City Council Hearing	\$1,700	
F	Final South Albany Area Plan	\$1,500	
<b>Task 9</b>	<b>Contingent Meetings</b>	<b>\$3,400</b>	<b>As Needed</b>
A	Contingent Meeting #1	\$1,700	
B	Contingent Meeting #2	\$1,700	
<b>Consultant Deliverable Total</b>		<b>\$178,000</b>	

**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.
<i>Fares, Taxi, Bus, Air, Etc.</i>
<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 (costs to put on conference or seminars)</i>
<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