

**CITY OF MILWAUKIE  
CITY COUNCIL REGULAR SESSION  
JULY 17, 2012**

**CALL TO ORDER**

**Mayor Ferguson** called the 2130<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Councilors Dave Hedges, Joe Loomis, and Mike Miller

Excused: Council President Chaimov

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Finance Director Casey Camors, and Assistant Finance Director Rina Byrne

Media: Victoria Edwards, *The Oregonian* and Alex Blum, *The Clackamas Review*

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**A. Metro Update**

**Metro Councilor Carlotta Collette** provided an update on current Metro programs and projects. Three newly elected Metro Councilors, elected in May, will take office in January. In recent decisions, the Land Conservation and Development Commission (LCDC) unanimously approved the Metro Council's Urban Growth Boundary Expansion, and the Court of Appeals ruled in favor of the Construction Excise Tax. The full funding grant agreement for the Portland-Milwaukie light rail was signed. She discussed the vision for the Blue Heron site in Oregon City and access to the Willamette Locks. She provided updates on the East Metro Connection project and the Southwest Corridor Plan. The Joint Policy Advisory Committee on Transportation (JAPCT) unanimously approved adding the Kellogg Lake Multi-Use Bridge Project to the 2012 – 2015 Metropolitan Transportation Improvement Program (MTIP). Other projects include Climate Smart Communities, Nature in the Neighborhood Grants, the Conversation Project, and looking at the feasibility of a regional natural areas levy. Visitor venues continue to be successful, and she discussed public engagement review efforts.

There was Council consensus that staff prepare a letter to the Metro Council supporting the Kellogg Lake Multi-Use Bridge prior to its vote on July 19.

**B. Government Finance Officer's Association (GFOA) Award for the City of Milwaukie Comprehensive Annual Financial Report**

**Ms. Camors** discussed the award and presented it to the City Council. The Mayor and Council expressed their appreciation to staff for providing a strong financial presence in the City of Milwaukie.

**C. North Clackamas Parks and Recreation District (NCPRD)**

**Katie Dunham** and **Dave Miletich** provided information on the upcoming year-long process of updating the District Master Plan that will include goals and priorities that will help meet parks and recreation needs for the next 15 years. Ms. Dunham reviewed the history of the district and development of current strategic and cost recovery plans. She announced upcoming involvement opportunities, and Councilor Loomis pointed out this

was a good opportunity for Milwaukie residents to participate and get some of the City's projects done.

## CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the consent agenda as presented.

- A. **Resolution 45-2012: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Ray Bryan as a Representative of the Historic Milwaukie Neighborhood District Association (NDA) to the Public Safety Advisory Committee;**
- B. **Resolution 46-2012: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Margaret "Pepi" Anderson as a Representative of the Lewelling Neighborhood District Association (NDA) to the Public Safety Advisory Committee; and**
- C. **Resolution 47-2012: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Mary Weaver as a Representative of the Hector Campbell Neighborhood District Association (NDA) to the Public Safety Advisory Committee**

Motion passed with the following vote: Councilors Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [4:0]

## AUDIENCE PARTICIPATION

None.

## PUBLIC HEARING

None scheduled.

## OTHER BUSINESS

### A. Police Services Intergovernmental Agreement (IGA) Contract #1-0812, Amendment #1

**Mayor Ferguson** announced that although he was no longer a TriMet employee that he would recuse himself from voting on this matter.

**Mr. Ramis** provided background on the agreement for police services with TriMet and requested that the City Council approve an amended agreement so that TriMet might apply for Homeland Security funding.

**Councilor Hedges** led the discussion and called for a motion as Council President Chaimov was excused and Mayor Ferguson had recused himself.

It was moved by Councilor Loomis and seconded by Councilor Miller to approve the amended contract language related to a program funded in part by US Homeland Security. Motion passed with the following vote: Councilors Hedges, Loomis, and Miller voting "aye." [3:0]

### B. Council Reports

Mayor Ferguson and Councilors reported on meetings they had attended on behalf of the City and announced upcoming events.

**ADJOURNMENT**

It was moved by Councilor Miller and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [4:0]

**Mayor Ferguson** adjourned the regular session at 8:08 p.m.

Respectfully submitted,



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Pat DuVal, Recorder

# REGULAR SESSION

# WE WANT TO HEAR FROM YOU!

Guide your future - get involved  
in the 2012 Master Plan process

North Clackamas Parks and Recreation District (NCPRD) is embarking on a year-long process of updating the District-wide Master Plan, which will shape the foundation of the District for the next 10-15 years. A Strategic Plan is also in the works, which will identify the parks and recreation priorities of your community for the next two to three years.

Your thoughts and feedback regarding NCPRD's programs, services, and facilities will play an integral role in shaping how the District will operate in the next decade and beyond.

You will have a variety of opportunities to get involved throughout the year, including attending community meetings, taking surveys and calls to action through our website and social media avenues. Your participation will help shape the future of the District, which will leave a lasting legacy for generations to come!

For more information:

Visit the website: [ncprd.com](http://ncprd.com)

Call our project team: (503) 742-4352

"Like" us on Facebook to receive  
project updates at [facebook.com/ncprd](http://facebook.com/ncprd)



Find us on  
**Facebook**



# 2012 NCPRD Master Plan: Get involved!

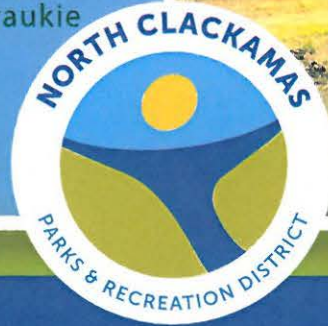
North Clackamas Parks and Recreation District (NCPRD) is updating the District-wide Master Plan. You are invited to get involved in this important project which will play an integral role in shaping how the District will operate over the next decade and beyond. Join us at one of two upcoming community workshops to tell us what you think!

2:30-4 p.m. July 31

Milwaukie Center  
5440 S.E. Kellogg Creek Drive, Milwaukie

6:30-8 p.m. Aug. 1

Happy Valley City Hall  
1600 S.E. Misty Drive, Happy Valley



For more information visit [ncprd.com](http://ncprd.com) or call (503) 742-4352.



**Parks and Recreation Master Plan, Strategic Plan, and Cost Recovery Plan**

**PLANNING PROCESS AND TIMELINE**

North Clackamas Parks and Recreation District (NCPRD) is developing a Master Plan, Strategic Plan, and Cost Recovery Plan for park and recreation services within the District. The intent of these plans is to identify how to most effectively meet the needs of a changing community over the next ten years in regards to parks, recreation, and programs.

The project is being guided by a series of meetings with community leaders and stakeholders, along with contributions from residents and participants through an extensive public process including focus groups, surveys, and public meetings. For more information, please visit the project website at [NCPRD.com](http://NCPRD.com). The planning process and timeline follows.

<b>PHASE I: INFORMATION GATHERING AND MASTER PLANNING</b>	<b>MAY - NOVEMBER 2012</b>
<b>Start-up</b> <ul style="list-style-type: none"> <li>• Begin project</li> <li>• Refine project goals and work plan</li> </ul>	May - July
<b>Demographic and Trends Analysis</b> <ul style="list-style-type: none"> <li>• Review District demographics and populations projections</li> <li>• Identify parks and recreation-related trends</li> </ul>	May - August
<b>Inventory and Analysis of Existing Facilities</b> <ul style="list-style-type: none"> <li>• Conduct inventory and analysis of District parks, open spaces, trails, and facilities</li> <li>• Review levels of service and capacity</li> </ul>	June - August
<b>Community and Stakeholder Input Process</b> <ul style="list-style-type: none"> <li>• Conduct public meetings and focus groups</li> <li>• Hold staff focus groups and interviews</li> </ul>	July – August
<b>Community Survey</b> <ul style="list-style-type: none"> <li>• Conduct statistically valid survey of random sample of District residents</li> <li>• Conduct online survey of parks and recreation residents and participants</li> </ul>	August - September
<b>Cost Recovery Project</b> <ul style="list-style-type: none"> <li>• Service Assessment and Resource Allocation Analysis</li> <li>• Review categories of services</li> <li>• Community engagement</li> <li>• Develop Cost Recovery Model and draft policies</li> </ul>	August - November



# NORTH CLACKAMAS PARKS & RECREATION DISTRICT

<b>PHASE II: FINDINGS AND VISIONING</b>	<b>NOVEMBER –DECEMBER 2012</b>
Findings and Visioning Staff and Community Meetings <ul style="list-style-type: none"><li>• Present and validate key findings of needs assessment</li><li>• Hold community visioning workshop</li><li>• Identify community goals and priorities</li><li>• Develop Recommendations and Capital Improvement Plan</li></ul>	November
Strategic Plan <ul style="list-style-type: none"><li>• Review of governance, finance, decision-making and SWOT analysis</li><li>• Identification of partnerships and funding opportunities</li></ul>	December
<b>PHASE III: PLAN DEVELOPMENT</b>	<b>JANUARY – FEBRUARY 2013</b>
Draft Plan Review <ul style="list-style-type: none"><li>• Draft Parks and Recreation Master Plan and Strategic Plan</li><li>• Hold public meetings on Draft Plan</li><li>• Public review of Plan</li><li>• Final presentation of Cost Recovery Plan</li></ul>	January – February 2013
<b>PLAN ADOPTION</b>	<b>SPRING, 2013</b>

#### NCPRD CONTACTS:

Fiona Gwozdz, Planning Assistant

[FGwozdz@clackamas.us](mailto:FGwozdz@clackamas.us)

(503) 742-4352

Katie Dunham, Project Manager

[KDunham@clackamas.us](mailto:KDunham@clackamas.us)

(503) 742-4358

Michelle Healy, Deputy Director

[MichelleHea@clackamas.us](mailto:MichelleHea@clackamas.us)

(503) 742-4356

#### GreenPlay, LLC Contact:

Karon Badalamenti, Project Manager,

[KaronB@greenplayllc.com](mailto:KaronB@greenplayllc.com)

Additional Project Team Members:

Design Concepts, RRC Associates, Walker Macy



# District 2 Metro update



City of Milwaukie City Council

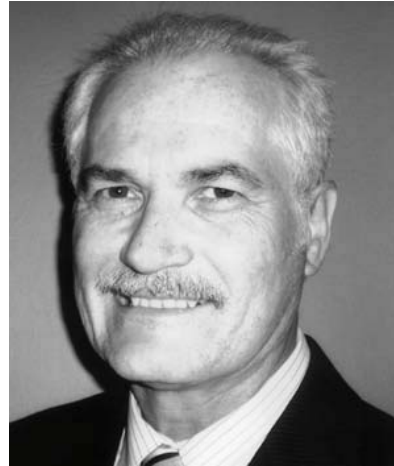


Councilor Carlotta Collette  
July 17, 2012



Metro | *Making a great place*

# Newly elected Metro Councilors



*Craig Dirksen*  
*District 3*



*Sam Chase*  
*District 5*



*Bob Stacey*  
*District 6*

Three new Metro Councilors were elected May 15 and will take office in January.



# Metro Land Use

- LCDC approved Metro Council's Urban Growth Boundary Expansion
  - Approximately 2000 acres
    - North Hillsboro- industrial land
    - Residential Capacity added in:
      - South Hillsboro
      - South Cooper Mountain
      - Tigard
- Court of Appeals ruling on Metro's Construction Excise Tax

# Portland to Milwaukie Light Rail Full Funding Grant Agreement



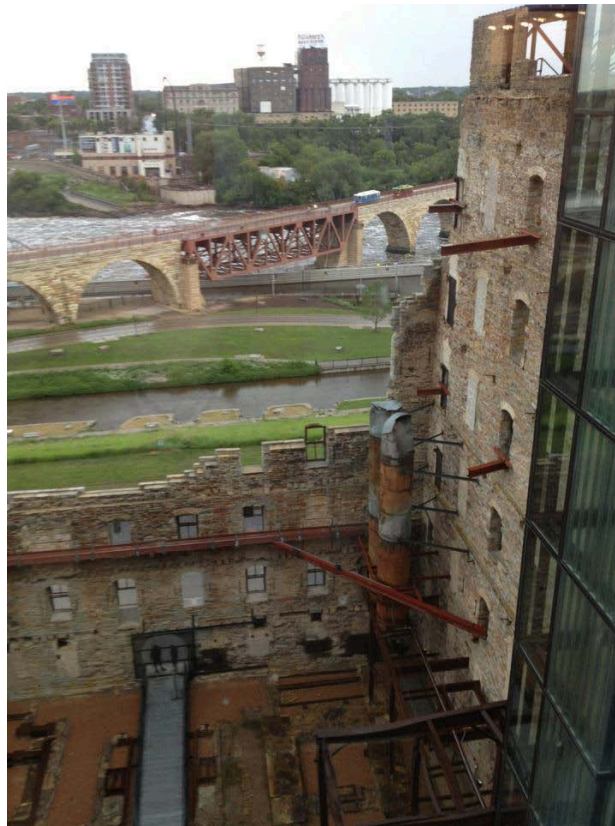
# Willamette Falls Activities



2011 Aerial Photo Clackamas County Historical Society

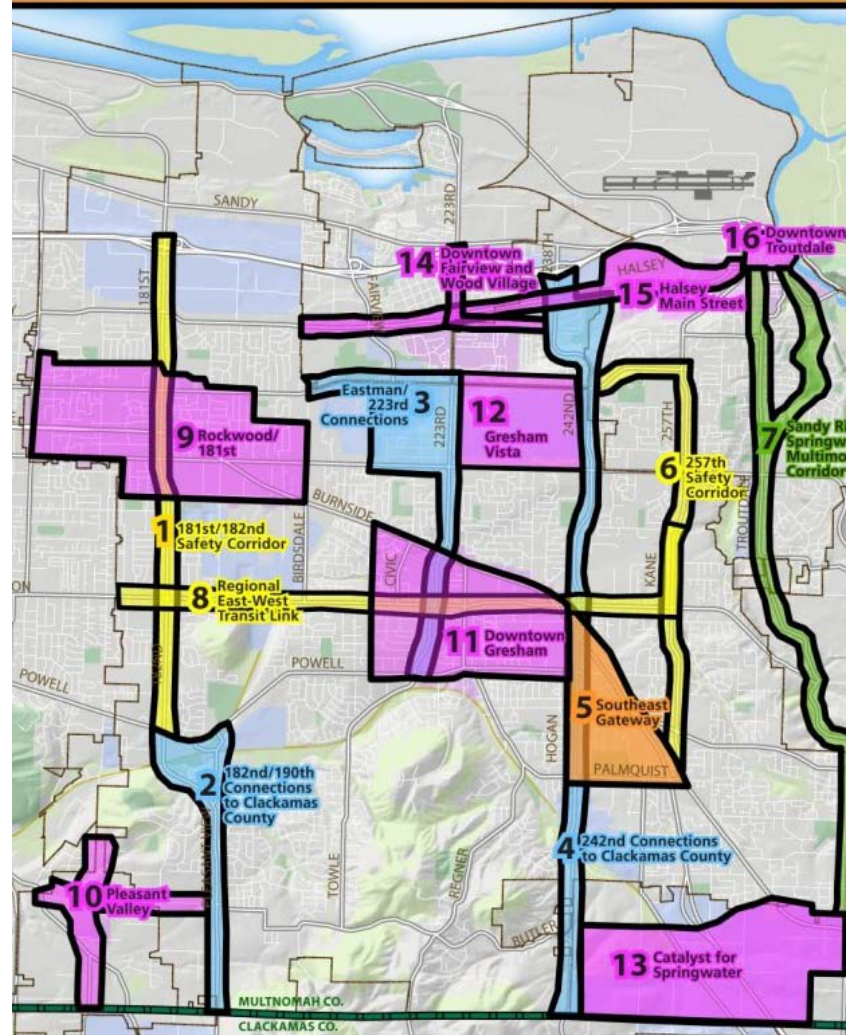
- Blue Heron Site
  - Oregon City
  - Clackamas County
- Willamette Locks

# Minneapolis's Mill Ruins Park



# East Metro Connections

- Collaborative effort with Multnomah Co. and cities to address:
  - North-south connections between I-84, Hwy. 26
  - Access to downtowns and employment areas
  - Regional mobility
- Proposal adopted by steering committee
- Local elected bodies to review
- RTP and local trans. plans to be amended



More info: [www.oregonmetro.gov/eastmetro](http://www.oregonmetro.gov/eastmetro)

# Southwest Corridor Plan

- Online open house through July 31: help identify projects in corridor
- Coming in October: online tool to evaluate alternatives, narrow list of projects

[www.swcorridorplan.org](http://www.swcorridorplan.org)



# Kellogg Lake Bridge—

Metropolitan Transportation Improvement Program amendment

- Unanimously approved by JPACT on July 12
- Before the Metro Council on July 19



# Climate Smart Communities

- What are the right mixes of local and regional policies, combined with state actions, fleet and technology improvements to meet state targets?
- How can we continue to support economic growth and local aspirations through this effort?





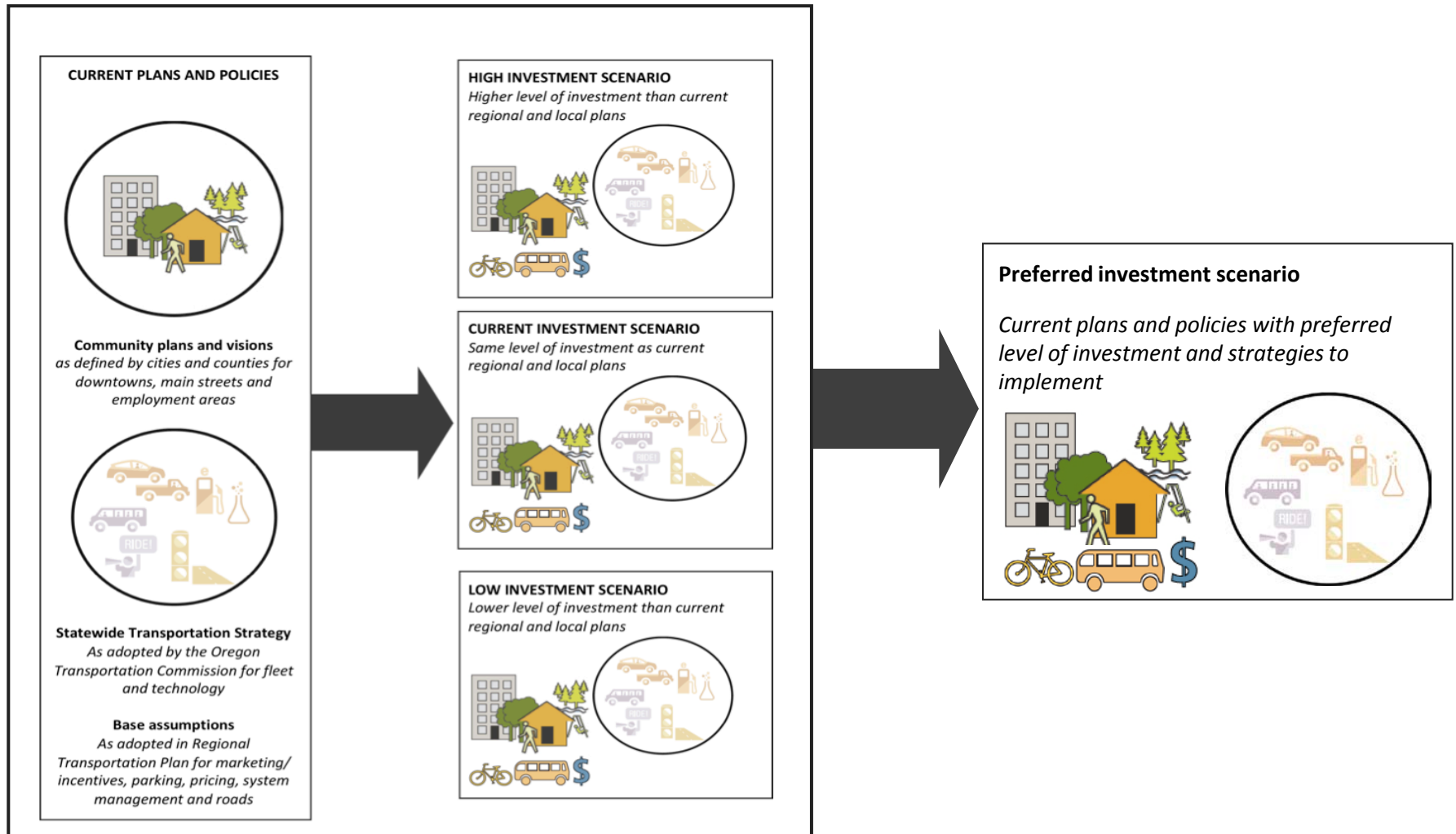
# Climate Smart Communities

## Framing the scenarios – a starting point for discussion

The scenarios will test possible futures to understand the impacts of different levels of community investment, and are intended to create policy bookends for developing a preferred scenario.

### 2012-13

### 2013-14



# Dr. Manuel Pastor



**5 to 6:30 p.m. Monday, July 30, 2012**

**Looking Forward: Linking prosperity,  
inclusion, and sustainability in  
metropolitan America**

**Metro Regional Center- Council Chambers**

# Nature in Neighborhood grants

- \$1.7 million awarded
- Grants help nature thrive in urban communities
- Newly funded projects:
  - Baltimore Woods trail
  - Hall Creek water quality enhancement
  - Cully Park creation
  - Lily K. Johnson Park expansion
  - Nadaka Nature Park and Garden
  - Stone Bridge Fish Passage



# Natural areas update



- Recent openings at Boring Station, Trolley Trail, Canemah Bluffs
- New land purchased and restoration underway at Willamette Narrows

# The Conversation Project:

## **-A City's Center: Rethinking Downtown**

with Nan Laurence at *Riverfront Park in Milwaukie*

-Saturday, July 21, 1-2:30 p.m.

## **-The Art of the Possible: Jazz and Community-Building**

with Tim DuRoche at *Cooper Mountain Nature Park in Beaverton*

-Saturday, August 11, 1-2:30 p.m.

## **Your Land, My Land: Using and Preserving Oregon's Natural Resources**

at *Graham Oaks Nature Park in Wilsonville*

-Saturday, September 22, 1-2:30 p.m.

# Regional natural areas levy

- More than 12,000 acres acquired since 1995
- Stewardship requires ongoing commitment, but resources are limited
- Advisory panel convened
- Possible election date May 2013



# Visitor venues update

- Convention Center hotel
- Cirque du Soleil's "OVO" brought 90,000 visitors
- PCPA "Music on Main St." July 11 through Aug. 19
- Oregon Zoo summer concerts through Sept. 14





# Public engagement review

- New public engagement review effort to guide development and implementation of successful public engagement:
  - Public Engagement Review Committee
  - Stakeholder summit
  - Public engagement peer group
  - Annual Opt In public engagement review survey
  - Annual public engagement report

More info: [www.oregonmetro.gov/engage](http://www.oregonmetro.gov/engage)

# Your questions...

Carlotta Collette  
Metro Councilor, District 2  
600 NE Grand Avenue  
Portland, OR 97232

503-797-1887  
[carlotta.collette@oregonmetro.gov](mailto:carlotta.collette@oregonmetro.gov)

[www.oregonmetro.gov/collette](http://www.oregonmetro.gov/collette)

**REVISED  
AGENDA**

**MILWAUKIE CITY COUNCIL  
JULY 17, 2012**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2130<sup>th</sup> MEETING**

**REGULAR SESSION – 7:00 p.m.**

- |   | <b>Page<br/>No.</b> |
|---|---------------------|
| <b>1. CALL TO ORDER</b><br>Pledge of Allegiance   |                     |
| <b>2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS</b>   |                     |
| <b>A. Metro Update – Carlotta Collette</b>  |                     |
| <b>B. Government Finance Officer’s Association (GFOA) Award for the City of Milwaukie Comprehensive Annual Financial Report</b>   |                     |
| <b>C. North Clackamas Parks and Recreation District (NCPRD) Master Plan and Strategic Plan Announcements</b>  |                     |
| <b>3. CONSENT AGENDA</b> <i>(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)</i>   | <b>1</b>            |
| <b>A. Re-appoint Ray Bryan to the Public Safety Advisory Committee – Resolution</b>   | <b>2</b>            |
| <b>B. Re-appoint Pepi Anderson to the Public Safety Advisory Committee – Resolution</b>   | <b>3</b>            |
| <b>C. Re-appoint Mary Weaver to the Public Safety Advisory Committee – Resolution</b>   | <b>4</b>            |
| <b>4. AUDIENCE PARTICIPATION</b> <i>(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)</i> |                     |
| <b>5. PUBLIC HEARING</b> <i>(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)</i>   |                     |
| <b>A. None scheduled</b>  |                     |
| <b>6. OTHER BUSINESS</b> <i>(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)</i>   | <b>5</b>            |

- A. TriMet Police Services Agreement – Resolution  
Staff: Bob Jordan, Police Chief
- B. Council Reports

6

7. INFORMATION

8. ADJOURNMENT

**Public Information**

- **Executive Session:** The Milwaukie City Council may meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3.

# CONSENT AGENDA

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING RAY BRYAN AS A REPRESENTATIVE OF THE HISTORIC MILWAUKIE NEIGHBORHOOD DISTRICT ASSOCIATION (NDA) TO THE PUBLIC SAFETY ADVISORY COMMITTEE.**

**WHEREAS**, a vacancy exists on the Public Safety Advisory Committee for a representative of the Historic Milwaukie NDA; and

**WHEREAS**, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee "by the council;" and

**WHEREAS**, Ray Bryan possesses the necessary qualifications to serve on the Committee and has indicated his desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

**SECTION 1:** That Ray Bryan is reappointed to the Milwaukie Public Safety Advisory Committee as the Historic Milwaukie NDA representative.

**SECTION 2:** That his term of appointment shall commence immediately and shall expire June 30, 2014.

**SECTION 3:** This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on July 17, 2012.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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

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

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING MARGARET “PEPI” ANDERSON AS A REPRESENTATIVE OF THE LEWELLING NEIGHBORHOOD DISTRICT ASSOCIATION (NDA) TO THE PUBLIC SAFETY ADVISORY COMMITTEE.**

**WHEREAS**, a vacancy exists on the Public Safety Advisory Committee for a representative of the Lewelling NDA; and

**WHEREAS**, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee “by the council;” and

**WHEREAS**, Pepi Anderson possesses the necessary qualifications to serve on the Committee and has indicated her desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

**SECTION 1:** That Pepi Anderson is reappointed to the Milwaukie Public Safety Advisory Committee as the Lewelling NDA representative.

**SECTION 2:** That her term of appointment shall commence immediately and shall expire June 30, 2014.

**SECTION 3:** This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on July 17, 2012.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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

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

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING MARY WEAVER AS A REPRESENTATIVE OF THE HECTOR CAMPBELL NEIGHBORHOOD DISTRICT ASSOCIATION (NDA) TO THE PUBLIC SAFETY ADVISORY COMMITTEE.**

**WHEREAS**, a vacancy exists on the Public Safety Advisory Committee for a representative of the Hector Campbell NDA; and

**WHEREAS**, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee “by the council;” and

**WHEREAS**, Mary Weaver possesses the necessary qualifications to serve on the Committee and has indicated her desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

**SECTION 1:** That Mary Weaver is reappointed to the Milwaukie Public Safety Advisory Committee as the Hector Campbell NDA representative.

**SECTION 2:** That her term of appointment shall commence immediately and shall expire June 30, 2014.

**SECTION 3:** This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on July 17, 2012.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

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

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

6.  
OTHER BUSINESS



Agenda Item: 6.A.  
Meeting Date: 7/17/12

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** TRIMET IGA re Police Services

**Prepared By:** Bob Jordan, Chief of Police

**Dept. Head Approval:** Bob Jordan

**City Manager Approval:** Bill Monahan

**Reviewed by City Manager:** 7/10/12

**Reviewed by City Attorney:** 7/9/12

### ISSUES BEFORE THE COUNCIL

Revision of TRIMET IGA re the provision of Police Services

### STAFF RECOMMENDATION

Authorize the re-signing of the IGA to include the recommended language

### KEY FACTS & INFORMATION SUMMARY

TRIMET and the City of Milwaukie have an existing IGA relative to the reimbursement of Milwaukie Police Officers assigned to TRIMET. By letter dated April 25, 2012, TRIMET advised the City that an amendment to the agreement was required. Specifically, the letter indicated that:

“All contracts that potentially use federal grant funds must contain specific contract language. Accordingly, TRIMET is required to include this language in all contracts that may use Department of Homeland Security grant funds. Unfortunately this language was inadvertently omitted in the above reference(d) IGA contract for police services with your agency.”

Attached find the supplementary language requested to be included by TRIMET.

### OTHER ALTERNATIVES CONSIDERED

None

### CITY COUNCIL GOALS

Approve new contract language

### ATTACHMENT LIST

Police Services Intergovernmental Agreement (IGA) Contract # 1—0812, Amendment #1

### FISCAL NOTE



**To:** Mayor and City Council  
**Through:** Bill Monahan, City Manager  
**From:** Bob Jordan, Chief of Police  
**Subject:** Police Services Intergovernmental Agreement (IGA) Contract # 1—0812, Amendment #1  
**Date:** June 18, 2012

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**Action Requested:** Approval of above captioned IGA

**History of Prior Actions and Discussions:** See below

**Background:**

TRIMET and the City of Milwaukie have an existing IGA relative to the reimbursement of Milwaukie Police Officers assigned to TRIMET. By letter dated April 25, 2012, TRIMET advised the City that an amendment to the agreement was required. Specifically, the letter indicated that:

“All contracts that potentially use federal grant funds must contain specific contract language. Accordingly, TRIMET is required to include this language in all contracts that may use Department of Homeland Security grant funds. Unfortunately this language was inadvertently omitted in the above reference(d) IGA contract for police services with your agency.”

Attached find the supplementary language requested to be included by TRIMET here

**Concurrence**

Text here

**Fiscal Impact**

None

**Work Load Impacts**

None

**Alternatives**

**Attachments**

1. Police Services Intergovernmental Agreement (IGA) Contract # 1—0812,  
Amendment #1

# ATTACHMENT 1

## INTERGOVERNMENTAL AGREEMENT AMONG THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET), THE CITY OF PORTLAND AND THE CITY OF MILWAUKIE, OR.

### 10-0812, AMENDMENT NO. 1

This Amendment No. 1 amends the July 1, 2010 Intergovernmental Agreement (“Agreement”), among the Tri-County Metropolitan Transportation District of Oregon (“TriMet”), the City of Portland (“Portland”) and the City of Milwaukie (“Milwaukie”) (collectively referred to as the “Parties”) for provision of Transit Police Division (“Transit Police”) services, effective September 1, 2011.

The Parties agree as follows:

1. This Agreement is funded in part by a U.S. Department of Homeland Security Transit Security Grant between TriMet and the U.S. Department of Homeland Security. This Agreement is subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in the attached and incorporated Exhibit A.
2. All other terms and conditions of the Agreement shall remain in full force and effect.

The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

CITY OF MILWAUKIE  
10722 SE Main St.  
Milwaukie, OR 97222

CITY OF PORTLAND  
1221 SW 4<sup>TH</sup> Ave.  
Portland Or. 97204

TRI-COUNTY METROPOLITAN TRANSPORTATION  
DISTRICT OF OREGON (TRIMET)  
4012 SE 17<sup>TH</sup> Ave.  
Portland, OR. 97202

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

\_\_\_\_\_  
Sam Adams  
Mayor

\_\_\_\_\_  
  
Harry Saporta  
Safety & Security Executive

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
24 APRIL 2012  
date

\_\_\_\_\_  
Lavone Griffin-Valade  
Auditor

\_\_\_\_\_  
date

Approved as to form:


\_\_\_\_\_  
Legal Counsel

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

\_\_\_\_\_  
TriMet Legal Counsel

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
  
4/24/12  
date

**EXHIBIT A**  
**U.S. DEPARTMENT OF HOMELAND SECURITY TRANSIT SECURITY GRANT CONTRACT**  
**REQUIREMENTS**

As used below, the term “Contractor” shall mean the City of Milwaukie, Or.

**I. DEFINITIONS**

- A. Homeland Security Directive includes any Homeland Security circular, notice, order or guidance providing information about Homeland Security programs, application processing procedures, and Project management guidelines.
- B. Government means the United States of America and any executive department or agency thereof.
- C. Homeland Security means the United States Department of Homeland Security (DHS) or it’s Office of Domestic Preparedness.
- D. Third Party Subcontract means a subcontract at any tier entered into by Contractor or a subcontractor, financed in whole or in part with Federal assistance originally derived from Homeland Security.

**II. FEDERAL REQUIREMENTS**

- A. Homeland Security requires that a grant recipient require that any contractor employed in completion of a DHS grant project comply with the following standard requirements, the terms and conditions of which are incorporated herein by reference. In addition, any such contractor shall require each of its subcontractors employed in the completion of the project to comply with these requirements:

Administrative Requirements:

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including the provisions set forth in this Exhibit A
- 44 CFR part 10, Environmental Considerations

Cost Principles:

- 2 CFR Part 225, Cost Principles for State, Local, and Indian tribal Governments (formerly OMB Circular A-87)

Audit Requirements:

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

- B. Contractor shall at all times comply with all applicable regulations, policies, procedures and Homeland Security Directives, including without limitation those listed directly or by reference in the Transit Security financial assistance agreement between TriMet and the Homeland Security, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor’s failure to so comply shall constitute a material breach of this Agreement. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

- C. All Homeland Security mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause TriMet to be in violation of the Homeland Security terms and conditions.

### **III. ACCESS TO RECORDS**

- A. Contractor agrees to provide TriMet, Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than six years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date Contractor receives final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until TriMet, Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- D. Contractor agrees to include paragraphs A, B, and C above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **IV. DEBARMENT AND SUSPENSION**

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Contractor makes a material representation of fact relied upon by TriMet that Contractor has complied with 49 CFR Part 29. If it is later determined that Contractor knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to TriMet, the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Contractor is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

### **V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR**

- A. TriMet and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Government, the Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to TriMet, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

- B. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. **CONTRACT WORK HOURS AND SAFETY STANDARDS** (applicable to non-construction contracts in excess of \$2,500 that employ laborers or mechanics)

- A. **Compliance:** Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) as amended and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), which are incorporated herein.
- B. **Overtime:** No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- C. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause in Paragraph B of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B of this section.
- D. **Withholding for unpaid wages and liquidated damages** – TriMet shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C of this section.
- E. **Subcontracts** - The contractor or subcontractor shall include in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

VII. **NOTICE OF REPORTING REQUIREMENTS**

Contractor shall comply with the reporting requirements of Homeland Security stated in 44 C.F.R. §§ 13.40 et seq. The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **VIII. COPYRIGHTS**

- A. Contractor agrees that Homeland Security shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
  - 1. The copyright in any work developed with the assistance of funds provided under this Agreement;
  - 2. Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement.
- B. Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **IX. PATENT RIGHTS**

- A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, TriMet and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the Homeland Security. Unless the Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), TriMet and Contractor agree to take the necessary actions to provide, through Homeland Security, those rights in that invention due the Government in accordance with 44 CFR Part 13.36(i) (8).
- B. The Contractor also agrees to include paragraph A above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by Homeland Security.

## **X. ENERGY CONSERVATION REQUIREMENTS**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat.871). Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **XI. ENVIRONMENTAL REQUIREMENTS**

- A. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA regional office.

- B. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA Regional Office.
- C. Contractor will comply with Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- D. Contractor agrees to include the requirements at paragraphs A, B and C above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by Homeland Security.

**CERTIFICATION**

**REGARDING LOBBYING**

*Certification for Contracts, Grants, Loans, and Cooperative Agreements*

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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, the City of Milwaukie, Or., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

By: \_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title of authorized official)

**INTERGOVERNMENTAL AGREEMENT AMONG THE TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON (TRIMET), THE CITY OF PORTLAND  
AND THE CITY OF MILWAUKIE, OR.**

**10-0812, AMENDMENT NO. 1**

This Amendment No. 1 amends the July 1, 2010 Intergovernmental Agreement ("Agreement"), among the Tri-County Metropolitan Transportation District of Oregon ("TriMet"), the City of Portland ("Portland") and the City of Milwaukie ("Milwaukie") (collectively referred to as the "Parties") for provision of Transit Police Division ("Transit Police") services, effective September 1, 2011.

The Parties agree as follows:

1. This Agreement is funded in part by a U.S. Department of Homeland Security Transit Security Grant between TriMet and the U.S. Department of Homeland Security. This Agreement is subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in the attached and incorporated Exhibit A.
2. All other terms and conditions of the Agreement shall remain in full force and effect.

The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

CITY OF MILWAUKIE  
10722 SE Main St.  
Milwaukie, OR 97222

CITY OF PORTLAND  
1221 SW 4<sup>TH</sup> Ave.  
Portland Or. 97204

TRI-COUNTY METROPOLITAN TRANSPORTATION  
DISTRICT OF OREGON (TRIMET)  
4012 SE 17<sup>th</sup> Ave.  
Portland, OR. 97202

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

\_\_\_\_\_  
Sam Adams  
Mayor

\_\_\_\_\_  
  
Harry Saporta  
Safety & Security Executive

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
24 APRIL 2012  
date

\_\_\_\_\_  
Lavone Griffin-Valade  
Auditor

\_\_\_\_\_  
date

Approved as to form:


\_\_\_\_\_  
Legal Counsel

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

\_\_\_\_\_  
TriMet Legal Counsel

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
  
4/24/12  
date

**EXHIBIT A**  
**U.S. DEPARTMENT OF HOMELAND SECURITY TRANSIT SECURITY GRANT CONTRACT**  
**REQUIREMENTS**

As used below, the term “Contractor” shall mean the City of Milwaukie, Or.

**I. DEFINITIONS**

- A. Homeland Security Directive includes any Homeland Security circular, notice, order or guidance providing information about Homeland Security programs, application processing procedures, and Project management guidelines.
- B. Government means the United States of America and any executive department or agency thereof.
- C. Homeland Security means the United States Department of Homeland Security (DHS) or it’s Office of Domestic Preparedness.
- D. Third Party Subcontract means a subcontract at any tier entered into by Contractor or a subcontractor, financed in whole or in part with Federal assistance originally derived from Homeland Security.

**II. FEDERAL REQUIREMENTS**

- A. Homeland Security requires that a grant recipient require that any contractor employed in completion of a DHS grant project comply with the following standard requirements, the terms and conditions of which are incorporated herein by reference. In addition, any such contractor shall require each of its subcontractors employed in the completion of the project to comply with these requirements:

Administrative Requirements:

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including the provisions set forth in this Exhibit A
- 44 CFR part 10, Environmental Considerations

Cost Principles:

- 2 CFR Part 225, Cost Principles for State, Local, and Indian tribal Governments (formerly OMB Circular A-87)

Audit Requirements:

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

- B. Contractor shall at all times comply with all applicable regulations, policies, procedures and Homeland Security Directives, including without limitation those listed directly or by reference in the Transit Security financial assistance agreement between TriMet and the Homeland Security, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor’s failure to so comply shall constitute a material breach of this Agreement. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

- C. All Homeland Security mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause TriMet to be in violation of the Homeland Security terms and conditions.

### **III. ACCESS TO RECORDS**

- A. Contractor agrees to provide TriMet, Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than six years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date Contractor receives final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until TriMet, Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- D. Contractor agrees to include paragraphs A, B, and C above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **IV. DEBARMENT AND SUSPENSION**

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Contractor makes a material representation of fact relied upon by TriMet that Contractor has complied with 49 CFR Part 29. If it is later determined that Contractor knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to TriMet, the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Contractor is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

### **V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR**

- A. TriMet and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Government, the Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to TriMet, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

- B. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. **CONTRACT WORK HOURS AND SAFETY STANDARDS** (applicable to non-construction contracts in excess of \$2,500 that employ laborers or mechanics)

- A. **Compliance:** Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) as amended and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), which are incorporated herein.
- B. **Overtime:** No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- C. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause in Paragraph B of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B of this section.
- D. **Withholding for unpaid wages and liquidated damages** – TriMet shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C of this section.
- E. **Subcontracts** - The contractor or subcontractor shall include in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

VII. **NOTICE OF REPORTING REQUIREMENTS**

Contractor shall comply with the reporting requirements of Homeland Security stated in 44 C.F.R. §§ 13.40 et seq, The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## VIII. COPYRIGHTS

- A. Contractor agrees that Homeland Security shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
  - 1. The copyright in any work developed with the assistance of funds provided under this Agreement;
  - 2. Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement.
- B. Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## IX. PATENT RIGHTS

- A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, TriMet and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the Homeland Security. Unless the Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), TriMet and Contractor agree to take the necessary actions to provide, through Homeland Security, those rights in that invention due the Government in accordance with 44 CFR Part 13.36(i) (8).
- B. The Contractor also agrees to include paragraph A above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by Homeland Security.

## X. ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat.871). Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## XI. ENVIRONMENTAL REQUIREMENTS

- A. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA regional office.

- B. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA Regional Office.
- C. Contractor will comply with Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- D. Contractor agrees to include the requirements at paragraphs A, B and C above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by Homeland Security.

**CERTIFICATION**  
**REGARDING LOBBYING**

*Certification for Contracts, Grants, Loans, and Cooperative Agreements*

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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, the City of Milwaukie, Or., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

By: \_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title of authorized official)

**INTERGOVERNMENTAL AGREEMENT AMONG THE TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON (TRIMET), THE CITY OF PORTLAND  
AND THE CITY OF MILWAUKIE, OR.**

**10-0812, AMENDMENT NO. 1**

This Amendment No. 1 amends the July 1, 2010 Intergovernmental Agreement (“Agreement”), among the Tri-County Metropolitan Transportation District of Oregon (“TriMet”), the City of Portland (“Portland”) and the City of Milwaukie (“Milwaukie”) (collectively referred to as the “Parties”) for provision of Transit Police Division (“Transit Police”) services, effective September 1, 2011.

The Parties agree as follows:

1. This Agreement is funded in part by a U.S. Department of Homeland Security Transit Security Grant between TriMet and the U.S. Department of Homeland Security. This Agreement is subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in the attached and incorporated Exhibit A.
2. All other terms and conditions of the Agreement shall remain in full force and effect.

The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

CITY OF MILWAUKIE  
10722 SE Main St.  
Milwaukie, OR 97222

CITY OF PORTLAND  
1221 SW 4<sup>TH</sup> Ave.  
Portland Or. 97204

TRI-COUNTY METROPOLITAN TRANSPORTATION  
DISTRICT OF OREGON (TRIMET)  
4012 SE 17<sup>th</sup> Ave.  
Portland, OR. 97202

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

\_\_\_\_\_  
Sam Adams  
Mayor

\_\_\_\_\_  
  
Harry Saporta  
Safety & Security Executive

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
24 APRIL 2012  
date

\_\_\_\_\_  
Lavone Griffin-Valade  
Auditor

\_\_\_\_\_  
date

Approved as to form:

\_\_\_\_\_  
Legal Counsel

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

\_\_\_\_\_  
  
TriMet Legal Counsel

\_\_\_\_\_  
date

\_\_\_\_\_  
date

\_\_\_\_\_  
4/24/12  
date

**EXHIBIT A**  
**U.S. DEPARTMENT OF HOMELAND SECURITY TRANSIT SECURITY GRANT CONTRACT**  
**REQUIREMENTS**

As used below, the term “Contractor” shall mean the City of Milwaukie, Or.

**I. DEFINITIONS**

- A. Homeland Security Directive includes any Homeland Security circular, notice, order or guidance providing information about Homeland Security programs, application processing procedures, and Project management guidelines.
- B. Government means the United States of America and any executive department or agency thereof.
- C. Homeland Security means the United States Department of Homeland Security (DHS) or it’s Office of Domestic Preparedness.
- D. Third Party Subcontract means a subcontract at any tier entered into by Contractor or a subcontractor, financed in whole or in part with Federal assistance originally derived from Homeland Security.

**II. FEDERAL REQUIREMENTS**

- A. Homeland Security requires that a grant recipient require that any contractor employed in completion of a DHS grant project comply with the following standard requirements, the terms and conditions of which are incorporated herein by reference. In addition, any such contractor shall require each of its subcontractors employed in the completion of the project to comply with these requirements:

Administrative Requirements:

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including the provisions set forth in this Exhibit A
- 44 CFR part 10, Environmental Considerations

Cost Principles:

- 2 CFR Part 225, Cost Principles for State, Local, and Indian tribal Governments (formerly OMB Circular A-87)

Audit Requirements:

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

- B. Contractor shall at all times comply with all applicable regulations, policies, procedures and Homeland Security Directives, including without limitation those listed directly or by reference in the Transit Security financial assistance agreement between TriMet and the Homeland Security, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor’s failure to so comply shall constitute a material breach of this Agreement. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

- C. All Homeland Security mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause TriMet to be in violation of the Homeland Security terms and conditions.

### **III. ACCESS TO RECORDS**

- A. Contractor agrees to provide TriMet, Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than six years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date Contractor receives final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until TriMet, Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- D. Contractor agrees to include paragraphs A, B, and C above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **IV. DEBARMENT AND SUSPENSION**

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Contractor makes a material representation of fact relied upon by TriMet that Contractor has complied with 49 CFR Part 29. If it is later determined that Contractor knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to TriMet, the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Contractor is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

### **V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR**

- A. TriMet and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Government, the Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to TriMet, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

- B. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. **CONTRACT WORK HOURS AND SAFETY STANDARDS** (applicable to non-construction contracts in excess of \$2,500 that employ laborers or mechanics)

- A. **Compliance:** Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) as amended and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), which are incorporated herein.
- B. **Overtime:** No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- C. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause in Paragraph B of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B of this section.
- D. **Withholding for unpaid wages and liquidated damages** – TriMet shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C of this section.
- E. **Subcontracts** - The contractor or subcontractor shall include in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

VII. **NOTICE OF REPORTING REQUIREMENTS**

Contractor shall comply with the reporting requirements of Homeland Security stated in 44 C.F.R. §§ 13.40 et seq, The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## VIII. COPYRIGHTS

- A. Contractor agrees that Homeland Security shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
  - 1. The copyright in any work developed with the assistance of funds provided under this Agreement;
  - 2. Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement.
- B. Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## IX. PATENT RIGHTS

- A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, TriMet and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the Homeland Security. Unless the Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), TriMet and Contractor agree to take the necessary actions to provide, through Homeland Security, those rights in that invention due the Government in accordance with 44 CFR Part 13.36(i) (8).
- B. The Contractor also agrees to include paragraph A above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by Homeland Security.

## X. ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat.871). Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## XI. ENVIRONMENTAL REQUIREMENTS

- A. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA regional office.

- B. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA Regional Office.
- C. Contractor will comply with Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- D. Contractor agrees to include the requirements at paragraphs A, B and C above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by Homeland Security.

**CERTIFICATION**

**REGARDING LOBBYING**

*Certification for Contracts, Grants, Loans, and Cooperative Agreements*

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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, the City of Milwaukie, Or., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

By: \_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title of authorized official)