

**AGREEMENT
BETWEEN
Washington County and the City of Tigard**

**FOR A DISTRIBUTION FROM THE MAJOR STREETS
TRANSPORTATION IMPROVEMENT PROGRAM (MSTIP)
OPPORTUNITY FUND**

THIS AGREEMENT is entered into between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "COUNTY"; and the City of Tigard, a municipal corporation, acting by and through its City Council, hereinafter referred to as "CITY."

RECITALS

1. COUNTY approved the MSTIP 3d program in July 2012 that contained a \$5,000,000 Opportunity Fund component, hereinafter referred to as "FUND".
2. CITY requested a \$41,000 distribution from the FUND as a match for a Regional Transportation Options grant, hereinafter referred to as "RTO", to fund a Safe Routes to Schools Program Coordinator.
3. The FUND distribution requested by CITY was approved by the Washington County Coordinating Committee in November 2014. The approval was contingent on the CITY receiving approval for the RTO grant.
4. CITY was awarded the RTO in February 2015.
5. CITY will enter into a separate agreement with Metro for the grant funds.
6. ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below, the parties hereto agree as follows:

1. COUNTY OBLIGATIONS

- 1.1 COUNTY shall distribute \$41,000 from the FUND within sixty (60) calendar days of receipt of an invoice from CITY.

2. CITY OBLIGATIONS

2.1 CITY shall invoice COUNTY for the \$41,000 distribution from the FUND within thirty (30) calendar days of the execution of the agreement with Metro described in Recital 5 of this AGREEMENT.

3. FINANCIAL OBLIGATIONS

3.1 COUNTY and CITY will each bear the cost of performance of their respective obligations under this AGREEMENT.

4. GENERAL PROVISIONS

4.1 LAWS OF OREGON

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. All relevant provisions required by ORS Chapter 279A and 279C to be included in public contracts are incorporated and made a part of this Agreement as if fully set forth herein.

4.2 DEFAULT

Time is of the essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

4.3 INDEMNIFICATION

This Agreement is for the benefit of the parties only. Each party agrees to indemnify and hold harmless the other party, and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). In addition, each party shall be solely responsible for any contract claims, delay damages or similar items arising from or caused by the action or inaction of the party under this agreement.

4.4 MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both parties.

4.5 DISPUTE RESOLUTION

The parties shall attempt to informally resolve any dispute concerning any party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

4.6 REMEDIES

Subject to the provisions in paragraph 4.5, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

4.7 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed on or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

4.8 SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

4.9 INTEGRATION

This Agreement is the entire agreement of the parties on its subject and

supersedes any prior discussions or agreements regarding the same subject.

5. TERM OF AGREEMENT

- 5.1 This Agreement becomes effective on the last date signed below and shall terminate two (2) years from the effective date except as provided in Paragraph 5.2 below.

- 5.2 This Agreement may be amended or extended for periods of up to one (1) year by mutual consent of the parties. It may be canceled or terminated for any reason by either party. Termination or cancellation shall be effective thirty (30) days after written notice to the other party, or at such time as the parties may otherwise agree. The parties shall, in good faith, agree to such reasonable provisions for winding up the Agreement as necessary.

DATED this _____ day of _____, 2015.

CITY OF TIGARD, OREGON

WASHINGTON COUNTY, OREGON

John Cook, Mayor

CHAIR, Board of County
Commissioners

ATTEST:

CITY RECORDER

RECORDING SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

CITY ATTORNEY

COUNTY COUNSEL