

MEMORANDUM

TO: Mayor and City Council

FROM: Faye Stewart, Public Works & Development Director

SUBJECT: RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH SOUTH LANE WHEELS RELATED TO (2020-2023) 5311 TRANSIT GRANT

DATE: January 24, 2022

Background

The City is required to enter into an agreement with South Lane Wheels (SLW) regarding the administration and implementation of the 5311 Federal funds to be used for their operation. The attached resolution authorizes the City Manager to execute the agreement with SLW for the administration and implementation of the grant. This agreement is for a two and a half year period and includes the new provision as required by Oregon law that states:


"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor 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 Recipient deems appropriate."

Recommendation

That the resolution be adopted.

Cost

Staff Time


Richard Meyers, City Manager


Faye Stewart, Public Works &
Development Director

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO A CONTRACT WITH THE SOUTH LANE WHEELS RELATED TO
THE ADMINISTRATION OF 5311 GRANT FUNDS

WHEREAS, the City of Cottage Grove has been awarded the 5311 grant funds from the Public Transit Division of the Oregon Department of Transportation, and

WHEREAS, the City has met the requirements to be the recipient and act as the administrator of the funds from December 1, 2020 through June 30, 2023, and

WHEREAS, the Public Works/Community Development Director is appointed as the authorized representative, and

WHEREAS, the Agreement will take effect on December 1, 2020

NOW THEREFORE, BE IT RESOLVED that the City Manager is authorized to execute the Contract with South Lane Wheels for services described in, Agreement No. 34527,35001 and 35058 with the Public Transit Division of Oregon Department of Transportation (ODOT), attached to and forming part of this agreement as Exhibit A, B & C, for administration of 5311 grant funds.

BE IT FURTHER RESOLVED this resolution shall take effect immediately upon adoption.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 24TH
DAY OF JANUARY, 2022.

Jeffrey D. Gowing, Mayor

Dated: _____

ATTEST:

Richard Meyers, City Manager

Dated: _____

**AGREEMENT RELATED TO THE ADMINISTRATION
OF
5311 FUNDS FOR SOUTH LANE WHEELS**

This agreement is made and entered into by and between the City of Cottage Grove, hereinafter referred to as “City” and South Lane Wheels Inc. hereinafter referred to as “SLW”, and collectively referred to as the “Parties.”

RECITALS

1. The City has entered into an agreement (#34527, 35001, 35058) for the administration of 5311 Funds pursuant to Oregon Revised Statutes (ORS) 190.110 and 283.110 with the Public Transit Division of the Oregon Department of Transportation (ODOT).
2. The agreement between the City and ODOT, when fully executed, is effective on December 1, 2020. The term is through the biennium of 21-23, therefore expiring on June 30, 2023.
3. An agreement between the City and SLW is required in order for the 5311 Funds to be disbursed pursuant to City’s agreement with ODOT.
4. This Agreement is based upon and subject to ORS, Oregon Administrative Rules (OAR) and Federal Transit Administration (FTA) regulations such as those contained in ORS 323.455, ORS 391.800 through 391.830 and FTA Circular 9040.IF including all associated references and citations.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

1. **Effective Date.** This Agreement shall be effective as of December 1, 2020. No services shall be performed prior to the effective Agreement date.
2. **General Description of Work.** This Agreement is for services generally described as South Lane Wheels operations, and more particularly described in to Agreements No. 34527,35001,35058 hereto attached as Exhibits A, B and C. As a condition of this agreement, SLW shall have the words “PUBLIC TRANSIT” or “PUBLIC TRANSPORTATION” or similar words added to all vehicles, bus stops and literature. The placement of the words shall be approved by the Public Works/Community Development Director for the City.
3. **Reimbursement.** City agrees to provide funding to SLW for costs of performing the Scope of Work as specified in Exhibits A and B to this agreement. Specific funding amounts and payment schedule are specified in Exhibit C.

In the event services are required beyond those specified in the Scope of Work, SLW shall submit a revised Scope of Work and fee estimate for such services, and an Agreement modification shall be negotiated and must be approved by all parties prior to any effort being expended on such services.

4. **Exhibits.** The following exhibits are made part of this Agreement:

Exhibit A - Public Transit Division, Oregon Department of Transportation Agreement No. 34527 with City of Cottage Grove including the exhibits to that agreement.

Exhibit B - Public Transit Division, Oregon Department of Transportation Agreement No. 35001 with City of Cottage Grove including the exhibits to that agreement.

Exhibit C - Public Transit Division, Oregon Department of Transportation Agreement No. 35058 with City of Cottage Grove including the following exhibits to that agreement.

Exhibit D - Scope of Work

Exhibit E - SLW Compensation

Exhibit F - Insurance Provisions

Exhibit G – Community Grant Agreement

Exhibit H– 2021 Certifications & Assurances for City

5. **Execution of Work.** SLW shall at all times carry on the work diligently, without delay, and punctually fulfill all requirements herein. The passage of the Agreement expiration date shall not extinguish, prejudice, or limit either party's right to enforce this Agreement with respect to any default or defect in performance that has not been cured. This Agreement outlines the entire relationship between SLW and the City for purposes stated in Exhibits A,B,C & D, all applicable requirements of which are hereby passed on as obligations of SLW.

6. **Books and Records.** SLW shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement and the project in accordance with generally accepted accounting principles and standards. SLW acknowledges and agrees that the CITY and their duly authorized representatives shall have access to the books, documents, papers, and records of SLW which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six years after the Agreement expiration date. Copies of applicable records shall be made available upon request. Payment for reasonable costs of copies is reimbursable by the CITY. SLW shall retain all pertinent records for not less than six years following the expiration date or as otherwise required by Agreement #34527, 35001 & 35058, or until all litigation is resolved, whichever is longer. Full access will be provided to SLW and to its duly authorized representatives in preparation for and during any litigation.

7. **Termination, Administrative, Contractual or Legal Remedies.** This Agreement may be terminated by written mutual consent of both parties. If this Agreement is terminated prior to the end of the Agreement period, SLW shall be reimbursed for the project tasks completed through termination date as outlined in the Payment for Work, Exhibit C. If one party is suspected to be in violation of this Agreement, the non-violating party shall notify the other party in writing of the circumstances leading to this conclusion. The Agreement will be automatically terminated if the violation has not been remedied.

This Agreement may be terminated by SLW or the CITY for any reason with 180 days written notice.

All claims, counter claims, disputes and other matters in question between the CITY and SLW arising out of, or relating to this Agreement or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism, or in a court of competent jurisdiction with the State of Oregon and Lane County. In the event of any dispute arising from this Agreement, each party shall be required to pay its own separately incurred attorney's fees, expenses, and court costs, including arbitration, trial and appeal.

8. **Indemnity and Insurance.**

- (a) SLW agrees to indemnify, defend, and hold harmless ODOT and the City, their officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the SLW or any of such party's officers, agents, employees or subcontractors ("Claims"). SLW shall not be required to indemnify the CITY for any such liability arising out of negligent acts or omissions of the CITY, their employees or representatives. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.
- (b) Neither SLW's contractor(s) nor subcontractor(s), nor any attorney engaged by SLW shall defend any claim in the name of the City or ODOT or any agency of the State of Oregon, nor purport to act as legal representative of the City or the State of Oregon or any of its agencies, without the prior written consent of the City or the Oregon Attorney General. City or ODOT may, at any time at their individual election, assume their own defense and settlement in the event that either determines that SLW is prohibited from defending the City or ODOT or that SLW is not adequately defending the City or ODOT's interests, or that an important governmental principle is at issue or that it is in the best interests of City or ODOT to do so. City and ODOT reserve all rights to pursue claims either may have against SLW if City or ODOT elect to assume their own defense.
- (c) SLW shall provide insurance as required in Exhibit F, Insurance, naming CITY as an additional insured, and furnishing CITY with written proof of insurance within 30 days after the commencement of this agreement.

9. **Successors & Assignments.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns. After the original Agreement is executed, SLW shall not enter into any new sub agreements for any work scheduled under this Agreement or assign or transfer any of its interest in this Agreement without prior written consent of the CITY.
10. **Compliance with Applicable Laws.**
- (a) SLW agrees to comply with all federal, state, and local laws, ordinances, and regulations applicable to its services provided pursuant to this Agreement, including without limitation, the Oregon Public Contracting Code and federal procurement laws. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, to the extent not superseded by federal law.
 - (b) SLW shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
 - (c) This Agreement is based on and is subject to Oregon Revised Statutes, Oregon Administrative Rules, and Federal Transit Administration Regulations such as those contained in ORS 323.455, ORS 391.830 and PTA Circular 9040.1F including all associated references and citations.
11. **Independent Contractor.** SLW shall perform the Work as an independent contractor and not as an agent or employee of City. SLW has no right or authority to incur or create any obligation for or legally bind City in any way. City cannot and will not control the means or manner by which SLW performs the Work, except as specifically set forth in this Agreement. SLW is responsible for determining the appropriate means and manner of performing the Work. SLW acknowledges and agrees that SLW is not an "officer", "employee", or "agent" of City, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
12. **Federal Transit Administration Annual Certifications and Assurances.** SLW agrees to comply with all applicable Federal Transit Administration Certifications and Assurances. Furthermore, SLW will submit the Annual Certifications and Assurances to ODOT on an annual basis and include all certifications required by 49 U.S.C. 5310.
13. **Audit Requirements.**
- a) An annual audit shall be required and a copy provided to the City.
 - b) If SLW receives Federal funds in excess of \$500,000, SLW agrees to conduct an audit in accordance with the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, Non-profit Institutions*. SLW, if affected by this requirement, shall at its own expense, submit to State, Public Transit Division,

555 Street NE, suite 3, Salem, OR 97301-4179, a copy of its A-133 annual audit covering the funds expended under this Agreement.

14. **Other Federal Requirements.** One of the principles of contracting with Federal funds received indirectly from the Federal Transit Administration (FTA) is recognition that, as a condition of receiving the funds, certain specific requirements must be met not only by the CITY, but also by SLW. To the extent applicable, Federal requirements extend to third party contractors and their contracts at every tier. The specific requirements for specific grant funds are found in the Master Agreement that is signed and attested to by the State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300 or accessing the FTA website: <http://www.fta.dot.gov/documents/21-Master.pdf>.

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at http://www.fta.dot.gov/grants/12825_9.html. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein. See Exhibit F for 2015 Certifications & Assurances for the City.

The following is not a complete list of Federal requirements. Rather it is a summary of various primary requirements associated with the type of transactions covered by this Agreement and the type of funds described in Exhibit A:

1. SLW shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, Including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered Into a consent decree.
2. SLW shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. SLW shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of Its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal

obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out Its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

4. SLW must include the following language in each subagreement SLW signs with a subcontractor or subrecipient:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor 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 Recipient deems appropriate.

5. SLW and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, must certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. If non- federal funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.
15. **Severability**. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
16. **Force Majeure**. Neither party shall be held responsible for delay or default caused by fire, riots, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause or delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.
17. **Waiver**. The failure of the CITY to enforce any provision of this Agreement shall not constitute a waiver by the CITY of that or any other provision.
18. **Other Provisions**. SLW shall protect and indemnify CITY against any payroll taxes or contributions imposed with respect to any employees of SLW by any applicable law

dealing with pensions, unemployment compensation, accident compensation, health insurance, and related subjects. SLW shall at SLW's own cost and expense insure each person employed by SLW the compensation provided for by law with respect to worker's compensation and employer's liability insurance.

19. **Funds Available.** SLW understands and agrees that CITY's obligation to make payments under this Agreement is contingent on the CITY receiving funding from the Oregon Department of Transportation.

THIS AGREEMENT, INCLUDING ALL ATTACHED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THE TERMS OF THIS AGREEMENT SHALL NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT. SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, AND SHALL BE VALID AND BINDING ONLY IF IT IS PROPERLY AUTHORIZED AND SIGNED BY ALL PARTIES TO THIS AGREEMENT. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS AGREEMENT EXCEPT AS SPECIFIED OR REFERENCED HEREIN. BOTH PARTIES, BY THE SIGNATURES OF THEIR AUTHORIZED REPRESENTATIVES, BELOW, HEREBY ACKNOWLEDGE THAT EACH HAS READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

South Lane Wheels

City of Cottage Grove

By: _____
Ruth Linoz, Executive Director

By: _____
Richard Meyers, City Manager

PUBLIC TRANSPORTATION DIVISION
OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Rail and Public Transit Division, hereinafter referred to as "State," and **City of Cottage Grove**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **December 1, 2020** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2023** (Expiration Date). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: Project Description and Budget

Exhibit B: Financial Information

Exhibit C: Subcontractor Insurance

Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement

Exhibit E: Information required by 2 CFR 200.331(a), may be accessed at <http://www.oregon.gov/odot/pt/>, Oregon Public Transit Information System (OPTIS), as the information becomes available

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit D; Exhibit E; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$239,617.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$239,617.00** in Grant Funds for eligible costs described in Section 6.a. hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.d hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <http://www.oregon.gov/odot/pt/>. If Recipient is unable to access OPTIS, reports must be delivered to ODOTPTDReporting@odot.state.or.us. Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9.a. of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
 - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.
- c. **Recovery of Grant Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to State. Recipient shall return all Misexpended Funds to State promptly after State's written demand and no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 14 days after the earlier of expiration or termination of this Agreement.

7. Representations and Warranties of Recipient. Recipient represents and warrants to State as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor

accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
 - i. Recipients receiving federal funds in excess of \$750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Rail and Public Transit Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to ODOTPTDReporting@odot.state.or.us, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.
 - ii. Recipient shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
 - i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
 - ii. Recipient agrees to provide State with a copy of any signed subagreement upon request by State. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Recipient to State within ten (10) days of its being discovered.
- b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: www.fta.dot.gov/grants/13054_6037.html
- c. **Subagreement indemnity; insurance**

Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.

Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement. Any insurance obtained by the other party to Recipient's subagreements, if any, shall not relieve Recipient of the requirements of Section 11 of this Agreement. The other party to any subagreement with Recipient, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.

- d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
 - i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
 - ii. all procurement transactions are conducted in a manner providing full and open competition;

- iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
- iv. construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.

e. Additional requirements

- i. Recipient shall comply with 49 CFR sections 37.77(c) and 37.105 regarding "Certification of Equivalent Service" when purchasing vehicles under this Agreement. If non-accessible vehicles, as defined by the Americans with Disabilities Act, are being purchased for use by a public entity in demand responsive service for the general public, Recipient will certify to State at the time of applying for a project that, when viewed in its entirety, the demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service.
- ii. Recipient shall comply with 49 CFR 663 regarding pre-award and post-delivery reviews. Every Recipient purchasing rolling stock or facilities under this Agreement must certify to State that a pre-award and post-delivery review has been conducted in accordance with ODOT requirements. This review ensures compliance to bid specifications including, but not limited to, FTA requirements, State requirements, and Federal Motor Carrier Safety Standards, as applicable to the type of project. Each Recipient's certification must include assurance that required documents have been received from manufacturers or vendors of products, or from both, and that Recipient possesses such documents. Acceptable certification forms are available from State. Recipient must provide certification forms to State when reimbursement is requested for vehicles. For facilities projects, Recipient must provide pre-award certifications to State at time of first payment, and post-delivery certifications upon completion of the post-delivery review, and in no event later than with Recipient's request for final payment.
- iii. Recipient shall comply with 49 CFR 604 in the provision of any charter service provided with vehicles, facilities, or equipment acquired with FTA assistance under this Agreement.
- iv. Recipient shall submit an annual vehicle inspection report to State for any vehicle purchased under this Agreement. Vehicle inspections shall be conducted by a vehicle maintenance technician certified by a nationally recognized organization in the field of vehicle service and maintenance. Reports covering required areas of inspection shall be submitted on forms provided by State.
- v. All drivers of vehicles purchased with FTA funds under this Agreement must complete a standard defensive driving course before operating an FTA-funded vehicle, and are advised to complete a standard defensive driving course before operating a State-funded vehicle.
- vi. Recipient shall maintain all vehicles, equipment, and facilities purchased under this Agreement in good condition per manufacturer's recommendations. Recipients are required to develop preventive maintenance plans for all rolling stock and facilities and to provide the plans to State upon request.
- vii. Recipient shall be the owner of the property for facility construction projects and of vehicles purchased under this Agreement. Such ownership shall be recorded on real property deeds for facility construction projects and on vehicle titles. If Recipient contracts the operation of vehicles to a third party, then the third party may be shown as the owner or lessee with Recipient listed as the second security interest holder or lessor. In all cases, Oregon Department of Transportation, Rail and Public Transit Division shall be shown as the first security interest holder on vehicle titles. If Recipient fails to show Oregon Department of Transportation, Rail and Public Transit Division as the first security interest holder, Recipient shall pay any expenses to re-submit the necessary documents to Oregon Department of Transportation, Driver and Motor Vehicle Services (DMV). If a vehicle is damaged or destroyed at any time when Recipient fails to show Oregon Department of Transportation, Rail and Public Transit Division, as the first security interest holder, Recipient shall be

liable to State for any damage in an amount in the same manner as if Oregon Department of Transportation, Rail and Public Transit Division, were shown as the first security interest holder.

- viii. Recipient shall bear the cost of insuring assets purchased under this Agreement based on risk assessment. Recipient shall maintain, in amounts and form satisfactory to State, such insurance or self-insurance as will be adequate to protect Recipient, vehicle drivers and assistants, vehicle occupants, and property throughout the period of use. The minimum that will be approved by State is comprehensive and collision insurance adequate to repair or replace property and equipment if damaged or destroyed; liability insurance of \$50,000 for property damage, \$200,000 for bodily injury per person, \$500,000 for bodily injury per occasion for maintenance and shop vehicles, and \$1,000,000 for bodily injury per occasion for vehicles providing passenger transportation; uninsured motorist protection; and personal injury protection as required by ORS Chapter 806. Recipient shall be responsible for all deductibles or self-insured retention. Recipient's insurance policy covering assets purchased under this Agreement shall include the Oregon Department of Transportation, Rail and Public Transit Division as an "Additional Insured". In the event of any ambiguity or conflict between this section 9.e.viii. and Exhibit C Insurance Requirements ii. Commercial General Liability and iii. AUTOMOBILE LIABILITY INSURANCE, this section 9.e.viii. shall control.
- ix. Recipient shall file a restrictive covenant with the property deed for all construction projects and purchases of real estate, with the exception of passenger shelters, amenities, and right-of-way infrastructure improvements. The restrictive covenant will limit the use of the building and property to the stated purpose specified in the statement of work associated with this Agreement.
- x. Recipient shall complete all purchases, including installation, and all construction of capital assets funded under this Agreement prior to the Expiration Date of this Agreement. If local circumstances prevent purchase, installation, or construction by the specified date, Recipient will notify State in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Agreement. Agreement amendment for time will be considered in extenuating circumstances.

10. Termination

- a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:
 - i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State.
- b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be

established by Recipient in such written notice, if:

- i. The requisite local funding to continue the Project becomes unavailable to Recipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

11. General Provisions

- 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 State or Recipient with respect to which the 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State 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 Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient 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 State on the one hand and of Recipient 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient 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 State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State 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 Recipient on the one hand and of State 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. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- c. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that recipient's breach of the

conditions of this Agreement, and shall, upon recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact 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 11.g. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. 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.
- i. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and

state civil rights and rehabilitation statutes, rules and regulations.

- j. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes 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. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- o. **Survival.** The following provisions survive termination of this Agreement: Sections 6.c., 8 and 11.

The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Public Transportation Division Administrator.

SIGNATURE PAGE TO FOLLOW

City of Cottage Grove/State of Oregon
Agreement No. 34527

City of Cottage Grove, by and through its

City Manager
By [Signature]
(Legally designated representative)

Name Richard Meyers
(printed)

Date December 3, 2020

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Ruth Linoz
400 East Main Street
Cottage Grove, OR 97424
1 (541) 942-0456
rlinoz@southlanetransit.com

State Contact:

Mark Bernard
555 13th Street NE
Salem, OR 97301-4179
1 (503) 986-3283
Mark.bernard@odot.state.or.us

Signed Agreement Return Address: ODOTPTDReporting@odot.state.or.us

State of Oregon, by and through its
Department of Transportation

By [Signature]
Karyn Criswell
Public Transportation Division Administrator

Date 12/10/20

APPROVAL RECOMMENDED

By Mark Bernard

Date 12/01/2020

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$150,000)

By _____
Assistant Attorney General

Name Marvin Fjordbeck by email
(printed)

Date 03/13/2017

EXHIBIT A

Project Description and Budget

Project Description/Statement of Work

Project Title: CARES 5311 (NB) City of Cottage Grove 34527				
<i>Provide relief from expenses incurred in response to the COVID-19 pandemic.</i>				
Item #1: Operating Assistance				
	Total	Grant Amount	Local Match	Match Type(s)
	\$132,000.00	\$132,000.00	\$0.00	
Item #1: Operating Assistance				
	Total	Grant Amount	Local Match	Match Type(s)
	\$25,117.00	\$25,117.00	\$0.00	
Item #1: Operating Assistance				
	Total	Grant Amount	Local Match	Match Type(s)
	\$2,500.00	\$2,500.00	\$0.00	
Item #1: Bus < 30ft				
	Total	Grant Amount	Local Match	Match Type(s)
	\$80,000.00	\$80,000.00	\$0.00	
Sub Total	\$239,617.00	\$239,617.00	\$0.00	
Grand Total	\$239,617.00	\$239,617.00	\$0.00	

1. BACKGROUND

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provides emergency assistance and health care response for individuals, families, and businesses affected by the COVID-19 pandemic and provides emergency appropriations to support agency operations during the pandemic. Funds provided under the CARES Act are available for transit agencies to maintain service and lost revenue, including the purchase of protective equipment and paid administrative leave.

2. PROJECT DESCRIPTION

This Agreement provides financial support for general public transportation services in the state of Oregon to provide relief from expenses incurred in response to the COVID-19 pandemic.

The services provided for under this Agreement are as follows:

Operations

This project is for lost fare revenue while responding to the COVID-19 crisis.

Total project cost: \$159,617

\$46,000 for loss in fare box revenue and furlough expenses not covered by State Agreement Number 34182;

\$86,000 for additional loss in fare box revenue and furlough expenses through December 31, 2021;

\$25,117 for a decontamination unit; and

\$2,500 for PPE including masks, sanitizer and disinfectant.

Vehicle Expansion

This project adds one additional public transportation vehicle to ensure physical distancing as ridership returns. Recipient will purchase 1 vehicle as follows: useful life - 5 years or 150,000

miles; approximate length - less than 30 feet; estimated number of seats - 12; estimated number of ADA securement stations - 2; fuel type - gas.

Total project cost: \$80,000

3. PROJECT DELIVERABLES and EXPENSE TYPES

Funding may be used for projects to prevent, prepare for, and respond to COVID-19. Although operational expenses are the priority, all expenses normally eligible under the Federal Transit Administration (FTA) Section 5311 Formula Grants to Rural Areas Program incurred on or after January 20, 2020 are considered to be in response to economic or other conditions caused by COVID-19 and thus are eligible under this Agreement.

FTA may elect to waive specific Section 5311 requirements. Expenses covered by such a waiver may be eligible for reimbursement under this grant agreement if otherwise consistent with grant intent and focus.

Operating Expenses

In general, operating expenses are those costs necessary to operate, maintain, and manage a public transportation system. Operating expenses include such costs as driver salaries, fuel, and items having a useful life of less than one year, including personal protective equipment and cleaning supplies. See Chapter III of the FTA Circular 9040.1G (Formula Grants for Rural Areas) for more information on eligible operating expenses.

Recipient, if operating fixed route or deviated fixed route service, is responsible for maintaining accurate public GTFS data for the funded service.

Personal Protective Equipment Expenses

Personal protective equipment includes equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers. Some items, such as respiratory devices, must meet industry requirements. Other items may be eligible with advance approval from State.

Capital Expenses

Capital expenses include the purchase of tangible property with a useful life of more than one year and an acquisition cost of \$5,000 or more. This includes equipment; signs; shelters; communications devices; radios; wheelchair lifts and restraints; computer software and hardware; and safety and security equipment.

Associated services, permits, and permissions needed to put capital items into service; costs incurred from the procurement process; delivery charges; and post-delivery inspections are eligible expenses.

4. PROJECT ACCOUNTING and MATCHING FUNDING

Generally accepted accounting principles and Recipient's own accounting system determine those costs that are to be accounted for as gross operating expenses. Recipient may not count the same costs twice if they have multiple agreements for which these costs may be eligible. The contractor may use capital equipment funded from USDOT- or State-source grants when performing services rendered through a contract funded by this Agreement. Depreciation of capital equipment funded from USDOT- or State-source grants is not an eligible expense.

Recipient will subtract revenue from fares, tickets, and passes, either pre-paid or post-paid, from the gross operating expense of service. Fare revenue includes all revenue generated by passenger or freight travel in or through Oregon, less contract ticket and freight agent commissions.

Projects completed under this Agreement will be reimbursed at 100 percent. There is no local match requirement.

If Recipient receives federal funding, directly or indirectly, from insurance proceeds, the Federal Emergency Management Agency (FEMA), the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or a different federal agency for any portion of a project activity funded under this Agreement, Recipient will provide written notification to State. State will then deduct that amount from this Agreement to reimburse FTA for that federal share that duplicates funding provided by FEMA, another federal agency, or an insurance company.

5. REPORTING and INVOICING REQUIREMENTS

Reimbursement requests may be submitted no more frequently than monthly. Grant Funds provided under this Agreement must be expended by the Expiration Date.

Recipient agrees to assess and report, as prescribed by State, the condition of all capital assets purchased or constructed under this Agreement as long as they remain in use for public transportation service.

Recipient will request reimbursement for covered expenses incurred during each period as prescribed by State and described in Recipient's submitted preventive maintenance plan for this Agreement. Recipient must maintain and provide supporting documents detailing the total expenses for allowable maintenance activities incurred during the period. Recipient may list costs on a form provided by State, or provide vendor invoices.

Copies of invoices for vendor charges must be submitted with reimbursement requests. In-house charges may be documented in a spreadsheet or with copies of timesheets showing time specifically associated with the project. In addition, Recipient must submit a cover letter or summary of the total expenses for work performed.

Expenses incurred will not be reimbursed if the project's scope is changed or altered without the necessary approval and amendment by State.

Reimbursement under this Agreement may be denied if Recipient does not maintain compliance with the most up-to-date Oregon Health Authority Guidelines for transit operations. See <https://www.oregon.gov/odot/RPTD/Pages/Coronavirus.aspx> "What are the guidelines for transit agencies operating during the COVID-19 pandemic".

EXHIBIT B

FINANCIAL INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

Federal Program	Federal Funding Agency	CFDA Number	Total Federal Funding
49 U.S.C. 5311	U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	20.509 (5311)	\$239,617.00

Administered By

Public Transportation Division
555 13th Street NE
Salem, OR 97301-4179

EXHIBIT C

Insurance Requirements

GENERAL - SUBRECIPIENT.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

TYPES AND AMOUNTS.

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

iii. **AUTOMOBILE Liability Insurance: Automobile Liability.** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include State, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous

"claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Recipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

GENERAL - RECIPIENT.

Recipient shall: i) obtain insurance specified under TYPES AND AMOUNTS (except TYPES AND AMOUNTS paragraph I applies only to Recipient's subcontractors who employ subject workers) and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under this Agreement commences, and ii) maintain the insurance in full force throughout the duration of this Agreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State.

TYPES AND AMOUNTS.

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide Workers' Compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

iii. **AUTOMOBILE Liability Insurance:** Automobile Liability. Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance and Automobile Liability insurance must include State, its officers, employees and agents as Additional Insureds but only with respect to the Recipient's activities to be performed under this Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, Recipient shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) Recipient's completion and State's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if Recipient elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Recipient may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, Recipient shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. Recipient or its insurer must provide 30 days' written notice to State before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. State shall obtain from Recipient a certificate(s) of insurance for all required insurance before the effective date of this Agreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

EXHIBIT D

Summary of Federal Requirements and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at www.transit.dot.gov. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor 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 Recipient deems appropriate.

5. By executing the Agreement, Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other

federal award as well as the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, cooperative agreement, or other federal award. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31 of the 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. If non-federal funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

PUBLIC TRANSPORTATION DIVISION
OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Public Transportation Division, hereinafter referred to as "State," and **City of Cottage Grove**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **July 1, 2021** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2023** (the "Expiration Date"). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: Project Description and Budget

Exhibit B: Financial Information

Exhibit C: Subagreement Insurance Requirements and Recipient Insurance Requirements

Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement

Exhibit E: Information required by 2 CFR 200.332(a), may be accessed at <https://www.oregon.gov/odot/RPTD/Pages/index.aspx>, Oregon Public Transit Information System (OPTIS), as the information becomes available

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit D; Exhibit E; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$586,466.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$392,644.00** (the "Grant Funds") for eligible costs described in Section 6.a. hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A. Recipient will be responsible for all Project Costs not covered by the Grant Funds.
4. **Project.** The Grant Funds shall be used solely for the project described in Exhibit A (the "Project") and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.a hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <https://www.oregon.gov/odot/RPTD/Pages/index.aspx>. If Recipient is unable to access OPTIS, reports must be sent to ODOTPTDReporting@odot.state.or.us. Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Funds amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9 of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
 - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.
- c. **Recovery of Grant Funds.**
 - i. **Recovery of Misexpended Funds or Nonexpended Funds.** Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended as of the Expiration Date ("Unexpended Funds") or (ii) expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") must be returned to State. Recipient shall return all Misexpended Funds to State no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 15 days after the earlier of expiration or termination of this Agreement.
 - ii. **Recovery of Funds upon Termination.** If this Agreement is terminated under either Section 10(a)(i) or Section 10(a)(v) below, Recipient shall return to State all funds disbursed to Recipient within 15 days after State's written demand for the same.

7. Representations and Warranties of Recipient. Recipient represents and warrants to State as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient

of this Agreement.

- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, including, without limitation, records relating to capital assets funded by this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
 - i. Recipients receiving federal funds in excess of \$750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Public Transportation Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to ODOTPTDReporting@odot.state.or.us, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit

of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.

- ii. Recipient shall indemnify, save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

This Section 8 shall survive any expiration or termination of this Agreement.

9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.

- i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
- ii. Recipient shall require all of its contractors performing work under this Agreement to name State as a third-party beneficiary of Recipient's subagreement with the contractor and to name State as an additional or "dual" obligee on contractors' payment and performance bonds.
- iii. Recipient shall provide State with a copy of any signed subagreement, as well as any other purchasing or contracting documentation, upon request by State. This paragraph 9.a.iii. shall survive expiration or termination of this Agreement.
- iv. Recipient must report to State any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.

- b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: www.fta.dot.gov/grants/13054_6037.html

- c. **Subagreement indemnity; insurance**

- i. ***Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.***
- ii. Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to

pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

- iii. Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance requirements provided in Exhibit C to this Agreement. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit C.
- d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
 - i. All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
 - ii. All procurement transactions are conducted in a manner providing full and open competition;
 - iii. Procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
 - iv. Construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.
- e. **Conflict of Interest.** Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 et seq., as those laws may be subsequently amended.

10. Termination

- a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:
 - i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State.
- b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be established by Recipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Recipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days' notice to the other Party and failure of the other Party to cure within the

period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

11. General Provisions

a. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.

b. **Contribution.**

- i. 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 State or Recipient with respect to which the 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
- ii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State 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 Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient 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 State on the one hand and of Recipient 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- iii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient 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 State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State 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 Recipient on the one hand and of State 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. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

c. **Indemnification.**

- i. Subject to any limitations imposed by State law and the Oregon Constitution, Recipient agrees to the following contract-related indemnification for all projects authorized under this Agreement:
- ii. Where Recipient contracts for services or performs project management for a project, Recipient shall accept all responsibility, defend lawsuits, indemnify, and hold State harmless, for all contract-related claims and suits. This includes but is not limited to all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Recipient's supervision of any individual project or

contract, or Recipient's failure to comply with the terms of this Agreement.

Sections 11.b and 11.c shall survive termination of this Agreement.

- d. **Insurance.** Recipient shall meet the insurance requirements within Exhibit C.
- e. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- f. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- g. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- h. **No Third Party Beneficiaries.** State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- i. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact 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 subsection. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- j. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. 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.

- k. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- l. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- m. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- n. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- o. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes 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. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- p. **Survival.** The following provisions survive termination of this Agreement: Sections 6.c., 8 and 11.

The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Public Transportation Division Administrator.

SIGNATURE PAGE TO FOLLOW

City of Cottage Grove/State of Oregon
Agreement No. 35001

City of Cottage Grove, by and through its

City Manager

By [Signature]
(Legally designated representative)

Name Richard Meyers
(printed)

Date July 29, 2021

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By _____
Recipient's Legal Counsel

Date _____

Recipient Contact:

Ruth Linoz
400 East Main Street
Cottage Grove, OR 97424
1 (541) 942-0456
rlinoz@southlanetransit.com

State Contact:

Mark Bernard
555 13th Street NE
Salem, OR 97301-4179
1 (503) 986-3283
Mark.bernard@odot.state.or.us

State of Oregon, by and through its
Department of Transportation

By [Signature]

Karyn Criswell
Public Transportation Division Administrator

Date 8-4-21

APPROVAL RECOMMENDED

By Mark Bernard

Date 06/09/2021

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$150,000)

By _____
Assistant Attorney General

Name Sam Zeigler by email
(printed)

Date 05/21/2021

Signed Agreement Return Address: ODOTPTDReporting@odot.state.or.us

EXHIBIT A

Project Description and Budget

Project Description/Statement of Work

Project Title: 5311 City of Cottage Grove 35001 Operations.				
Item #1: Operating Sliding Scale				
	Total	Grant Amount	Local Match	Match Type(s)
	\$441,307.00	\$247,485.00	\$193,822.00	State Funds
Item #1: Operating Assistance				
	Total	Grant Amount	Local Match	Match Type(s)
	\$145,159.00	\$145,159.00	\$0.00	
Sub Total	\$586,466.00	\$392,644.00	\$193,822.00	
Grand Total	\$586,466.00	\$392,644.00	\$193,822.00	

1. PROJECT DESCRIPTION

This Project is for operations funding to provide demand responsive public transportation services in Lane County, Oregon.

This Agreement provides financial support for general public transportation services in the state of Oregon to provide relief from expenses incurred in response to the COVID-19 pandemic.

2. PROJECT DELIVERABLES, TASKS and SCHEDULE

The service, schedule, days, hours and service type will be designed to meet the needs of the target population as determined by Parties, and program type, in consultation with the operator of service, the affected community members and stakeholders identified by Recipient.

All services provided must be open to the general public and marketed as general public service.

To the extent possible, Recipient (and contractors, as applicable), will coordinate the delivery of transportation services with other public and private transportation providers to enhance regional services and to avoid duplication of services. Coordinated service may be made available to a variety of potential users.

Recipient may amend the service design at any time in accordance with local demand, funding issues or other situations that require service to be changed. Recipient will inform State if there is a change in the service funded by this Agreement.

Recipient will market the services in culturally appropriate ways. Marketing and promotional activities should be focused on incentivizing ridership through inclusive customer engagement techniques. Activities may include marketing strategies, marketing campaigns and creating marketing materials. Recipient may use key performance indicators in marketing the service.

Recipient is encouraged to set realistic goals and establish measurable outcomes for this Project.

Recipient shall engage in a good faith effort to generate program income to help defray program costs. If program income is generated from federally-funded Projects, that income must be reported on the agency periodic report.

Funding may be used for projects to prevent, prepare for, and respond to COVID-19. Expenses incurred on or after January 20, 2020 are considered to be in response to economic or other conditions caused by COVID-19 and thus are eligible under this Agreement.

In general, operating expenses are those costs necessary to operate, maintain, and manage a

public transportation system. Operating expenses include such costs as driver salaries, fuel, and items having a useful life of less than one year, including personal protective equipment and cleaning supplies.

3. PROJECT ACCOUNTING AND MATCHING FUNDS

Generally accepted accounting principles and Recipient's own accounting system determine those costs that are to be accounted for as gross operating expenses. The contractor may use capital equipment funded from USDOT- or State-source grants when performing services rendered through a contract funded by this Agreement. Depreciation of capital equipment funded from USDOT- or State-source grants is not an eligible expense.

Program income that may be used as Recipient's matching funds for this Agreement includes service contract revenue, advertisement and other earned income, other local funds, cash donations, and other verifiable in-kind contributions integral to the Project budget. In-kind contributions claimed as matching funds must be properly documented and reported to State. Recipient may not use passenger fares as matching funds.

Recipient will subtract revenue from fares, tickets and passes, either pre-paid or post-paid, from the gross operating expense of service. Administrative expenses are reimbursable as operating expenses.

Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funds, available for transit agencies to maintain service and lost revenue, including the purchase of protective equipment and paid administrative leave, are included as a fund source for some Agreement projects. Projects funded with CARES Act funds must be used to provide relief from expenses incurred in response to the COVID-19 pandemic. All expenses must be incurred on or after January 20, 2020 to be eligible for reimbursement.

Projects funded with CARES Act funds will be reimbursed at 100 percent. There is no local match requirement.

If Recipient receives federal funding, directly or indirectly, from insurance proceeds, the Federal Emergency Management Agency, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or a different federal agency for any portion of a project activity funded under this Agreement, Recipient will provide written notification to State. State will then deduct that amount from this Agreement to reimburse FTA for that federal share that duplicates funding provided by FEMA, another federal agency, or an insurance company.

4. REPORTING and INVOICING REQUIREMENTS

Recipient will request reimbursement for covered expenses incurred during each period as prescribed by State. Copies of invoices must be submitted for all vendor charges. In-house charges must be documented showing time specifically associated with the Project. In addition, Recipient must regularly provide a summary of the work performed pursuant to this Agreement in its agency periodic report. Photographs of public transportation activities, and related operations, are encouraged to memorialize the achievement of Project activities.

Disbursement Schedule for Non-CARES-funded Operations

First year maximum disbursement: no more than 50 percent of the total grant amount regardless of the amount of any reimbursement request. A partial payment may be made by State if Recipient requests more than this amount in the first fiscal year period.

Second year maximum disbursement: no more than 50 percent of the total grant amount plus any remaining portion from the first fiscal year period.

EXHIBIT B
FINANCIAL INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

Federal Program 49 U.S.C. 5311	Federal Funding Agency U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	CFDA Number 20.509 (5311)	Total Federal Funding \$392,644.00
--	--	--	---

Administered By Public Transportation Division 555 13th Street NE Salem, OR 97301-4179
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EXHIBIT C

Insurance Requirements

Subagreement Insurance Requirements

GENERAL.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Amounts below are a minimum requirement as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **\$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **\$2,000,000**.

AUTOMOBILE LIABILITY.

Automobile Liability Insurance covering Contractor's business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property. Amount below is a minimum requirement as determined by State:

Coverage shall be written with a combined single limit of not less than **\$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.

A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the contractor's activities to be performed under the Subagreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance or pollution liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subagreement, for a minimum of twenty-four (24) months following the later of : (i) the contractor's completion and Recipient's acceptance of all Services required under the Subagreement or, (ii) the expiration of all warranty periods provided under the Subagreement. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and State may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.

The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). **The Recipient shall immediately notify State of any change in insurance coverage.**

CERTIFICATE(S) OF INSURANCE.

Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

Recipient Insurance Requirements

GENERAL.

Recipient shall: i) obtain at the Recipient's expense the insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under this Agreement commences, and ii) maintain the insurance in full force and at its own expense throughout the duration of this Agreement. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Coverage shall be primary and non-contributory with any other insurance and self-insurance with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insurance retention and self-insurance, if any.

INSURANCE REQUIREMENT REVIEW.

Recipient agrees to periodic review of insurance requirements by State under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and State.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employers liability insurance with coverage limits of not less than \$500,000 must be included.

COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury, death, and property damage and shall include personal and advertising injury liability, products and completed operations and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Commercial General Liability Insurance shall not be less than the following amounts as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **\$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **\$2,000,000**.

AUTOMOBILE LIABILITY.

Automobile Liability Insurance covering business-related automobile use on all owned, non-owned or hired vehicles for bodily injury and property. Automobile Liability Insurance shall not be less than the following amount as determined by State:

Coverage shall be written with a combined single limit of not less than **\$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.

A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the Recipient's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, Recipient shall maintain either "tail" coverage or continuous "claims made" liability

coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) Recipient's completion and State's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if Recipient elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Recipient may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, Recipient shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.

Recipient or its insurer must provide 30 days' written notice to State before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE.

State shall obtain from Recipient a certificate(s) of insurance for all required insurance before the effective date of this Agreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

STATE ACCEPTANCE.

All insurance providers are subject to State acceptance. If requested by State, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to State's representatives responsible for verification of the insurance coverages required under this **Exhibit C**.

EXHIBIT D

Summary of Federal Requirements and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at www.transit.dot.gov. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor 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 Recipient deems appropriate.

5. Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, must certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. If non-federal

funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

PUBLIC TRANSPORTATION DIVISION
OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Public Transportation Division, hereinafter referred to as "State," and **City of Cottage Grove**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **July 1, 2021** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2023** (the "Expiration Date"). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 10 of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

Exhibit A: Project Description and Budget

Exhibit B: Financial Information

Exhibit C: Subagreement Insurance Requirements and Recipient Insurance Requirements

Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement

Exhibit E: Information required by 2 CFR 200.332(a), may be accessed at <https://www.oregon.gov/odot/RPTD/Pages/index.aspx>, Oregon Public Transit Information System (OPTIS), as the information becomes available

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit D; Exhibit E; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$107,000.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$85,600.00** (the "Grant Funds") for eligible costs described in Section 6.a. hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A. Recipient will be responsible for all Project Costs not covered by the Grant Funds.
4. **Project.** The Grant Funds shall be used solely for the project described in Exhibit A (the "Project") and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.a hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <https://www.oregon.gov/odot/RPTD/Pages/index.aspx>. If Recipient is unable to access OPTIS, reports must be sent to ODOTPTDReporting@odot.state.or.us. Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

6. Disbursement and Recovery of Grant Funds.

- a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Funds amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9 of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
 - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
 - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
 - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
 - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.

c. Recovery of Grant Funds.

- i. **Recovery of Misexpended Funds or Nonexpended Funds.** Any Grant Funds disbursed to Recipient under this Agreement that are either (i) disbursed but unexpended as of the Expiration Date ("Unexpended Funds") or (ii) expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") must be returned to State. Recipient shall return all Misexpended Funds to State no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 15 days after the earlier of expiration or termination of this Agreement.
- ii. **Recovery of Funds upon Termination.** If this Agreement is terminated under either Section 10(a)(i) or Section 10(a)(v) below, Recipient shall return to State all funds disbursed to Recipient within 15 days after State's written demand for the same.

7. Representations and Warranties of Recipient. Recipient represents and warrants to State as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient

of this Agreement.

- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

8. Records Maintenance and Access; Audit.

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, including, without limitation, records relating to capital assets funded by this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
 - i. Recipients receiving federal funds in excess of \$750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Public Transportation Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to ODOTPTDReporting@odot.state.or.us, a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit

of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.

- ii. Recipient shall indemnify, save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

This Section 8 shall survive any expiration or termination of this Agreement.

9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
 - i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
 - ii. Recipient shall require all of its contractors performing work under this Agreement to name State as a third-party beneficiary of Recipient's subagreement with the contractor and to name State as an additional or "dual" obligee on contractors' payment and performance bonds.
 - iii. Recipient shall provide State with a copy of any signed subagreement, as well as any other purchasing or contracting documentation, upon request by State. This paragraph 9.a.iii. shall survive expiration or termination of this Agreement.
 - iv. Recipient must report to State any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.
- b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: www.fta.dot.gov/grants/13054_6037.html
- c. **Subagreement indemnity; insurance**
 - i. *Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.*
 - ii. Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to

pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

- iii. Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance requirements provided in Exhibit C to this Agreement. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit C. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit C.
- d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
 - i. All applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
 - ii. All procurement transactions are conducted in a manner providing full and open competition;
 - iii. Procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
 - iv. Construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.
- e. **Additional requirements**
 - i. Recipient shall comply with 49 CFR sections 37.77(c) and 37.105 regarding "Certification of Equivalent Service" when purchasing vehicles under this Agreement. If non-accessible vehicles, as defined by the Americans with Disabilities Act, are being purchased for use by a public entity in demand responsive service for the general public, Recipient will certify to State at the time of applying for a project that, when viewed in its entirety, the demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service.
 - ii. Recipient shall comply with 49 CFR 663 regarding pre-award and post-delivery reviews. Every Recipient purchasing rolling stock or facilities under this Agreement must certify to State that a pre-award and post-delivery review has been conducted in accordance with ODOT requirements. This review ensures compliance to bid specifications including, but not limited to, FTA requirements, State requirements, and Federal Motor Carrier Safety Standards, as applicable to the type of project. Each Recipient's certification must include assurance that required documents have been received from manufacturers or vendors of products, or from both, and that Recipient possesses such documents. Acceptable certification forms are available from State. Recipient must provide certification forms to State when reimbursement is requested for vehicles. For facilities projects, Recipient must provide pre-award certifications to State at time of first payment, and post-delivery certifications upon completion of the post-delivery review, and in no event later than with Recipient's request for final payment.
 - iii. Recipient shall comply with 49 CFR 604 in the provision of any charter service provided with vehicles, facilities, or equipment acquired with FTA assistance under this Agreement.
 - iv. Recipient shall submit an annual vehicle inspection report to State for any vehicle purchased under this Agreement. Vehicle inspections shall be conducted by a vehicle maintenance technician certified by a nationally recognized organization in the field of vehicle service and maintenance. Reports covering required areas of inspection shall be submitted on forms provided by State.
 - v. All drivers of vehicles purchased with FTA funds under this Agreement must complete a standard defensive driving course before operating an FTA-funded vehicle, and are advised to complete a standard defensive driving course before

operating a State-funded vehicle.

- vi. Recipient shall maintain all vehicles, equipment, and facilities purchased under this Agreement in good condition per manufacturer's recommendations. Recipients are required to develop preventive maintenance plans for all rolling stock and facilities and to provide the plans to State upon request.
 - vii. Recipient shall be the owner of the property for facility construction projects and of vehicles purchased under this Agreement. Such ownership shall be recorded on real property deeds for facility construction projects and on vehicle titles. If Recipient contracts the operation of vehicles to a third party, then the third party may be shown as the owner or lessee with Recipient listed as the second security interest holder or lessor. In all cases, Oregon Department of Transportation, Public Transportation Division shall be shown as the first security interest holder on vehicle titles. If Recipient fails to show Oregon Department of Transportation, Public Transportation Division as the first security interest holder, Recipient shall pay any expenses to re-submit the necessary documents to Oregon Department of Transportation, Driver and Motor Vehicle Services (DMV). If a vehicle is damaged or destroyed at any time when Recipient fails to show Oregon Department of Transportation, Public Transportation Division, as the first security interest holder, Recipient shall be liable to State for any damage in an amount in the same manner as if Oregon Department of Transportation, Public Transportation Division, were shown as the first security interest holder.
 - viii. Recipient shall bear the cost of insuring assets purchased under this Agreement.
 - ix. Recipient shall file a restrictive covenant with the property deed for all construction projects and purchases of real estate, with the exception of passenger shelters, amenities, and right-of-way infrastructure improvements. The restrictive covenant will limit the use of the building and property to the stated purpose specified in the statement of work associated with this Agreement.
 - x. Recipient shall complete all purchases, including installation, and all construction of capital assets funded under this Agreement prior to the Expiration Date of this Agreement. If local circumstances prevent purchase, installation, or construction by the specified date, Recipient will notify State in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Agreement. Agreement amendment for time will be considered in extenuating circumstances.
- f. **Conflict of Interest.** Recipient's public officials shall comply with Oregon's government ethics laws, ORS 244.010 et seq., as those laws may be subsequently amended.

10. Termination

- a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:
 - i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or
 - ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
 - iv. The Project would not produce results commensurate with the further expenditure of funds; or
 - v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the

approval of State.

- b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be established by Recipient in such written notice, if:
 - i. The requisite local funding to continue the Project becomes unavailable to Recipient; or
 - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days' notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

11. General Provisions

- a. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- b. **Contribution.**
 - i. 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 State or Recipient with respect to which the 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 - ii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim), State 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 Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient 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 State on the one hand and of Recipient 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
 - iii. Except as otherwise provided in Paragraph 11.c below, with respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient 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 State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State 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 Recipient on the one hand and of State 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. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

c. Indemnification.

- i. Subject to any limitations imposed by State law and the Oregon Constitution, Recipient agrees to the following contract-related indemnification for all projects authorized under this Agreement:
- ii. Where Recipient contracts for services or performs project management for a project, Recipient shall accept all responsibility, defend lawsuits, indemnify, and hold State harmless, for all contract-related claims and suits. This includes but is not limited to all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Recipient's supervision of any individual project or contract, or Recipient's failure to comply with the terms of this Agreement.

Sections 11.b and 11.c shall survive termination of this Agreement.

d. Recovery of Misexpended Funds and Unexpended Funds.

e. Insurance. Recipient shall meet the insurance requirements within Exhibit C.

f. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

g. Responsibility for Grant Funds. Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

h. Duplicate Payment. Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.

i. No Third Party Beneficiaries. State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

j. Notices. Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact 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 subsection. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to

State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.

- k. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. 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.
- l. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- m. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- n. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- o. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- p. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- q. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes 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. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- r. **Survival.** The following provisions survive termination of this Agreement: Sections 6.c.,

8 and 11.

The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Public Transportation Division Administrator.

SIGNATURE PAGE TO FOLLOW

City of Cottage Grove/State of Oregon
Agreement No. 35058

City of Cottage Grove, by and through its

City Manager

By

[Signature]
(Legally designated representative)

Name

Richard Meyers
(printed)

Date

July 14, 2021

By

Name

(printed)

Date

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By

Recipient's Legal Counsel

Date

Recipient Contact:

Amanda Ferguson
400 East Main Street
Cottage Grove, OR 97424
1 (541) 942-3340
planner@cottagegrove.org

State Contact:

Mark Bernard
555 13th Street NE
Salem, OR 97301-4179
1 (503) 986-3283
Mark.bernard@odot.state.or.us

State of Oregon, by and through its
Department of Transportation

By

[Signature]
Karyn Criswell

Public Transportation Division Administrator

Date

7-20-21

APPROVAL RECOMMENDED

By

Mark Bernard

Date

07/02/2021

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$150,000)

N/A

Signed Agreement Return Address: ODOTPTDReporting@odot.state.or.us

EXHIBIT A

Project Description and Budget

Project Description/Statement of Work

Project Title: 5311 City of Cottage Grove 35058 <i>Enhance Lane-Douglas Connector Service.</i>				
Item #1: Bus < 30ft				
	Total	Grant Amount	Local Match	Match Type(s)
	\$103,000.00	\$82,400.00	\$20,600.00	Local
Item #1: Preventive Maintenance				
	Total	Grant Amount	Local Match	Match Type(s)
	\$4,000.00	\$3,200.00	\$800.00	Local
Sub Total	\$107,000.00	\$85,600.00	\$21,400.00	
Grand Total	\$107,000.00	\$85,600.00	\$21,400.00	

1. PROJECT DESCRIPTION

This Agreement funds a project to acquire one (1) Category D expansion bus to support the Lane Douglas Connector service between Eugene and Roseburg.

The Category D bus shall have a useful life of 5 years or 150,000 miles be <30 feet in length, contain 20 seats with two (2) ADA securement stations and use Gasoline as fuel.

This Agreement provides funding to purchase a passenger transportation vehicle to be used to provide public transportation service. Public transportation service is defined as service to the general public or special populations such as seniors and individuals with disabilities. Recipient may use the vehicle to coordinate public and human service transportation services with other agencies. Recipient will not lease the vehicle to another agency without the permission of State.

2. PROJECT DELIVERABLES, TASKS and SCHEDULE

Recipient will initiate procurement of the one (1) Category D expansion buses by September 30, 2021, with an expected date of delivery of May 31, 2022.

Recipient shall conduct the subject bus procurement following federally required procurement processes and shall provide for pre-approval by State all Requests for Quote (RFQ), Request for Proposal (RFP) and Purchase Order (PO) documentation.

Recipient, in the performance of this Project, shall document steps taken to improve accessibility of public transportation for vulnerable populations and/or historically marginalized communities. Vulnerable populations include low-income individuals or households, veterans, Tribal communities or groups, individuals of age 65 and older, individuals with disabilities, and individuals with limited English proficiency. Information on this topic shall be provided to State through reporting.

Recipient, if operating fixed route or deviated fixed route transit service, shall create and maintain current GTFS data describing the service. (This can be supported by State's GTFS contractor.) GTFS data should be updated in advance of system changes to allow trip planners to stay current.

Service providers are encouraged to serve key transit hubs and stops operated or used by for-profit/national transit providers where practical.

Purchases include all equipment and supplies necessary to put the vehicles into service.

All purchases and installations must be completed prior to the expiration date of this Agreement.

For vehicles procured using State Price Agreement contracts managed by the Oregon Department of Administrative Services, all vehicle orders will be reviewed and approved by State prior to submission to selected vendor. State is responsible for submitting vehicle orders to selected vendor. If Recipient does not purchase from the State Price Agreement contracts managed by the Oregon Department of Administrative Services, requests for proposals to procure the vehicles must be reviewed by State prior to solicitation for bids. All vehicle orders will be reviewed by State prior to submission to the selected vendor.

State will retain title to the vehicles as primary security interest holder for as long as the vehicles remains in public transportation service. Recipient must request permission from State to release title for disposal when planning to sell or transfer a vehicle which has exceeded the minimum useful standard for age or mileage, and must notify State when actual disposal has been completed. Recipient must request permission from State in advance to transfer or otherwise dispose of a vehicle prior to its meeting federal useful life standards. Recipient must request permission from State to release title for changes.

Recipient will create and maintain a vehicle maintenance plan that utilizes the original equipment manufacturer (OEM) requirements for each vehicle and meets FTA transit asset management requirements in 49 CFR 625. Recipient will follow the plan to ensure each vehicle is maintained in a state of good repair. Recipient will provide State a copy of the plan upon request.

3. PROJECT ACCOUNTING and MATCHING FUNDING

Generally accepted accounting principles and the Recipient's accounting system determine those costs that are to be accounted for as gross operating expenses. The service provider may use capital items funded under USDOT- or State-source agreements when performing services rendered through a contract or sub-agreement funded by this Agreement. Depreciation of capital items funded under USDOT- or State-source grants is not an eligible expense.

Eligible matching fund sources for this Agreement include Statewide Transportation Improvement Formula Fund, Special Transportation Formula Fund, local funds, service contract revenue, advertisement income, other earned income, cash donations, and other verifiable in-kind contributions that are integral to the project budget. Recipient may not use passenger fares as match.

4. REPORTING AND INVOICING REQUIREMENTS

All supporting documents relevant to seeking reimbursement will be attached to the reimbursement request(s) that are processed through OPTIS for the one (1) Category D bus.

Specific documents to attach to reimbursement requests made pursuant to this agreement include the following: a cover letter and copies of all invoices associated with expenses identified for reimbursement. Recipient shall submit pre-award and post-delivery certification forms documenting compliance to Altoona bus testing, Federal Motor Vehicle Safety Standards, Buy America, and Disadvantaged Business enterprise requirements.

Project Progress Reporting

Recipient shall report Project progress quarterly through the Oregon Public Transit Information System (OPTIS) Agency Periodic Report (APR) and shall include a brief status update for each deliverable. Project reporting should align with project deliverables identified in this Agreement. State will use reporting information to assess Recipient's progress by comparing task-based expenditures to progress on deliverables.

Outcomes Achieved Reporting

Recipient shall report outcomes achieved through project performance. Continued funding under this Agreement is contingent upon reporting of outcomes achieved.

On a quarterly basis, in addition to continuing required elements in the APR, Recipient shall complete a short narrative describing outcomes achieved in performance of the Project. For the final quarter of the biennium, Recipient shall report on quarterly outcomes achieved as well as summarize outcomes achieved over the duration of the Agreement. Recipient shall provide additional information on outcomes achieved when and where directed to do so by State in reporting guidance.

Expenditures

Expenditures of funds will be tracked in OPTIS. Recipient must submit reimbursement requests in OPTIS to receive reimbursement for Project expenditures.

Capital Asset Requirements

Recipient shall ensure Satisfactory Continuing Control of capital assets, including real property, purchased in whole or part under this Agreement while the capital assets are being used for public transportation purposes. Satisfactory Continuing Control means the legal assurance that a capital asset will remain available to be used for its originally-authorized purpose throughout its useful life or until disposition.

An inventory of capital assets purchased will be created by State in the OPTIS asset register. The inventory will include a description of the capital asset, the date of purchase, the date put into public transportation service, the purchase price, the source of other funds, the authorized use per this agreement, the Recipient or Sub-Recipient using the capital asset (Owner/Operator), and the condition of the asset. Recipient shall report quarterly on all capital assets through the OPTIS APR, providing information relevant to purchased capital assets, including but not limited to, asset condition, and vehicle mileage.

Recipient shall request authorization from State for the sale, transfer, or other disposition of any Capital Asset purchased under this Agreement and shall report the amount of proceeds, if any, from the sale to State. Capital asset useful life standards shall be the same as those outlined by the Federal Transit Administration.

Recipient will provide reporting information as prescribed by State on the capital asset purchases under this Agreement as long as the capital asset remain in public transportation service.

EXHIBIT B

FINANCIAL INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

Federal Program 49 U.S.C. 5311	Federal Funding Agency U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	CFDA Number 20.509 (5311)	Total Federal Funding \$85,600.00
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Administered By Public Transportation Division 555 13th Street NE Salem, OR 97301-4179
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EXHIBIT C

Insurance Requirements

Subagreement Insurance Requirements

GENERAL.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer's Liability Insurance with limits not less than \$500,000 each accident. **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury and property damage and shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Amounts below are a minimum requirement as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **\$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **\$2,000,000**.

AUTOMOBILE LIABILITY.

Automobile Liability Insurance covering Contractor's business-related automobile use covering all owned, non-owned, or hired vehicles for bodily injury and property. Amount below is a minimum requirement as determined by State:

Coverage shall be written with a combined single limit of not less than **\$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.

A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the contractor's activities to be performed under the Subagreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance or pollution liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subagreement, for a minimum of twenty-four (24) months following the later of : (i) the contractor's completion and Recipient's acceptance of all Services required under the Subagreement or, (ii) the expiration of all warranty periods provided under the Subagreement. Notwithstanding the foregoing twenty-four (24) month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the twenty-four (24) month period described above, then the contractor may request and State may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.

The contractor or its insurer must provide thirty (30) days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s). **The Recipient shall immediately notify State of any change in insurance coverage.**

CERTIFICATE(S) OF INSURANCE.

Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

Recipient Insurance Requirements

GENERAL.

Recipient shall: i) obtain at the Recipient's expense the insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under this Agreement commences, and ii) maintain the insurance in full force and at its own expense throughout the duration of this Agreement. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Coverage shall be primary and non-contributory with any other insurance and self-insurance with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insurance retention and self-insurance, if any.

INSURANCE REQUIREMENT REVIEW.

Recipient agrees to periodic review of insurance requirements by State under this Agreement and to provide updated requirements as mutually agreed upon by Recipient and State.

TYPES AND AMOUNTS.

WORKERS COMPENSATION.

All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employers liability insurance with coverage limits of not less than \$500,000 must be included.

COMMERCIAL GENERAL LIABILITY.

Commercial General Liability Insurance shall be issued on an occurrence basis covering bodily injury, death, and property damage and shall include personal and advertising injury liability, products and completed operations and contractual liability coverage. When work to be performed includes operations or activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the Contractor shall provide the Contractual Liability - Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy. Commercial General Liability Insurance shall not be less than the following amounts as determined by State:

Coverage shall be written on an occurrence basis in an amount of not less than **\$1,000,000** per occurrence.

Annual aggregate limit shall not be less than **\$2,000,000**.

AUTOMOBILE LIABILITY.

Automobile Liability Insurance covering business-related automobile use on all owned, non-owned or hired vehicles for bodily injury and property. Automobile Liability Insurance shall not be less than the following amount as determined by State:

Coverage shall be written with a combined single limit of not less than **\$1,000,000**.

This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability).

EXCESS/UMBRELLA LIABILITY.

A combination of primary and Excess/Umbrella Liability Insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED.

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must include the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees"** as an **endorsed** Additional Insured but only with respect to the Recipient's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations. Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the Recipient.

"TAIL" COVERAGE.

If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, Recipient shall maintain either "tail" coverage or continuous "claims made" liability

coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) Recipient's completion and State's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if Recipient elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Recipient may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, Recipient shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE.

Recipient or its insurer must provide 30 days' written notice to State before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE.

State shall obtain from Recipient a certificate(s) of insurance for all required insurance before the effective date of this Agreement. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

STATE ACCEPTANCE.

All insurance providers are subject to State acceptance. If requested by State, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to State's representatives responsible for verification of the insurance coverages required under this **Exhibit C**.

EXHIBIT D

Summary of Federal Requirements and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at www.transit.dot.gov. The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at www.transit.dot.gov. Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor 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 Recipient deems appropriate.

5. Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, must certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. If non-federal

funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

EXHIBIT D
SCOPE OF WORK

Operations.

This funding is for general public transportation services in South Lane County. Demand response services are provided in Cottage Grove, Creswell, Lorane, Disston, Dorena, Culp Creek, and London. Deviated fixed route service is provided in Cottage Grove. Services are provided Monday through Friday.

EXHIBIT E

SLW COMPENSATION

C.1. Basis of Compensation. The City shall compensate SLW for the services provided as described in the Scope of Services, as defined in Exhibit A. The source of funding is a grant to the City by the Public Transit Division of Oregon Department of Transportation.

The compensation to be paid for these services to SLW based on a reimbursement cost of: Contract 34527; This reimbursement shall not exceed \$239,617.00 dollars for the period of December 1, 2020 through June 30, 2023.

Contract 35001; This reimbursement shall not exceed \$392,644.00 dollars for the period of July 1, 2021 through June 30, 2023. It is also understood by both parties that the Oregon of Department of Transportation requires matching funds for this service and that SLW is responsible for providing match for this grant.

Contract 35058; This reimbursement shall not exceed \$85,600.00 dollars for the period of July 1, 2021 through June 30, 2023. It is also understood by both parties that the Oregon of Department of Transportation requires matching funds for this service and that SLW is responsible for providing match for this grant.

SLW will provide all of the information necessary for the required quarterly reports to be submitted to the State.

C.2 Payment for Services. SLW shall submit reimbursement requests to the City and to the State agency pursuant to the contract terms. The City will require their approval on reimbursement requests, made using the format approved by the State, prior to final submission to the State agency. Once issuance of the State's disbursement of the Grant Funds to the City has been received, upon satisfaction that the reimbursement request meets with the guidelines of the agreement, the City will issue payment to SLW. Payment will be released within 10 days of receipt of the payment by the State.

C.3 Changes in the Scope of Project. The City and SLW agree in accordance with the terms and conditions of this Agreement that if the scope of the project is changed materially, SLW shall request in writing, before services are provided, an appropriate change in the amount of compensation.

C.4 Suspension or Abandonment of Project. If the Project is suspended or abandoned, in whole or part for more than 45 days, SLW shall be compensated for all services performed prior to receipt of written notice from the City of such suspension or abandonment. If the Project is resumed after being suspended for more than 45 days, SLW's compensation shall be reviewed with the City and an adjustment made for the cost of restarting the project before work continues.

EXHIBIT F

INSURANCE PROVISIONS

During the term of this Agreement, SLW shall maintain in force at its own expense, each insurance noted below:

D.1 Worker's compensation. Required of contractors with one or more workers, as defined by ORS 656.027. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon worker's compensation coverage for all their subject workers.

D.2 Employer's liability. Employer's liability insurance with a combined single limit or the equivalent of not less than \$500,000 for each claim, incident or occurrence. This is to cover damages caused by error, omission, or negligent acts related to the professional services provided under this Agreement.

D.3 General liability. Broad form comprehensive general liability insurance coverage of \$1,000,000 combined single limit bodily injury and property damage.

D.4 Automobile Liability. Automobile bodily injury (\$1,000,000 per person and occurrence) and property damage (\$1,000,000 per occurrence) liability insurance covering all vehicles that will be used to provide services through this agreement.

There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30 days written notice from SLW's insurer(s) to the City.

EXHIBIT G

2021 Certifications & Assurances for City

**AGREEMENT BETWEEN CITY OF COTTAGE GROVE
AND SOUTH LANE WHEELS INC.
REGARDING THE COMMUNITY GRANT**

This agreement is made and entered into by and between the City of Cottage Grove, an Oregon Municipal Corporation hereinafter referred to as "CITY" and South Lane Wheels Inc., an Oregon Non-Profit, hereinafter referred to as "SLW", and collectively referred to as the "Parties."

RECITALS

1. The CITY administers the Federal Transit Administration Grant Section 5311 Operations Grant for SLW on behalf of the Public Transit Division, Oregon Department of Transportation.
2. The CITY administers the Federal Transit Administration Grant Section 5310: Elderly Individuals and Individuals with Disabilities Program and the State Grant Special Transportation Fund for the Elderly and People with Disabilities (STF) for SLW on behalf of Lane Transit District (LTD).
3. The CITY has awarded a Community Grant for the 2021-22 Fiscal year to SLW in the amount of five thousand dollars (\$5,000) for operation and anticipates awarding the same amount in 2022-23.
4. Where it is the desire of both parties to provide transportation services to be used by approved groups or events during the terms of this agreement.

NOW THEREFORE, as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

1. This Agreement shall be effective upon execution by both parties.
2. The CITY as awarded a Community Grant for the 2021-22 Fiscal year to SLW in the amount of five thousand dollars (\$5,000) for operation and anticipates awarding the same in 2022-23.
3. SLW will provide community hours of services to the CITY not to exceed 250 hours per fiscal year, subject to availability as determined by SLW.
4. Selection and authorization of what groups and/or events are eligible and approved to use community hours of service shall be the sole responsibility of the CITY.

5. Term: The agreement term shall be from execution of both parties of this agreement through June 30, 2022.
6. Amendment: This agreement may only be modified or extended by written amendment signed by both parties.
7. Contacts: Each party designates the following person as its representative for the purpose of administering the contract:

South Lane Wheels, Inc.
ATTN: Ruth Linoz, Exective Director
1450 Birch Avenue
Cottage Grove, OR 97424
Phone: (541) 942-0456
Email: rlinoz@southlanewheels.org

City of Cottage Grove – Public Works & Development
Attn: Faye Stewart
400 East Main Street
Cottage Grove, OR 97424
Phone: (541) 942-3349
Email: pwdirector@cottagegrove.org

IN WITNESS THEREOF, the parties have agreed to the provisions of the agreemnt as of the date written below.

CITY OF COTTAGE GROVE

SOUTH LANE WHEELS, INC

Richard Meyers, City Manager
Date: _____

Ruth Linoz, Executive Director
Date: _____