



TO: Transportation and Infrastructure Committee

FROM: Nora Gierloff, Department of Community Development Director

**BY: Christopher Andree, Sustainable Transportation Outreach Coordinator
Alison Turner, Sustainable Transportation Program Manager**

CC: Mayor Ekberg

DATE: January 26, 2023

SUBJECT: King County Metro TDM Agreement 2023-2024

ISSUE

The Transportation Demand Management (TDM) Program is asking for approval to accept passthrough funding from King County Metro. The funding source is a federal Congestion Mitigation and Air Quality Improvement Program grant. Funding will be used to continue implementation of TDM activities in Tukwila and south King County.

BACKGROUND

The City of Tukwila TDM Program was previously awarded King County passthrough funding in 2016/17, 2017/19, 2020 and 2021/22. TDM Program staff implemented outreach on behalf of King County Metro to reduce congestion and increase use of sustainable travel alternatives to driving alone.

DISCUSSION

This new funding will support the continued operation of the City of Tukwila TDM program through December 31, 2024. The TDM Program will work to increase the use of and access to transit and other sustainable modes of transportation in Tukwila and south King County. TDM services will be provided to residents, workers and businesses at employment centers, educational institutions, and multifamily housing sites. Strategies will include community outreach, community-based social marketing, motivational interviewing, education, incentive encouragement, distribution of safety gear, and installation of amenities such as bike racks.

FINANCIAL IMPACT

There will be no impact to the general fund.

RECOMMENDATION

Council is being asked to accept passthrough funding from King County Metro in the amount of \$225,000 and consider this item on the Consent Agenda at the February 13, 2023, Special Meeting.

ATTACHMENTS

Attachment A: 2023–2024 Tukwila TDM Agreement.pdf

TRANSPORTATION DEMAND MANAGEMENT AGREEMENT

BETWEEN

KING COUNTY

AND

THE CITY OF TUKWILA

THIS TRANSPORTATION DEMAND MANAGEMENT AGREEMENT (the “Agreement”) is made and entered into by and between the City of Tukwila, a Washington municipal corporation (the “City”) and King County, a political subdivision of the State of Washington (the “County”), through its Metro Transit Department (“Metro”), either of which entity may be referred to hereinafter individually as “Party” or collectively as the “Parties.”

Whereas, on August 31, 2020 the County was awarded a Congestion Mitigation and Air Quality Improvement program (“CMAQ”) grant from the Federal Transit Administration (“FTA”) (Award WA-2020-087-00) in the amount of \$6,488,278 (the “CMAQ Grant”) to help improve air quality in urban areas by financing investments in various transportation demand management (“TDM”) activities and transit access improvements that improve traffic flow and support and encourage alternatives to driving alone; and

Whereas, the CMAQ Grant will support multi-modal transportation project planning and demonstration programs to reduce drive-alone vehicle travel and increase high occupancy vehicle use to help reduce energy consumption, air pollution and traffic congestion. Limited research and development activities are allowed under the CMAQ Grant but cannot be the primary purpose of the grant-funded work. The County intends to use up to \$225,000.00 of the CMAQ Grant funds as a sub-award to the City for work performed in accordance with the terms and conditions of this Agreement and not for research and development purposes as defined by 2 CFR 200.87 Research and Development (R&D):

R&D means all research activities, both basic and applied, and all development activities that are performed by non-Federal entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

“Research” is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. “Development” is the systematic use of knowledge and understanding gained from research directed

toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

There will be no indirect costs charged to this award; and

Whereas, the City, whose Unique Entity Identifier (UEI) number is UEQNMC26C8T3, and the County provide TDM programs to commuters, students and residents directly or through employers, schools and/or property managers; and

Whereas, such TDM programs may include incentives, outreach, promotions, website development and maintenance, materials and services that facilitate travel by public transportation, shared rides, bicycling, walking and teleworking; and

Whereas, the City's TDM strategies, including activities conducted through South King County Trips (SKC Trips), have been effective in reducing drive-alone trips in Tukwila and South King County; and

Whereas, the City and County have continued to adapt and improve on these TDM strategies by targeting new market segments and adding new travel options for Tukwila area residents and workers;

NOW THEREFORE, in consideration of the terms, conditions and covenants contained herein, the Parties agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish a mutually beneficial arrangement between the City and the County that will help both Parties realize their respective TDM objectives. This Agreement also creates a mechanism to allow the County to reimburse the City for actual, direct costs incurred to perform the tasks identified in the Scope of Work ("SOW"), as set forth in Exhibit A, which is attached hereto and incorporated herein by this reference. In consideration of the City's performance of the tasks and responsibilities set forth in the SOW, the County will reimburse the City with available CMAQ Grant funds up to the capped reimbursement amount specified at Section 4 of this Agreement.

2. AGREEMENT TERM AND MODIFICATIONS

Upon signature by both Parties, this Agreement shall be effective as of January 1, 2023, and unless earlier terminated, shall remain in effect through December 31, 2024. The period of performance is from January 1, 2023 through December 31, 2024. If mutually agreed, the Agreement and period of performance may be extended by written amendment for up to an additional two (2) years. Exhibits and attachments may be modified at that time as may be mutually agreed by the Parties. Any extension shall be made in writing in accordance with

Section 14 of the Agreement. The County will extend this Agreement only on the condition that all City accounts with the County are current.

3. CITY'S RESPONSIBILITIES

The City shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work identified with particularity in the SOW at Exhibit A to this Agreement. In addition to required tasks, applicable timelines and budget are also identified in Exhibit A.

4. COUNTY'S RESPONSIBILITIES

The County will reimburse the City for actual, direct costs incurred to satisfactorily perform the tasks and implement the TDM tasks as provided for in the SOW at Exhibit A to this Agreement. In no event shall the total reimbursement made by the County to the City for work performed pursuant to this Agreement exceed \$225,000.00 (the "Reimbursement Cap").

5. INVOICE AND PAYMENT PROCEDURES

The City shall submit completed invoice(s) to the County detailing direct costs, quarterly activities, outcomes and metrics within thirty (30) calendar days following each quarter's end. The County shall pay the City within thirty (30) calendar days after the County has received completed invoices. Indirect costs are not eligible for reimbursement under this Agreement.

In no event will the total County payments to the City exceed the Reimbursement Cap specified at Section 4 of this Agreement without the Parties mutually agreeing to amend this Agreement in accordance with Section 14 of the Agreement.

6. FEDERAL REQUIREMENTS

A. This Agreement is subject to a financial assistance agreement between the County and the FTA. The City shall comply with all applicable federal laws, regulations, policies, procedures and directives, including but not limited to the following, which are attached hereto or incorporated herein by this reference:

1. 2 CFR Part 200.300 through 2 CFR Part 345, contained in Subpart D, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The text is available at: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/xml/CFR-2015-title2-vol1.xml#seqnum200.300>
2. 2 CFR Part 200.400 through 2 CFR Part 200.475, contained in Subpart E, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal

Awards. The text is available at: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/xml/CFR-2015-title2-vol1.xml#seqnum400.1>

3. The requirements and obligations imposed on a “Recipient” under the applicable provisions of the FTA Master Agreement. The Master Agreement text is available at: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2020>
4. The requirements of FTA Circular 5010.1E Project Administration and Management. Circular 5010.1E text is available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>
5. If the City contracts with a third party to provide all or a portion of the services described in this Agreement, then the City shall comply with FTA Circular 4220.1F. Circular 4220.1F text is available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>
6. Applicable FTA Third Party Contract Provisions – Standard Terms and Conditions. The text is attached as Exhibit B which, together with Attachments A through E, is incorporated herein by this reference.

B. New federal laws, regulations, policies, procedures and directives may be adopted after the date this Agreement is established and may apply to this Agreement. The City agrees to accept and comply with all applicable laws, regulations, policies, procedures and directives as may be amended or promulgated from time to time during the term of this Agreement.

C. The City shall not perform any act, fail to perform any act, or refuse to comply with any requests by the County which would cause the County to be in violation of any federal law or FTA requirement. The City’s failure to so comply with this Section shall constitute a material breach of this Agreement.

D. The County and City acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the County, City, or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant thereto) pertaining to any matter resulting from this Agreement.

E. The City agrees to extend application of the federal requirements to its subrecipients or contractors, and their respective subcontractors, by including this Section and the related exhibits and attachments in each contract and subcontract the City awards under this Agreement financed

in whole or in part with Federal assistance provided by FTA. It is further agreed that this Section shall not be modified, except to change the names of the parties to reflect the subrecipient or contractor which will be subject to its provisions.

F. The City acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the work under this Agreement. Upon execution of this Agreement, the City certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable, the City further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the City to the extent the Federal Government deems appropriate.

1. The City also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5323(l)(1) on the City, to the extent the Federal Government deems appropriate.
2. The City agrees to include the language in Section F and Section F(1) above in each contract and subcontract it awards under this Agreement financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the contractor or subcontractor who will be subject to the provisions.

G. Certification Regarding Debarment, Suspension and Other Responsibility Matters

This Contract is a covered transaction for purposes of 2 CFR part 1200. As such, the City is required to verify that none of the City, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The City is required to comply with 2 CFR 1200, Subpart C and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into. By signing and submitting this Contract, the City certifies as follows:

The certification in this clause is a material representation of fact relied upon by King County. If it is later determined that the City knowingly rendered an erroneous certification, in addition to remedies available to King County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The City agrees to comply with the requirements of 2 CFR 1200, Subpart C while this offer is valid and throughout the period of

any work or service that may arise from this Contract. The City further agrees to include a provision requiring such compliance in its lower tier covered transactions.

H. Because the County is sub-granting \$25,000 or more of pass-through FTA funds, the County must comply with the reporting requirements of The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act – P.L.109-282., as amended by section 6202(a) of P.L. 110-252). The FFATA prescribes specific data to be reported and the County hereby agrees to report sub-award data into the website www.USASpending.gov via www.ftrs.gov. The City agrees to provide the County with the information required in this paragraph within thirty (30) calendar days from the execution date of this Agreement:

- a. Location of the City (physical address(es), including congressional district(s)); and
- b. Place of performance (physical address(es), including congressional district(s)); and
- c. Unique identifier of the City and its parent (DUNS Number, a unique nine-digit number issued by Dun & Bradstreet (D&B) to a single business entity assigned to each business location in the D&B database having a unique, separate, and distinct operation for the purpose of identifying it); and
- d. Total compensation and names of top five (5) executives IF BOTH of the following apply:
 - i. More than eighty percent (80%) of the City’s gross annual revenues are from the federal government, and those revenues are greater than \$25,000,000 annually, and
 - ii. Compensation information is not already available through reporting to the Securities and Exchange Commission.

I. The City agrees to provide the County with its Federal Central Contractor Registration number within thirty (30) calendar days of the execution of this Agreement. If it has not already registered, the City agrees to register with the Federal Central Contractor Registration at <https://sam.gov/content/home> and provide the County with the registration number within thirty (30) calendar days from the execution date of this Agreement. *Exceptions may be made on a case-by-case basis upon approval by the County.*

J. The City agrees to provide the County with a copy of its Title VI implementation plan in accordance with FTA Circular 4702.1B, Chapter III, Section 11. If the City does not have a Title VI plan, the County and the City agree to work together to sufficiently document the City’s adoption of the County’s Title VI plan, or in the alternative, the City’s implementation of its own Title VI plan.

K. In accordance with FTA Circular 4702.1B, Chapter II, Section 2, and by signing this Agreement, the City certifies that it will comply with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, U.S. Department of Justice “Guidelines for enforcement of Title

VI, Civil Rights Act of 1964, 28 CFR §50.3, U.S DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21.

7. DISPUTE RESOLUTION PROCESS

7.1 Designated Dispute Resolution Representatives. The following individuals are the Designated Representatives for the purpose of resolving any disputes that may arise under this Agreement:

For the County	For the City
Carol Cooper Mobility Innovations Managing Director King County Metro Transit 201 South Jackson Street, M/S KSC-TR-0411 Seattle, WA 98104 (206) 477-5871 carol.cooper @kingcounty.gov	Vicki Carlsen Finance Director City of Tukwila 6200 Southcenter Blvd. Tukwila, WA 98188 (206) 433-1839 Vicky.Carlsen@tukwilawa.gov

7.2 The County representative and the City representative shall confer to resolve disputes that arise under this Agreement as requested by either Party. The designated representatives shall use their best efforts and exercise good faith to resolve such disputes.

7.3 In the event the Designated Representatives are unable to resolve the dispute, the appropriate City Administrator or her/his designee and the General Manager of King County Metro Transit or her/his designee shall confer and exercise good faith to resolve the dispute.

7.4 In the event the City Administrator and the General Manager of King County Metro Transit are unable to resolve the dispute, the Parties may, if mutually agreed in writing, submit the matter to non-binding mediation. The Parties shall then seek to mutually agree upon the mediation process, who shall serve as the mediator, and the time frame the Parties are willing to discuss the disputed issue(s).

7.5 If the Parties cannot mutually agree as to the appropriateness of mediation, the mediation process, who shall serve as mediator, or the mediation is not successful, then either Party may institute a legal action in the King County Superior Court, situated in Seattle, Washington, unless another venue is mutually agreed to in writing.

7.6 The Parties agree that they shall have no right to seek relief in a court of law until and unless each of the above procedural steps has been exhausted.

8. TERMINATION

8.1 Termination for Convenience. Either Party may terminate this Agreement upon thirty (30) days' written notice to the other Party. In the event of termination of this Agreement, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

8.2 Termination for Cause. If either Party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to initiate a correction of the violation or failure within fifteen (15) calendar days. If failure or violation is not corrected within the mutually agreed upon time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.

8.3 Termination for Non-Appropriation or Loss of Grant Funding. This Agreement is contingent upon federal grant funding and local legislative appropriations. As such, in addition to termination for default or convenience, the County may terminate this Agreement for non-appropriation or loss of grant funding by giving not less than thirty (30) calendar days' written notice thereof to the City.

9. LEGAL RELATIONS

9.1 No Third Party Beneficiaries. It is understood that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity.

9.2 No Partnership or Joint Venture. No joint venture, agent-principal relationship or partnership is formed as a result of this Agreement.

9.3 Independent Capacity. The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

9.4 Jurisdiction and Venue. The King County Superior Court, situated in Seattle, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

9.5 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, both Parties, and the language in all parts of this Agreement shall, in

all cases, be construed according to its fair meaning and not strictly for or against either Party.

9.6 Assignment. Neither this Agreement, nor any interest herein, may be assigned by either Party without the prior written consent of the other Party.

9.7 Compliance with Applicable Laws. The Parties agree to comply with all applicable federal, state, and local laws, rules, and regulations, including those pertaining to nondiscrimination, and agree to require the same of any subcontractors providing services or performing any work using funds provided under this Agreement.

10. **FORCE MAJEURE**

Either Party to this Agreement shall be excused from performance of its responsibilities and obligations under this Agreement, and shall not be liable for damages due to failure to perform, during the time and to the extent that it is prevented from performing by a cause directly or indirectly beyond its control, including, but not limited to: late delivery or nonperformance by vendors of materials or supplies; any incidence of fire, flood, snow, earthquake, or acts of nature; strikes or labor actions; accidents, riots, insurrection, terrorism, or acts of war; order of any court or civil authority; commandeering material, products, or facilities by the federal, state or local government; or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party to this Agreement, and provided that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

11. **INDEMNIFICATION**

Both Parties shall protect, defend, indemnify and save harmless each other, their officers, employees, and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from either Party's negligent acts or omissions in performing their obligations under this Agreement. The Parties agree that they are fully responsible for the acts and omissions of their own contractors, subcontractors, employees, and agents, acting within the scope of their employment as such, as they are for the acts and omissions of its own employees and agents. The Parties agree that their obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of their employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of both Parties immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the Parties only, and only to the extent necessary to provide the Parties, their officers, employees, and agents with a full and complete indemnity of claims made by the Parties employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement.

12. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

13. SEVERABILITY

If any provision of this Agreement or any provision of any exhibit or attachment incorporated into the Agreement by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

14. CHANGES AND MODIFICATIONS

This Agreement may be changed, modified, or amended only by written agreement executed by authorized representatives of both Parties.

15. REPRESENTATION ON AUTHORITY OF SIGNATORIES

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

16. ALL TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

17. CONTRACT MANAGEMENT

The contact persons for the management of this Agreement (the “Contract Managers”) are identified and their contact information is provided herein and may be updated by either Party for their agency only and shall be submitted in writing or electronic mail to the other Party. Any update to the Contract Managers’ information shall state the effective date of said update.

Contract Manager	King County	City of Tukwila
Contact Name	Kristine Edens	Alison Turner

Title	Transportation Demand Management Lead (TDM Lead) King County Metro Market Innovation Section	Sustainable Transportation Program Manager City of Tukwila
Address	201 S. Jackson St. M/S KSC-TR-0411 Seattle, WA 98104	6300 Southcenter Blvd #100 Tukwila, WA 98188
Telephone	(206) 263-9701	206-433-7142
E-Mail	Kredens@kingcounty.gov	Alison.turner@tukwilawa.gov

The City shall conduct project administration and management to facilitate the effective and efficient progress and completion of the activities identified in Exhibit A (SOW) for the 2023-2024 period of performance. The City agrees to provide quarterly progress reports and invoices within thirty (30) days from the end of the quarter and any additional grant reporting requirements as requested by the County. The progress reports and invoices shall follow templates provided by the County within 30 days of agreement execution. Additionally, the City shall attend a quarterly TDM Regional Collaboration Meeting facilitated by the County with regional TDM partners.

18. RECORDS RETENTION AND AUDIT

- 18.1 During the term of this Agreement and for a period of not less than six (6) years from the expiration or earlier termination of the Agreement, or the date of final payment by the County, whichever is later, the City shall keep available for inspection and audit by the County and the federal government the records pertaining to the Agreement and accounting therefore. Copies of all records, documents or other data pertaining to performance of the Agreement will be furnished by the City upon request. If any litigation, claim or audit is commenced related to performance of the Agreement, the records along with supporting documentation shall be retained until all litigation, claims and/or audit findings have been resolved even though such litigation, claim or audit continues past the six-year retention period.
- 18.2 All Agreement costs must be documented including copies of invoices and time sheets showing hours worked and rates, or financial system expense reports documenting these items.
- 18.3 The County, the U.S. Department of Transportation, the FTA, the State Auditor, and the Inspector General and any of their duly authorized representatives shall have full access to and right to examine, during normal business hours, all City records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and other matters covered by this Agreement.

18.4 Unless already published and available through the online, accessible audit reporting database at the federal audit clearinghouse, the City shall submit to the County a copy of the City's A-133 Single Audit report when requested by the County for subrecipient monitoring purposes.

19. EXECUTION OF AGREEMENT

This Agreement may be executed in multiple counterparts, any one of which shall be regarded for all purposes as an original.

IN WITNESS THEREOF the Parties hereto have executed this Agreement by duly authorized representatives on the dates shown below their respective signatures.

KING COUNTY

CITY OF TUKWILA

By: _____
Terry White
General Manager
King County Metro

By: _____
Allan Ekberg
Mayor
City of Tukwila

Date: _____

Date: _____

EXHIBIT A

SCOPE OF WORK

Transportation Demand Management Agreement with King County Metro
Period of Performance January 1, 2023 – December 31, 2024

Description

Funding will support the continued operation of the City of Tukwila transportation demand management program from January 2023 through December 2024. The City will provide TDM services for travelers with an origin or destination in the cities of Tukwila, Burien, Des Moines, Kent, Renton, and SeaTac through an extension of their Regional Mobility Grant (RMG) program and the City's TDM program.

The program scope of work described below includes cost estimates for the summarized activities. The program's efforts toward investing TDM resources where needs are greatest include programming and services to residents, workers, and students, especially newcomers to South King County. The Program will promote sustainable transportation alternatives to driving alone to improve access to mobility and reduce traffic congestion. The Program will support transportation users by identifying solutions to barriers and addressing the specific needs of community members. Strategies will include community outreach, community-based social marketing, motivational interviewing, education, incentive encouragement, distribution of safety gear, and installation of amenities such as bike racks. Programming will help build trust in public transportation by demystifying the system.

Background

Continuing the successful partnership between the City of Tukwila and King County Metro, The City of Tukwila's TDM Program will build partnerships and conduct community outreach at activity centers in Tukwila and South King County including:

- Tukwila Village and Tukwila International Boulevard District;
- The Southcenter Mall area;
- Sea-Tac Airport;
- Educational institutions such as the Tukwila School District, Renton Technical College, Highline College, and Green River College; and
- Multifamily housing developments.

The TDM Program will work in partnership with transit agencies, nonprofits, employers, and community organizations to reach priority populations through trusted channels. Priority populations include historically marginalized communities; Black, indigenous, and people of color; people with lower incomes; immigrants and refugees; English language learners; youth; and seniors. There will be a focus on partnering with agencies that support immigrants and refugees. Additionally, the Program will prioritize outreach to individuals who are likely to try a new mode such as people who have recently moved, are starting a new job, or are going to school.

As described below, the Program will:

- Promote sustainable transportation options including transit, active transportation, telework, carpool, vanpool, and first/last mile or innovative mobility services

- Provide rewards and incentives to remove barriers to and encourage use of sustainable transportation options (*note: the Program will use alternative sources of funding to purchase incentives such as ORCA cards*)
- Work to improve people’s perceptions of these options
- Inform residents, workers and students of transit service news and engagement opportunities, such as RapidRide I line outreach, upcoming Federal Way Link extension, first/last-mile and flexible services, and work to increase ORCA card usage
- Explore options for siting amenities such as bike lockers, bike racks, bike repair stations, wayfinding signage, etc.
- Educate employers on commute benefit strategies and programs

Work Plan with Cost Breakdown

Funds will be used in 2023 and 2024 under the City of Tukwila TDM program for the following activities.

Deliverables

1. Develop marketing materials such as website, surveys, flyers, and newsletters.
2. Outreach to community groups, individuals, employers, property managers, and other targeted groups of corridor users to promote use of sustainable transportation options.
3. Administration of rewards program.
4. Provide consultations and/or transportation trainings to interested organizations and employers.
5. Analysis of rewards program survey data to calculate VT and VMT reduced.
6. Submit progress reports, metrics, and invoices that include labor hours and receipts for reimbursable expenses, at least quarterly.

City of Tukwila 2023–2024 TDM Program Budget

The City of Tukwila TDM Program budget for 2023 to 2024 is laid out below. Funding sources include the state TDM Allocation (CTR Program), state Regional Mobility Grant (RMG), and a federal Congestion Mitigation and Air Quality Improvement Program Grant (CMAQ). In addition, the City provides work space, phone, and other resources for TDM staff.

Program Areas	2023–2024 Budget	CTR	RMG	CMAQ	KCM
CTR Program	\$74,204	100.0%	0.0%	0.0%	0.0%
Program administration	\$261,000	0.0%	15.3%	59.8%	24.9%
Outreach and education	\$231,000	0.0%	24.2%	64.9%	10.8%
Communications and marketing	\$175,000	0.0%	28.6%	28.6%	42.9%
Partnerships and professional services	\$129,000	0.0%	42.6%	49.6%	7.8%
Incentives	\$75,000	0.0%	100.0%	0.0%	0.0%
Small grant program	\$140,000	0.0%	42.9%	21.4%	35.7%
Total Program Budget	\$1,085,204	\$74,204	\$336,000	\$450,000	\$225,000

EXHIBIT B

FEDERAL TRANSIT ADMINISTRATION (FTA) THIRD PARTY CONTRACT REQUIREMENTS

This Contract will be partially funded by the Federal Transit Administration (FTA). The following provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation. All contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, as revised, dated March 18, 2013, as are the requirements of the Master Agreement between King County (“the County”) and the U.S. Department of Transportation, including all “flow down” provisions to third party Contractors and Subcontractors are hereby incorporated by reference. Unless stated otherwise, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

1-1 Disadvantaged Business Enterprise (DBE) Participation

- A. Nondiscrimination 49 CFR part 26. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of United States Department of Transportation assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the County deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).
- B. DBE Program. The DBE requirements of 49 CFR Part 26 apply to this Contract. King County has determined that no DBE goal will be established for this Contract. However, the County requires that the Contractor report any actual DBE participation on this Contract to enable the County to accurately monitor DBE program compliance.
- C. Efforts to Increase DBE Participation. Even though this Contract has no DBE goal, the County still encourages Contractors to pursue opportunities for DBE participation. To that end, Contractors are encouraged to:
 - 1. Advertise opportunities for subcontractors and suppliers (“subcontractors”) in a manner reasonably designed to provide DBEs capable of performing the work with timely notice of such opportunities. All advertisements should include a provision encouraging participation by DBE firms and may be done through general advertisements (e.g., newspapers, journals, etc.) or by soliciting proposals directly from DBEs.
 - 2. Effectively use the services of available minority/women community organizations, Contractors’ groups, local, state, and Federal minority/women business assistance offices; Disadvantaged Business Enterprise and other organizations as allowed on a

case-by-case basis to provide assistance in the recruitment and placement of DBEs and other small businesses.

5. Establish delivery schedules, where requirements of the contract allow and encourage participation by DBEs and other small businesses.
 6. Achieve DBE attainment through joint ventures.
 7. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) DBE and other small businesses that have the capability to perform the Work of the Contract.
 8. Select portions of the Work to be performed by Subcontractors to increase the likelihood that DBE and other small businesses' goals will be achieved.
 9. Provide interested Subcontractors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 10. Negotiate in good faith with interested DBEs and other small businesses.
 11. Avoid rejecting DBEs and other small businesses as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to obtain DBE and other small business participation.
 12. Make efforts to assist interested DBEs and other small businesses in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
 13. Make efforts to assist interested DBEs and other small businesses in obtaining necessary equipment, supplies, materials, or related assistance or services.
- D. DBE Listing. A current list of DBE firms accepted as certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) is available from that office at (360) 753-9693. For purposes of this Contract, a DBE firm must be certified by OMWBE as of the date of contract award.
- E. Procedure Applicable when DBEs Are Utilized. Concurrent with the use of any DBE subcontractor or supplier the Contractor shall provide notice of such use in writing to the King County Office of Business Development and Contract Compliance (BDCC). Upon receipt of said notice, BDCC shall provide the Contractor with the applicable procedures for counting DBE participation. Assistance with this Section is available from BDCC at (206) 263-9717. Notice referenced herein should be delivered to the following address:

King County Department of Finance

Office of Business Relations and Economic Development
401 Fifth Avenue, Suite 350
MS CNK-ES-0350
Seattle, WA 98104
Phone: (206) 263-9717
Fax: (206) 205-0840

- F. The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the contractor's receipt of payment for that work from the County. In addition, the contractor may not hold retainage from its subcontractors, but may require the purchase of a retainage bond by the subcontractor.
- G. The Contractor must promptly notify the County whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the County.

1-2 Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

1-3 No Federal Government Obligations to Third Parties

The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

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

1-4 Civil Rights

The following requirements shall apply to this Contract and all third-party contracts:

(A) Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, U.S. Department of Justice "Guidelines for enforcement of Title VI, Civil Rights Act of 1964, 28 CFR §50.3, U.S DOT regulations, "Nondiscrimination in Federally-Assisted

Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR part 21, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any person on the basis of race, color, religion, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(B) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:

(1) Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §793 and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(2) Sex. In accordance with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. Sections 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 25, and FTA Circular 4220.1F Chapter IV, Section 2(a)(5)(b), the Contractor agrees to refrain from discrimination against present and prospective employees on the basis of their sex. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) Age. In accordance with The “Age Discrimination Act of 1974, as amended, 42 U.S.C. Sections 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 CFR Part 90, and section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(4) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 *et seq.*, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.'

(C) Information and Reports. The Contractor shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the FTA to be pertinent to ascertain compliance with such regulations, orders and instructions. The Contractor shall maintain all required records for at least three (3) years after the County makes final payment and all other pending matters are closed. Where any information is required and it is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the County or the FTA, as appropriate, and shall set forth efforts made to obtain the information.

(D) Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the County shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or,
2. Cancellation, termination or suspension of the Contract, in whole or in part.

(E) Incorporation of Provisions. The Contractor shall include the provisions of paragraphs A through E of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the County or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that, in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

1-5 Labor Provisions – Non-Construction Contracts (For Contracts in excess of \$100,000)

The Contractor agrees to comply, and assures the compliance by each subcontractor or subconsultant at any tier with any applicable employee protection requirements for non-construction employees of Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. Sections 3701-3702 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5. These include but are not limited to the following:

A. Overtime Requirements

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week. (29 CFR § 5.5(b)(1))

B. Violation: Liability for Unpaid Wages: Liquidated Damages

In the event of any violation of the clause set forth in paragraph A of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of paragraph A of this section in the sum of ten (\$10) dollars for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty (40) hours without payment of the overtime wages required by paragraph A of this section. (29 CFR § 5.5(b)(2))

C. Withholding for Unpaid Wages and Liquidated Damages

The Department of Transportation or the County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph B of this section. (29 CFR § 5.5(b)(3))

D. Payrolls and Basic Records

The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying or transcription by authorized representatives of the Department of Transportation and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job. (29 CFR § 5.5(c))

E. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through E of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through E of this section. (29 CFR § 5.5(b)(4)). The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the contractor's receipt of payment for that work from the County. In addition, the contractor may not hold retainage from its subcontractors, but may require the purchase of a retainage bond by the subcontractor.

1-6 Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

1-7 Audit and Inspection of Records

Access to Records. The following access to records requirements apply to this Contract:

A. Where the FTA Recipient or a subgrantee of a FTA Recipient ("Purchaser") is the County, the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions in accordance with 2 C.F.R. 200.336. Contractor also agrees to provide the County and the FTA Administrator or his or her authorized representatives including any PMO Contractor, pursuant to 49 C.F.R. 633.17, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

B. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient, the Contractor agrees to provide the Purchaser, the FTA Administrator or his or her authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified

acquisition threshold currently set at \$100,000 (49 CFR Part 633.5).

C. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 2 C.F.R. 200.336, the Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

D. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

E. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

F. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

G. FTA does not require the inclusion of these requirements in subcontracts.

1-8 FTA Protest Procedures

Bidders are hereby notified that if this Contract is funded in whole or in part by the Federal Department of Transportation, the FTA may entertain a protest that alleges that the County failed to have or follow written protest procedures. Bidders must file a protest with the FTA not later than five (5) working days after the County renders a final decision or five (5) working days after the Bidder knows or has reason to know that the County has failed to render a final decision. The protesting party must notify the County if it has filed a protest with the FTA. After five (5) days, the County will confirm with FTA that FTA has not received a protest. Protests to the FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated).

The County will not award a contract for five (5) working days following its decision on a Bid protest or while a protest to the FTA is pending unless the County determines that: (1) the items to be procured are urgently required; (2) delivery of performance will be unduly delayed by failure to make the award promptly; or (3) failure to make prompt award will otherwise cause undue harm to the County or the Federal Government.

1-9 Privacy

Should the Contractor, or any of its subcontractors, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, the recipient and any contractors, third party contractors, subcontractors and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this contract will make this contract subject to termination.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract, which involve the design, development, operation, or maintenance of any system of records on individuals subject to the Act.

1-10 Certification Regarding Debarment, Suspension and Other Responsibility Matters

Pursuant to Executive Order 12549 and 12689, "Debarment and Suspension," 31 USC § 6101 note and federal regulations in 2 CFR Part 180.300 and 2 CFR Part 1200, entities and individuals who are debarred or suspended by the federal government are excluded from obtaining federal assistance funds under this contract. To assure that such entities and individuals are not involved as participants on this FTA-financed contract, if the contract exceeds \$25,000, each Bidder shall complete and submit, as part of its Bid, the certification contained in Attachment A for itself, its principals and its subcontractor(s) for any subcontract in excess of \$25,000. The inability of a Bidder to provide a certification in Attachment A will not necessarily result in denial of consideration for contract award. A Bidder that is unable to provide a certification must submit a complete explanation attached to the certification form. Failure to submit a certification or explanation shall disqualify the Bidder from participation under this Bid. The County, in conjunction with FTA, will consider the certification or explanation in determining contract award. No contract will be awarded to a potential third-party contractor submitting a conditioned debarment or suspension certification, unless approved by the FTA.

The certification is a material representation of fact upon which reliance is placed in determination of award of contract. If at any time the Bidder or Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, it shall immediately provide written notice to the County. If it is later determined that the Bidder knowingly rendered an erroneous certification or failed to notify the County immediately of circumstances that made the original certification no longer valid, the County may disqualify the Bidder. If it is later determined that the Contractor knowingly rendered an erroneous certification or failed to notify the County immediately of circumstances which made the original certification no longer valid, the County may terminate the contract, in addition to other remedies available including FTA suspension and/or debarment.

1-11 Subcontractors' Certification Regarding Debarment, Suspension or Ineligibility

By submitting a Bid for this Contract, the Bidder agrees that should it be awarded the Contract, it shall not knowingly enter into any subcontract exceeding \$25,000 with an entity or person who is debarred, suspended, or who has been declared ineligible from obtaining federal assistance funds; and shall require each subcontractor to complete the certification provided in Attachment B.

Each subcontract, regardless of tier, shall contain a provision that the subcontractor shall not knowingly enter into any lower tier subcontract with a person or entity who is debarred, suspended or declared ineligible from obtaining federal assistance funds, and a provision requiring each lower-tiered subcontractor to provide the certification set forth in Attachment B.

The Contractor shall require each subcontractor, regardless of tier, to immediately provide written notice to the Contractor if at any time the subcontractor learns that its, or a lower-tier certification was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor may rely upon the certifications of the subcontractors unless it knows that a certification is erroneous. The Contractor's knowledge and information regarding any subcontractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business.

1-12 Disclosure of Lobbying Activities

Bids in excess of \$100,000 require Attachment C, "Certification Regarding Lobbying," and Attachment D, "Disclosure of Lobbying Activities" (if appropriate), be completed and submitted to the County with the proposal, in accordance with the instructions contained in Attachment F to this Agreement, as required by 49 CFR Part 20, "New Restrictions on Lobbying."

The Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by the Byrd Anti-Lobbying Amendment, 31 USC § 1352. The Contractor shall disclose the name of any registrant under the Lobbying Disclosure Act of 1995, codified at 2 USC § 1601 *et seq.*, who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC § 1352. Such disclosures are to be forwarded to the County.

The Contractor will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

1-13 False or Fraudulent Statements or Claims

(A) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this contract. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any

statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(B) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(C) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1-14 Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321 *et seq.*

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

1-15 Environmental Requirements

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

A. Environmental Protection

The Contractor agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321, *et seq.*, consistent with Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” 42 USC § 4321 note; FTA statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 42 USC § 4321 *et seq.* and 40 CFR Part 1500 *et seq.*; and joint FHWA/FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622.

B. Air Quality

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, *et seq.* The Contractor agrees to report each violation to the County and understands and agrees that the County will, in

turn, report each violation as required to assure notification to FTA and the appropriate U.S. Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to include this clause in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

C. Clean Water

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251 *et seq.* The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 USC §§ 300h *et seq.* The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

D. Use of Public Lands

The Contractor agrees that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by the federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used for work performed under this contract unless the FTA makes the specific findings required by 49 USC § 303.

E. Historic Preservation

The Contractor agrees to assist the Federal Government in complying with section 106 of the National Historic Preservation Act, as amended, 16 USC § 470f, Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 USC § 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 USC §§ 469a-1 *et seq.* involving historic and archaeological preservation as follows:

1. The Contractor agrees to consult with the State Historic Preservation Officer about investigations to identify properties and resources listed in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, in accordance with Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 CFR Part 800, and notifying FTA of those properties so affected.
2. The Contractor agrees to comply with all federal requirements to avoid or mitigate adverse effects on those historic properties.

F. Mitigation of Adverse Environmental Effects

The Contractor agrees that if the Project should cause adverse environmental effects, the Contractor will take all reasonable steps to minimize those effects in accordance with 49 USC § 5324(b), and all other applicable federal laws and regulations, specifically, the procedures of 23 CFR Part 771 and 49 CFR Part 622.

1-16 Termination Provisions Required

All contracts and subcontracts in excess of \$10,000 shall contain contractual provisions or conditions that allow for termination for cause and convenience by the County including the manner by which it will be effected and the basis for settlement.

(Required by FTA Circular 4220.1F, Page IV-13).

1-17 Breach Provisions Required

All contracts in excess of \$100,000 shall contain contractual provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where the Contractor violates or breaches the terms of this Contract, including sanctions and penalties as may be appropriate. The Contractor agrees to include this provisional requirement in all subcontracts in excess of \$100,000 awarded under this Contract.

(Required by FTA Circular 4220.1F, Page IV-13).

1-18 Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

1-19 Sensitive Security Information

The Contractor shall protect, and take measures to ensure that its subcontractors at each tier, protect “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. 40119 (b) and implementing DOT regulations, “Protection of Sensitive Security Information,” 49 CFR Part 15, and with 49 U.S.C. § 114 (r) and implementing Department of Homeland Security Regulations, “Protection of Sensitive Security Information,” 49 CFR Part 1520.

1-20 Seatbelt Use

Contractor shall adopt and promote on-the-job seatbelt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles in compliance with Federal Executive Order No. 13043, “Increasing Seatbelt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note. This provision shall be included in each third party subcontract involving the work performed under this contract.

1-21 Texting While Driving and Distracted Driving

Contractor shall promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving consistent with Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, and DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009. This provision shall be included in each third party subcontract involving this project.

1-22 Use of \$1 Coins

The Contractor and the County agree to comply with Section 104 of the Presidential \$1 Coin Act of 2005, 31 U.S.C. Section 5312(p), FTA assisted property that requires the use of coins or currency in public transportation service or supporting service must be fully capable of accepting and dispensing \$1 coins.

ATTACHMENT A

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS**

Federal Transit Administration (FTA)

The prospective Primary Participant (potential contractor for a major third-party contract),
_____ certifies to the best of its knowledge and belief, that it and its
principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three (3) year period preceding this Bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three (3) year period preceding this Bid had one or more public transactions (federal, state or local) terminated for cause or default.

[If the primary participant (applicant for an FTA grant, or cooperative agreement or potential third-party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.]

THE PRIMARY PARTICIPANT (POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3801, *ET SEQ.*, ARE APPLICABLE THERETO.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT B

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER-TIER COVERED
TRANSACTIONS**

(This Attachment may be completed and submitted to the Buyer after award of Contract.)

The Lower-Tier Participant (potential sub-grantee or sub-recipient under a Federal Transit Administration (FTA) project, potential third-party contractor, or potential subcontractor under a major third-party contract), _____ certifies, by submission of this Bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

The Lower-Tier Participant will not knowingly enter into any lower-tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective Lower-Tier Participant agrees by submitting this proposal that it will include this requirement in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

If the Lower-Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third-party contractor, or potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Bid.

THE LOWER-TIER PARTICIPANT (POTENTIAL SUB-GRANTEE OR SUB-AGREEMENT UNDER AN FTA PROJECT, POTENTIAL THIRD-PARTY CONTRACTOR, OR POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD-PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTAND THAT THE PROVISIONS OF 31 USC §§ 3801, *ET SEQ.*, ARE APPLICABLE THERETO.

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT C

CERTIFICATE OF LOBBYING ACTIVITIES

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

- (1) No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee or a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to the contract administrator.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

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

Name of Firm: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT D

**DISCLOSURE FORM TO REPORT LOBBYING
DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S. C. 1352
(See reverse for public burden disclosure.)

<p>1. Type of Federal Action:</p> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<p>2. Status of Federal Action:</p> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<p>3. Report Type:</p> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<p>4. Name and Address of Reporting Entity:</p> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known:		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> Congressional District, if known:
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> CFDA Number, if applicable: _____	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known: \$</p>	
<p>10. a. Name and Address of Lobbying Entity (If individual, last name, first name, MI):</p>	<p>b. Individuals Performing Services (including address if different from No. 10a) (Last name, First name, MI):</p>	
<p>11. Amount of Payment (check all that apply):</p> <hr/> <p>12. Form of Payment (check all that apply):</p> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in kind; specify: nature _____ value _____	<p>13. Type of Payment (check all that apply):</p> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<p>14. Brief Description of Services Performed or to be Performed and date(s) of service, including officer(s), employee(s), or member(s) contacted, for payment indicated in Item 11: (Attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached): <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by title 31 USC § 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 USC § 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not</p>	<p>Signature: _____ Print Name: _____</p>	

less than \$10,000 and not more than \$100,000 for each such failure.

Title:

Telephone No:

Date:

ATTACHMENT E

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation or receipt of a covered federal action, or a material change to a previous filing to title 31 USC § 1352. The filing of a form is required for each payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with a covered federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subaward of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in item 1 - (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB)

number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered federal action.
 - (b) Enter the full name, of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the amount of box(es). Check all boxes that apply. If payment is made through in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials. Identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not an SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.