

Explore Washington Park

Request for Proposal (RFP # 030)

CREATIVE SERVICES:

BEHAVIOR CHANGE MARKETING STRATEGY, MARKET RESEARCH, AND MEMBER BASED SEGMENTED MARKETING MATERIALS DESIGN

PROPOSALS DUE ELECTRONICALLY: Friday, September 29 by 5:00 pm

SUBMIT ELECTRONICALLY TO:

Lewis Kelley

lewis@explorewashingtonpark.org

OR:

<https://www.dropbox.com/request/1Vx3E3ClwyCdNrCazQNF>

REFER QUESTIONS TO:

lewis@explorewashingtonpark.org

PART I

SOLICITATION REQUIREMENTS

SECTION A

THE PROPOSAL

1. OVERVIEW

Explore Washington Park (referred to as “EWP”) seeks a consultant or agency (referred to as the “Proposer”) to develop a behavior change social marketing strategy to promote sustainable transportation options to Washington Park venue members and event attendees. The goal of the marketing effort is to promote transit to Washington Park and shift transportation mode-split away from private vehicle trips and toward transit options.

2. INVITATION TO PROPOSAL

EWP is requesting Proposals for marketing services for Washington Park. Proposals are due to be received no later than 5:00 pm on **September 29, 2017** by emailing proposal packets to lewis@explorewashingtonpark.org or by uploading to <https://www.dropbox.com/request/1Vx3E3ClwyCdNrCazQNF>

Contractor shall furnish all professional services, labor, materials, equipment, and permits necessary to render services as specified in Part II Scope of Work.

The term of the contract is anticipated to be October 16th, 2017 through September 1, 2017.

EWP reserves the right to accept or reject any or all proposals, in whole or in part, to negotiate with any or all Proposers on modifications to proposals, to waive formalities, to postpone award, or to cancel this RFP in part or in its entirety if it is in the best interest of EWP to do so.

EWP extends equal opportunity to all persons and specifically encourages minority and women-owned businesses to access and participate in this and all EWP projects, programs and services.

3. COST TO PROPOSAL

This invitation to propose does not commit EWP to pay any costs incurred by any Proposer in the submission of a Proposal, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the invitation to propose.

4. ADDENDA TO PLANS OR SPECIFICATIONS

Requests for additional information or interpretation of the contract documents shall be delivered to the Project Manager, in writing, at least seven (7) business days prior to the Proposal due date and time. If, in the opinion of the Project Manager, additional information or interpretation is needed by the Proposers, an addendum will be issued to all known

specification holders. The provisions of any written addenda issued by the Project Manager is at least seventy two (72) hours prior to the deadline for submittal of the Proposal. Proposals need to inform the Project Manager, in writing, at least seven (7) business days prior to the Proposal due date if the Proposal wants to receive any addenda via e-mail. All addenda will be posted on the EWP website at explorewashingtonpark.org/media-rfp

5. MODIFICATION OF PROPOSAL

An offer to modify the Proposal which is received from the successful Proposer after award of contract which makes the terms of the Proposal more favorable or advantageous to EWP will be considered, and may thereafter be accepted. To be effective, every modification must be made in writing over the signature of the Proposer.

6. WITHDRAWAL OF PROPOSALS

A Proposer may withdraw its Proposal by written or email request which is received prior to the scheduled closing time for filing Proposals.

7. LATE PROPOSAL

Proposals received after the scheduled closing time for filing Proposals may be returned to the Proposer unread, or may be treated as timely filed, in the sole discretion of EWP.

8. EXECUTION

Each Proposal shall give the Proposer's full business address and bear its legal signature.

Proposals by partnerships must list the full name of all partners and be signed by a partner or agent authorized to execute the contract on behalf of the partnership and identified by printed name and title.

Proposals by corporations must bear the legal name of the corporation, the name of the state of incorporation, and the signature of the officer or agent authorized to legally bind the corporation.

Upon request by EWP, satisfactory evidence of the authority of the partner or officer shall be furnished.

If the Proposal is signed by an agent who is not an officer of the corporation or a member of the partnership, a notarized Power of Attorney must be on file with EWP prior to the opening of Proposals or be submitted with the Proposal.

9. EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK

It is understood that the Proposer, before submitting a Proposal, has made a careful examination of the plans, specifications, and contract, if applicable; that it has fully informed itself as to the quality and quantity

of materials and the character of the work required; and that it has made a careful examination of the location and condition of the work and the sources of supply for materials.

10. COMPLIANCE

Each Proposer shall inform itself of, and the Proposer awarded a contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the performance under the contract, including federal and/or state requirements governing contracts involving the expenditure of public funds, if applicable. This requirement includes, but is not limited to, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, waste reduction and recycling, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees and similar subjects.

**11. EQUAL EMPLOYMENT,
NONDISCRIMINATION**

EWP and its contractors will not discriminate against any person(s), employee or applicant for employment based on race, creed, color, national origin, sex, sexual orientation, age, religion, disability, political affiliation or marital status. EWP fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities.

12. PERMITS AND LICENSES

Each Proposer shall obtain and include in the Proposal the cost for all permits and licenses which may be required to perform the contract.

13. CONFLICT OF INTEREST

A Proposer filing a Proposal thereby certifies that no member of the board of directors and no officer, agent, or employee of EWP has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for Proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

SECTION B

GENERAL CONDITIONS

1. NOTICE OF AWARD

EWP expects to award the contract within 15 business days of the date Proposals are due to be received. Upon acceptance of the Proposal, EWP will email or deliver a written Notice of Award to the office designated in the Proposal. EWP reserves the right to accept or reject any or all Proposals, in whole or in part, to negotiate with any or all Proposers on modifications to proposals, to waive formalities, to postpone award, or to cancel this RFP in part or in its entirety if it is in the best interest of EWP to do so.

The Notice of Award shall not entitle the party to whom it is delivered to any rights whatsoever.

2. CONTRACT

Within 10 business days of receipt of the contract from EWP, the Successful Proposer shall sign and deliver the Contract to EWP.

3. INSURANCE

The successful Proposer(s) shall obtain and maintain in full force, and at its own expense, throughout the duration of the contract and any warranty or extension periods, the required insurances identified below. EWP reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of the contract. Successful Proposer shall be able to provide evidence that any or all subcontractors performing work or providing goods or services under the contract have the same types and amounts of insurance coverage as required herein or that the subcontractor is included under the Successful Proposers policy.

Workers' Compensation Insurance: Successful Proposer shall comply with the workers' compensation law, ORS Chapter 656 and as it may be amended. Unless exempt under ORS Chapter 656, The Successful Proposer and any/all subcontractors shall maintain coverage for all subject workers for the entire term of the contract including any contract extensions.

Commercial General Liability Insurance: Successful Proposer shall have Commercial General Liability (CGL) insurance covering bodily injury, personal injury, property damage, including coverage for independent successful Proposer's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.

Automobile Liability Insurance for any company vehicle: Successful Proposer shall have automobile liability insurance with coverage of not less than \$1,000,000 each accident, and an umbrella or excess liability coverage of \$2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

Professional Liability & Errors & Omissions Insurance: Successful Proposer shall have Professional Liability and/or Errors & Omissions insurance to cover damages caused by negligent acts, errors or omissions related to the professional services, and performance of duties and responsibilities of the Successful Proposer under this contract in an amount with a combined single limit of not less than \$1,000,000 per occurrence and aggregate of \$2,000,000 for all claims per occurrence. In lieu of an occurrence based policy, Successful Proposer may have claims-made policy in an amount not less than \$1,000,000 per claim and \$2,000,000 annual aggregate, if the Successful Proposer obtains an

extended reporting period or tail coverage for not less than three (3) years following the termination or expiration of the Contract.

Additional Insurance: Any insurance required by Federal Law or State Statute or City Code; such as Bailees Insurance, Maritime Coverage, or other coverage(s).

Additional Insured: The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, shall be without prejudice to coverage otherwise existing, and shall name EWP and City of Portland Bureau of Portland Parks & Recreation as Additional Insureds, with respect to the Successful Proposer's activities to be performed, or products or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

Continuous Coverage; Notice of Cancellation: The Successful Proposer agrees to maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non-renewal of coverage without thirty (30) days written notice from Successful Proposer to EWP. If the insurance is canceled or terminated prior to completion of the Contract, Successful Proposer shall immediately notify EWP and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.

Certificate(s) of Insurance: Successful Proposer shall provide proof of insurance through acceptable certificate(s) of insurance and additional insured endorsement forms(s) to EWP prior to the award of the Contract if required by the procurement documents (e.g., request for proposal), or at execution of Contract and prior to any commencement of work or delivery of goods or services under the Contract. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The Successful Proposer shall pay for all deductibles and premium. EWP reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsements evidencing the coverage required.

4. NOTICE OF ASSIGNMENT

EWP will not recognize any assignment or transfer of any interest in this contract without its prior written consent.

5. FAILURE TO PERFORM Should the Contractor fail to meet the agreed upon delivery schedule, thereby making it necessary for EWP to purchase urgently-needed items from another source, the Proposer shall pay the difference between the accepted low Proposal price and the purchase price or accept an offset against any monies then owed by EWP.

6. PATENTS The Contractor agrees to protect, to defend (if EWP requests) and save EWP harmless against any demand for payment for wrongful or unauthorized use of any patented material, process, article, or device that may enter into manufacture, construction, or forms a part of the work covered by this contract.

7. INVOICES Invoices shall be prepared and submitted with the following information: Contract number (if any), item numbers, description of supplies or services, sizes, quantities, hours, unit prices and extended totals.

8. LAW OF STATE OF OREGON This contract is entered into within the state of Oregon, and the law of said State, whether substantive or procedural, shall apply and be followed with respect to this contract.

9. SUBCONTRACTORS AND SUPPLIERS Proposers must disclose the names and address of all subcontractors and suppliers. A Proposer filing a Proposal thereby certifies that no member of the board of directors and no officer, agent, or employee of EWP has a pecuniary interest in any subcontractor or supplier.

10. PAYMENT TERMS EWP pays thirty (30) calendar days after invoice date. Final payment will be paid upon complete receipt of all agreed upon deliverables.

SECTION C SPECIAL CONDITIONS

1. FUNDING SOURCE The contract resulting from this RFP will be paid for in-part with federal funds. The Proposer shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly set forth in this Request for Proposal, including (without limitation) the following:

- all applicable terms and conditions set forth in the most recent FTA Master Agreement
- Uniform Administration Requirements, Cost Principles and Audit Requirements for Federal Awards - SuperCircular
- FTA Circular 5010.1D
- FTA Circular 4220.1f
- FAR 31.2 – Contracts with Commercial Organizations
- See ATTACHEMENT B for Federal Clauses

PART II

SCOPE OF WORK

SECTION A

OVERVIEW

1. INTRODUCTION

The overall objective of this project is to create a strong behavior change marketing strategy for EWP to encourage a shift in transportation mode towards transit use for Washington Park visitors. The strategy should explore the different audiences EWP must reach and create segmented marketing strategies for reaching our unique audiences. There should be a heavy emphasis on venue members with the aim to build a marketing program with an approximate implementation budget of \$110,000 that introduces new members to travel options information and incentives.

The program should build upon the model of other behavior change campaigns used in the transportation and public health fields but be tailored to the unique mix of visitors in Washington Park. Successful models include individualized marketing such as Portland’s SmartTrips program, recycling campaigns at the Port of Portland and Metro, and wellness programs such as WellSteps.

The goals of this project are as follows:

1. Develop a behavior change marketing strategy that ties together efforts across media platforms, target audiences, and programmatic efforts.
2. Explore venue member transportation behavior and understand the reasoning behind people’s choices, determine the barriers to transit and strategies to intervene to shift audience behavior.
3. Develop a psychographic profile of the audiences to target with behavior change efforts.
4. Augment the data collected over the last four years of transportation surveys.
5. Develop a digital media and targeted ad strategy that grows EWP social media channels and expands the reach of EWP travel options messaging.

6. Develop targeted marketing materials and programming aimed at venue members and integrated with existing venue membership programs. Program should be designed with a \$110,000 implementation budget in mind.
7. Develop event specific travel information messaging and programming to support travel options for large events.

2. BACKGROUND

Explore Washington Park (EWP) is a 501(c)3 private non-profit created in 2013 to implement a diverse and innovative package of access management tools that maximize safe and convenient access to and from the Park, its institutions, and the adjacent neighborhoods. EWP was created to manage transportation and access to the Park, to create a better visitor experience, and lessen the environmental impact from all those annual visitations. EWP is governed by an eleven-member board including senior level representatives from the Portland Children's Museum, Portland Parks & Recreation, TriMet, Oregon Zoo, World Forestry Center, Hoyt Arboretum Friends, Portland Japanese Garden, Sylvan Highlands Neighborhood Association, Arlington Heights Neighborhood Association, and two at-large members.

Explore Washington Park (EWP) manages transportation for Washington Park for 3.2 million annual visitors. Venue members and event attendees are a captive audience of visitors that make up 30% to 40% of visitors on any given day. Moreover, these audiences can easily be reached with travel options information via already in place communication efforts, membership programs, and event ticketing. Crafting a Travel Options program targeted at these audiences creates an opportunity to have a large impact on Washington Park's overall mode split.

While most visitors to the Park are first time visitors, each venue has a captive audience of loyal visitors in the guise of members. Approximately 54,000 member households exist across five Washington The Oregon Zoo, Portland Children's Museum, Portland Japanese Garden, World Forestry Center, and Hoyt Arboretum all have membership programs with the audience of each venue being unique to each venue's mission and institutional offerings.

These members tend to visit the park far more often than non-members and so shifting member transportation behavior can have a large impact on the Park. According to our 2016 Visitor Survey, 20% of members visit the park once a month or more and another 74% visit more than twice a year. EWP wants to create a member targeted Travel Options marketing program that reinforces transit ridership among those visitors coming frequently to the park rather than trying to educate first time visitors over and over again. While members visit more often, they have a higher rate of vehicle travel to the Park, 73% compared with 60%

for non-members, and a lower rate of transit use, a full 25% lower than non-members. This presents itself as an opportunity to shift visitor behavior in a meaningful way over a sustained timeframe.

For more information about Washington Park visit <http://explorewashingtonpark.org/>.

For information on Washington Park visitor demographics and transportation behavior visit [http://explorewashingtonpark.org/sites/default/files/2016 Visitor Survey Report.pdf](http://explorewashingtonpark.org/sites/default/files/2016_Visitor_Survey_Report.pdf)

SECTION B

SCOPE

1. SCOPE OF WORK

EWP seeks a consultant or agency with expertise for the following tasks:

Task A: Behavior Change Marketing Plan:

Produce a social marketing plan with the goal of shifting Washington Park visitor transportation choice towards more environmentally friendly transit options. How can EWP reach different segmented audiences, through what platforms, and with what messages can EWP use to influence people's mode choice to Washington Park? How can EWP leverage existing efforts and programs, tying together digital, print, and programmatic marketing efforts into a comprehensive whole that supports and complements the overall transportation choice behavior change.

Task B: Venue Member Based Marketing Program

- **Task 1 - Focus Groups & Research:**

Explore member's travel behavior to Washington Park; what is the reasoning behind the choices, perceptions of transportation options, and barriers to taking transit to the park. The work should build upon previous survey work done by EWP into visitor transportation options with a deeper dive into member's perceptions and barriers around transportation options and what motivates their decision making. Cost includes 3-4 focus group sessions and synthesis of findings. The focus groups will be put together in coordination with EWP and the Washington Park venues. Research to be used in developing targeted messaging and incentives geared toward behavior change.

Deliverable: Focus group report on results of focus groups including psychographic profiles of venue's member audience.

- **Task 2 – Develop Venue Member Segmented Marketing Strategies:**

Develop a program for marketing transportation options to venue members. Provide messaging, program design, and design of materials that provide pre-trip information to new and renewing

venue members that can be distributed in partnership with the venues of Washington Park. The program aims to be integrated into and complement current communication efforts and processes that the venues use including existing membership packets, mailings, newsletters, and events. Include development of webpage on EWP's website that is exclusively geared towards members. Design of the marketing effort should stem from the findings focus groups and in collaboration with the venue partners.

Deliverable: Package of behavior change marketing strategies, materials, program tools, for reaching venue members with travel options information or incentives

- **Task 3 – Event Marketing Program:**

Develop a prioritized list of social marketing programs that EWP can implement for events to market and promote transit use for event attendees, i.e. giveaways, incentives, targeted marketing, etc. Program should build off the existing marketing efforts and marketing coordination framework to help EWP prioritize funding and resources to deploy the most valuable tools and resources to support venue events.

Deliverable: Event marketing program package.

- **Task 4 – Digital Media & Targeted Ad Strategy:**

Develop a social media strategy that coordinates pre-trip information with event promotion as well as a targeted media strategy of media buys to promote transit and travel options.

Deliverable: Social Media Strategy

Optional Tasks:

- **Optional Task 5 - General Audience Focus Groups:**

Market research into general Washington Park visitor's travel behavior to the park, perceptions of transit, barriers to taking transit to the park. Cost includes 2-3 focus group sessions and synthesis of findings. Research to be used in developing targeted messaging and incentives geared toward behavior change.

Deliverable: Market research report on results of focus groups including psychographic profiles of Washington Park visitors.

- **Optional Task 6 - EWP Website Audit:**

EWP has operated a website with travel options information, tourist information, and venue information since the end of 2015. EWP would like an evaluation on the design, user interface, information presented, and organization of information to assess how well the EWP website serves Washington Park visitors and to create ideas for a website revamp set for the near future.

Deliverable: EWP website audit report including recommendations for future changes

Team Communication Expectations

Throughout the entire project, the consultant team should remain in clear communication with EWP staff and a communications subcommittee of the board of directors. Communication should include the following:

1. At a minimum, the designated project leader will check-in with EWP Program Manager on a weekly basis.
2. The Consultant will coordinate with EWP Program Manager to help gather information for market research, organizing focus groups, and developing messages and materials.
3. Attendance at 2-3 EWP communications subcommittee meetings (meetings happen approximately once per month) and occasional monthly Board meetings (between 2-3) to inform members of work and receive feedback on project deliverables.
4. The proposal for each component of the major deliverables should include a clearly stated process for evaluation choices, editing, and selecting the final product. This should include how the consultant team will involve EWP at each of those points.

2. BUDGET GUIDELINE

The proposed budget should include a suggested work plan and a breakdown of fees for professional services, hours, meetings, and administrative services, including taxes. The anticipated budget for this project is \$71,450. Please estimate your true cost to complete the the tasks described above.

Task A:	\$ 15,750
Task B:	
Task 1:	\$ 22,000
Task 2:	\$ 10,700
Task 3:	\$ 6,000
Task 4:	\$ 16,500
<u>Task B Total:</u>	<u>\$ 55,200</u>
Total:	\$ 71,450

Optional Tasks:	
Task 5:	\$ 16,500
<u>Task 6:</u>	<u>\$ 2,000</u>
Optional Total:	\$ 18,500

Total w/ Opt. Tasks: \$ 89,950

3. QUALIFICATIONS AND EXPERIENCE

Proposers, and any associated subcontractors, shall have at least (5) years' experience providing the following services:

- Developing marketing plans.
- Organizing and running focus groups.
- Working with and developing educational or encouragement programs including, but not limited to, Transportation Demand Management programs or other public health behavior change programs and marketing campaigns.
- Knowledge of and experience implementing social marketing principles
- Knowledge of change theory and community based social marketing.
- Creating and developing digital and social media content strategies.
- Creating event based marketing promotions and messaging.

4. TIMELINE FOR SELECTION

The following dates are proposed as a timeline for this project. All times are PST.

Questions and Clarifications due	Wednesday, September 20, 2017, 1:00 pm
Pre-Submittal Meeting	Monday, September 25, 2017 10:00 am (4033 SW Canyon Rd. Portland, OR, 97221)
Addendum Posted*	Friday, September 26, 2017
Proposals Due	Friday, September 29, 2017, 5:00 pm
Interviews	Tues. & Weds., October 10 & 11, 2017
Notice of Intent to Negotiate and Award	Monday, October 16, 2017
Project Starts	Wednesday, November 1, 2017
All deliverables due	Friday, August 31, 2018

EWP reserves the right to make adjustments to the above noted schedule as necessary.

***Proposers must register at <http://explorewashingtonpark.org/media-rfps> to receive an e-mail with addendum.**

SECTION C

WORK REQUIREMENTS

1. DELIVERABLE AND SCHEDULE

Deliverables shall be considered those tangible resulting work products that are to be delivered to EWP such as draft documents, focus group findings, draft materials, and message and content concepts.

All deliverables and resulting work products from this contract will become the property of EWP. As such, the Proposer or any Subcontractors grant EWP the right to copy and distribute (in any and all media formats) project deliverables for regulatory, project

certification/recognition, program development, public education, and/or any purposes at the sole discretion of EWP.

All deliverables are due to EWP by August 31, 2018.

2. PLACE OF PERFORMANCE Contract performance will take place primarily at the successful Proposer's facility.

On occasion and as appropriate, work will be performed in Washington Park, a third-party location, or any combination thereof.

3. PERIOD OF PERFORMANCE EWP anticipates having the successful Proposer begin work immediately upon contract execution with submittal of final deliverables to EWP occurring no later than June 29, 2018

Proposals containing earlier completion of the deliverables are acceptable and encouraged.

PART III PROPOSAL PREPARATION AND SUBMITTAL

SECTION A

PRE-SUBMITTAL MEETING CLARIFICATION

1. PRE-SUBMITTAL MTNG.

A pre-submittal meeting is scheduled for Monday, September 25, 2017 2:00 p.m. PST at:

Merlo Hall Library
World Forestry Center
4033 SW Canyon Road
Portland, OR 97221

E-mail: lewis@washingtonparkpdx.org

Proposers are not required to attend the pre-proposal meeting. Any clarifying information presented at the pre-submittal meeting will be included in the RFP clarification addendum detailed below (Part III, Section A, 2).

To receive a copy of the addendum via e-mail, Proposer must register online at <http://explorewashingtonpark.org/media-rfps>.

2. RFP CLARIFICATION

Questions and requests for clarification regarding this Request for Proposal must be directed in writing, via email, to the person listed below. **The deadline for submitting such questions/clarifications is 7**

days prior to the proposal due date. An addendum will be issued no later than 72 hours prior to the proposal due date to all recorded holders of the RFP if a substantive clarification is in order. See Timeline for Selection for a full proposal timeline.

Lewis Kelley
Program Manager
Explore Washington Park
4033 SW Canyon Road
Portland, OR 97221

E-mail: lewis@explorewashingtonpark.org

SECTION B

PROPOSAL SUBMISSION

1. PROPOSALS DUE

Proposals must be received no later than the date and time, and method, specified on the cover of this solicitation. It is the Proposer's responsibility to ensure that proposals are received prior to the specified closing date and time, and in the manner specified. Proposals received after the specified closing date and time shall not be considered and will be returned to the Proposer unread.

2. PROPOSAL

Proposals must be clear and succinct with a maximum of fifteen (16) pages for Tasks 1-5. Section dividers, title pages, table of contents, cover letter, and work examples (limit of five (5) work examples) do not count in the overall page count of the proposal. Proposers who submit more than the pages indicated may not have the additional pages of the proposal read or considered.

3. PROPOSAL SUBMISSION

For purposes of this proposal submission, the proposer shall submit: one (1) PDF format copy via email to the Program Manager listed on the title page of this RFP. Work examples can be submitted electronically in the most sensible format for each given sample/

4. COST OF RESPONDING

All costs incurred by the Proposer in preparation of proposals to this solicitation, including presentations to EWP and/or for participation in an interview shall be borne solely by the Proposer; EWP shall not be liable for any of these costs. At no time will EWP provide reimbursement for submission of a proposal unless so stated herein.

5. ORGANIZATION OF PROPOSAL

Proposers must provide all information as requested in this Request for Proposal (RFP). Proposals must follow the format outlined in this RFP. Additional materials in other formats or pages beyond the stated page limit(s) may not be considered. EWP may reject as non-responsive, at its sole discretion, any proposal or any part thereof, which is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposals shall be organized in the following manner:

1. Cover Letter (not included in page count)
2. Project Team, including Subcontractors
3. Team's Capabilities and Experience
4. Project Approach and Understanding
5. Optional Tasks
6. Project Budget
7. References
8. Work examples

SECTION C

PROPOSAL CONTENT

1. COVER LETTER

The Cover Letter must include the following:

- RFP number and project title
- Full legal name of proposing business entity
- Structure or type of business entity
- Name(s) of the person(s) authorized to represent the Proposer in any negotiations
- Name(s) of the person(s) authorized to sign any contract that may result
- Contact person's name, mailing or street addresses, phone and fax numbers and email address
- Statement that no redactions are requested, if applicable
- Statement that the proposal is good for ninety (90) days

A legal representative of the Proposer, authorized to bind the Proposer in contractual matters must sign the Cover Letter.

2. PROJECT TEAM

Please provide the following:

- Approximate number of people to be assigned to the project.
- Extent of company's principal member's involvement.
- Names of key personnel who will be performing the work on this project, and:
 - Their roles and responsibilities on this project
 - Current assignments and location
 - Directly relevant experience on similar or related projects
 - Unique qualifications
 - Demonstrated performance record of key personnel
- Proposals must identify a proposed project manager who would be responsible for the day-to-day management of project tasks and would be the primary point of contact with your firm. Describe the project manager's experience with similar projects and with managing and leading interdisciplinary teams. List other projects the proposed project manager is currently assigned to.
- Team qualifications and experience on similar or related projects:

- Qualifications and relevant experience of prime consultant
- Qualifications and relevant experience of sub-consultants, if any

3. PROPOSER’S CAPABILITIES AND EXPERIENCES

Describe the primary (and sub-consultant if applicable) firm’s capabilities and experiences related to organizational branding, web design, and outreach strategy development. Examples should demonstrate previous or current work detailing the scope of the projects, ideas the team brought to enhance the project, and examples of website maintenance and ongoing enhancements for clients.

4. PROJECT APPROACH

For each phase of work, the project approach should:

- Describe the proposed work tasks and activities, and provide a narrative description of how the firm proposes to execute the tasks during each phase of the project.
- Identify the team members who will work on each task.
- Describe the proposed work products that will result from each task or activity.
- Identify points of input and review with EWP staff.
- Identify the time frame estimated to complete each task
- Indicate the number of meetings with EWP staff and Communications Subcommittee
- Budget for each task

7. PROJECT BUDGET

The proposal shall include the Proposer’s true estimated cost or fixed-price estimate for the proposed project approach irrespective of EWP’s anticipated cost. Please break down the cost of each task. Additionally, these costs shall include the hourly rates of each person associated with the project as well as the estimated number of hours each staff member will be expected to work on each task. List any anticipated expenses.

8. REFERENCES

List at least three references, include the client contact, organization, address, phone number, and email address. Provide a brief project description (no more than one sentence) (or title of the project if it was previously listed in the Proposers Capabilities and Experience section).

9. WORK EXAMPLES

Provide up to five (5) (pages or documents) examples of work you and any subcontractors have completed. This could be links to websites, brochures or other materials, marketing plans or research reports, digital content campaigns, or event programing.

PART IV

PROPOSAL EVALUATION

SECTION A

PROPOSAL REVIEW AND SELECTION

1. EVALUATION CRITERIA

A Selection Review Committee (Committee) will be appointed to evaluate the proposals received. For the purpose of scoring proposals, each Committee member will evaluate each proposal in accordance with the criteria listed in Part III, Section C. The Committee may seek the assistance of outside expertise, including, but not limited to, technical advisors. The Committee will require a minimum of ten (10) working days to evaluate and score the proposals.

The choice of how to proceed, decisions to begin or terminate negotiations, determination of a reasonable time, decisions to open negotiations with a lower scoring Proposer, and any decision that a solicitation should be cancelled are all within the sole discretion of EWP.

Evaluation – Written Scoring: Responses meeting the mandatory requirements will be further evaluated as part of Evaluation – Written Scoring. One hundred possible points are available as follows:

EVALUATION CRITERIA	
Criteria	Maximum Score
1. Cover Letter	REQUIRED
2. Project Team	20
3. Team’s Experience	10
4. Project Approach	50
5. Corporate Responsibility	10
6. Project Cost	10
TOTAL	100

Evaluation – Oral Scoring (if necessary): If oral interviews or presentations are determined to be necessary, this next step will consist of oral presentations and further clarification of the Proposer’s response. The number of proposals on the “short list” depends on whether the Committee believes such proposals have a reasonable chance of leading to the award of a contract. Proposers invited to present will be given additional information regarding EWP’s desired content a reasonable time before the scheduled oral interviews/presentations are held.

2. SCORING PROCESS

For the written evaluation, the sum of all points earned by a Proposer from all proposal evaluators will be the Total Overall Score. The Evaluation Committee may focus on only a limited number of proposals by developing a “short list” to move on to a presentation stage or may proceed directly to contract negotiation and award.

References will be called only for finalists and scored based on positive reviews of work done, including staying on budget and schedule, ease of working with the Proposer, exemplary communications, value of product deliverables, and other factors.

The highest scoring proposal, based on their Total Overall Score, may be identified as the Finalist.

**3. CLARIFYING PROPOSALS
DURING EVALUATION**

At any point during the evaluation process, EWP is permitted, but is not required, to seek clarification of a proposal. A request for clarification does not permit changes to a proposal.

SECTION B

CONTRACT AWARD

1. CONSULTANT SELECTION

Following the Evaluation Committee's final determination of the highest scored Proposer, EWP will issue a Notice of Intent to Negotiate and Award and begin contract negotiations. EWP will attempt to reach a final agreement with the highest scoring Proposer. However, EWP may, in its sole discretion, terminate negotiations and reject the proposal if it appears agreement cannot be reached. EWP may then attempt to reach a final agreement with the second highest scoring Proposer and may continue on, in the same manner, with remaining proposers until an agreement is reached.

2. REVIEW

Following the Notice of Intent to Negotiate and Award, Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee.

3. SAMPLE CONTRACT

The public contract included as ATTACHMENT A is a sample agreement approved for use by EWP. This is the contract the successful Proposer will enter into with EWP; it is included for your review prior to submitting a Proposal.

ATTACHMENT A

SAMPLE CONTRACT (to be finalized upon notice to award)

CONTRACT NO. _____

CONTRACT

THIS Contract is entered into between EWP, an Oregon nonprofit corporation, whose address is 4033 SW Canyon Rd. Portland, Oregon 97221, and _____, whose address is _____, hereinafter referred to as the "CONTRACTOR."

Washington Park TMA considers **Name of contractor**, to be a **Contractor** compensated with federal funds. Funding for this project is obtained from an Agreement between Washington Park TMA, Metro and the Federal Transit Administration (FTA), utilizing Surface Transportation Program (STP) funds, CFDA No. 20.205.

Contractor shall comply with all applicable federal laws, regulations, executive orders, rules, policies, procedures and directives, whether or not expressly set forth in this Agreement, including (without limitation) the following:

- All applicable terms and conditions set forth in the most recent FTA Master Agreement
- Uniform Administration Requirements, Cost Principles and Audit Requirements for Federal Awards – SuperCircular
- FTA Circular 5010.1D
- FTA Circular 4220.1f
- FAR 31.2 – Contracts with Commercial Organizations

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to EWP the goods or services described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II TERM OF CONTRACT

The term of this Contract shall be for the period commencing _____, 20____ through and including _____, 20____.

ARTICLE III
CONTRACT SUM AND TERMS OF PAYMENT

EWP shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. EWP shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work.

ARTICLE IV
INDEPENDENT CONTRACTOR AND LIABILITY

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR'S labor, and assumes full responsibility for all liability for bodily injury or physical damage to persons or property arising out of or related to this Contract., CONTRACTOR is solely responsible for paying CONTRACTOR'S subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and EWP.

ARTICLE V
INDEMNITY

Contractor shall indemnify, defend and hold harmless EWP, its directors, officers, agents and employees, and the City of Portland by and through its Parks and Recreation Bureau, its officers, employees and agents (collectively, "Indemnified Parties") from any and all liabilities, obligations, claims, demands, damages, suits, actions, causes of action, charges, judgments, losses, costs and expenses, including reasonable attorney's fees and court costs, of any nature whatsoever that may be imposed upon, incurred or paid by, or asserted against the Indemnified Parties, resulting from, arising out of or in any way connected with any act or omission of Contractor relating to its performance of this Contract. If any action or proceeding is brought against the Indemnified Parties, or either of them, which action or proceeding is based upon a claim for which Contractor is obligated to indemnify such party hereunder, the Indemnified Party shall have the right to be defended by counsel acceptable to it.

ARTICLE VI
TERMINATION

EWP may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. EWP shall not be liable for indirect, consequential damages or any other damages. Termination by EWP will not waive any claim or remedies it may have against CONTRACTOR.

ARTICLE VII
INSURANCE & BONDS

CONTRACTOR shall purchase and maintain at CONTRACTOR'S expense, the following types of insurance covering the CONTRACTOR, its employees and agents.

A. Broad form comprehensive single limit general liability insurance covering personal injury and property damage, shall be a minimum of \$2,000,000 per occurrence. In the alternative, the insurance coverage shall be a minimum of \$1,000,000 for personal injury to each person and \$2,000,000 per occurrence, and \$2,000,000 for each occurrence involving property damage, The policy must be endorsed with contractual liability coverage. EWP, directors, officers, employees and agents and The City of Portland by and through its Parks and Recreation Bureau, its officers, employees and agents, shall be named as ADDITIONAL INSUREDS.

B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per person and \$2,000,000 per occurrence. EWP, directors, officers, employees, and agents and The City of Portland by and through its Parks and Recreation Bureau, its officers, employees and agents, shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to EWP and The City of Portland by and through its Parks and Recreation Bureau thirty (30) days prior to the change.

C. Workers' compensation insurance in compliance with ORS 656.017. This insurance must cover CONTRACTOR'S operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide EWP with a certificate of insurance complying with this article within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

ARTICLE VII ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

ARTICLE VIII QUALITY OF GOODS AND SERVICES

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by EWP, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of EWP.

ARTICLE IX OWNERSHIP OF DOCUMENTS

Unless otherwise provided herein, all documents, instruments and media of any nature produced by Contractor pursuant to this agreement are Work Products and are the property of EWP, including but not limited to: drawings, specifications, reports, scientific or theoretical modeling,

electronic media, computer software created or altered specifically for the purpose of completing the Scope of Work, works of art and photographs. Unless otherwise provided herein, upon EWP request, Contractor shall promptly provide EWP with an electronic version of all Work Products that have been produced or recorded in electronic media. EWP and Contractor agree that all work Products are works made for hire and Contractor hereby conveys, transfers, and grants to EWP all rights of reproduction and the copyright to all such Work Products.

ARTICLE X
RIGHT TO WITHHOLD PAYMENTS

EWP shall have the right to withhold from payments due CONTRACTOR such sums as necessary, in EWP's sole opinion, to protect EWP against any loss, damage or claim which may result from CONTRACTOR'S performance or failure to perform under this agreement or the failure of CONTRACTOR to make proper payment to any suppliers or subcontractors. In addition for public improvement work, if a CONTRACTOR is required to file certified statements under ORS 279C.845, EWP shall retain 25 percent of any amount earned by the CONTRACTOR on the public works until the contractor has filed all required certified statements with EWP.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in EWP's opinion, violated that provision, EWP shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by EWP under this Article shall become the property of EWP and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

ARTICLE XI
SAFETY

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

ARTICLE XII
INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any procurement documents including, but not limited to, the Advertisement for Proposals, Proposals or responses, General and Special Instructions to Proposers, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the Proposal of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between EWP and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both EWP and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

ARTICLE XIII
COMPLIANCE

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

ARTICLE XIV
ASSIGNMENT

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from EWP.

CONTRACTOR NAME

EWP

By _____

By _____

Date _____

Date _____

ATTACHMENT B

FEDERAL CLAUSES

The Contractor agrees to comply with all applicable Federal Clauses as outlined in the **October 1, 2016 FTA Master Agreement [FTA MA 23]**, (or most recent), including, but not limited to, the following:

A. Application of Federal, State, and Local Laws, Regulations and Guidance.

For purposes of this Master Agreement:

- (1) Federal requirement. A Federal requirement includes, but is not limited to a:
 - (a) An applicable Federal law,
 - (b) Applicable Federal regulation,
 - (c) Provision of the Recipient's Underlying Agreement, or
 - (d) Provision of this Master Agreement,

- (2) Federal guidance. Federal guidance includes, but is not limited to:
 - (a) Federal guidance such as a:
 - 1 Presidential Executive Order,
 - 2 Federal order that applies to entities other than the Federal Government,
 - 3 Federal published policy,
 - 4 Federal administrative practice,
 - 5 Federal guideline,
 - 6 Letter signed by an authorized Federal official, and
 - 7 Other applicable Federal guidance as defined at section 1.j of this Master Agreement, or
 - (b) Other Federal publications or documents providing official instructions or advice about a Federal program that:
 - 1 Are not designated as a "Federal Requirement" in section 2.c (1) of this Master Agreement, and
 - 2 Are signed by an authorized Federal official,

- (3) Compliance. The Recipient understands and agrees that:
 - (a) Federal Requirements. It must comply with all Federal requirements that apply to itself and its Project,
 - (b) Federal Guidance. FTA strongly encourages the Recipient and each of its Third Party Participants to follow Federal guidance as described in the preceding section 2.c(2) of this Master Agreement to ensure satisfactory compliance with Federal requirements,
 - (c) Alternative Actions. It may violate Federal requirements if it:
 - 1 Adopts an alternative course of action not expressly authorized by the Federal Government in writing, and

2 Has not first secured FTA's approval of that alternative in writing,
[FTA Master Agreement §2.c (1) (2) (3)]

B. No Federal Government Obligations to Third Parties.

Except as the Federal; Government expressly consents in writing, the Recipient agrees that:

(1) The Federal Government shall not be subject to any obligations or liabilities related to:

- (a) The Project,
- (b) Any Third Party Participant at any tier, or
- (c) Any other person or entity that is not a party (Recipient or FTA) to the underlying Agreement for the Project, and

(2) Notwithstanding that the Federal Government may have concurred in or approved any solicitation or third party agreement at any tier that has affected the Project, the Federal Government shall not have obligation or liability to any:

- (a) Third Party Participant, or
- (b) Other entity or person that is not a party (Recipient or FTA) to the Underlying Agreement.

[FTA Master Agreement, §2.f]

C. False or Fraudulent Statements or Claims.

(1) Civil Fraud. The Recipient acknowledges and agrees that:

(a) Federal law and regulations apply to itself and its Project, including:

- (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.*, and
- (2) U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31,

(b) By executing the Underlying Agreement, the Recipient certifies and affirms the:

(1) Truthfulness and accuracy of any

- (a) Claim,
- (b) Statement,
- (c) Submission,
- (d) Certification,
- (e) Assurance, or
- (f) Representation, and

(2) For which the Recipient has made, makes, or will make to the Federal Government, and

(c) The Recipient acknowledges that the Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient:

(1) Presents, submits, or makes available any information in connection with any:

- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,

(2) Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323 (1) (1), authorizes the Federal Government to impose the penalties authorized by 18 U.S.C. § 1001 if the Recipient:

(1) Presents, submits, or makes available any information in connection with any:

- (a) Claim
- (b) Statement
- (c) Submission
- (d) Certification
- (e) Assurance, or
- (f) Representation, and

(2) That information is false, fictitious, or fraudulent,
[FTA Master Agreement §3.f]

D. Procurement.

Access to Third Party Contract Records. The Recipient agrees to require, and assures that its Subrecipients will require, its Third Party Contractors at each tier, to provide:

(1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the State, or their duly authorized representatives, access to all third party contract records (at any tier) as required by 49 U.S.C. § 5325(g), and

(2) Sufficient access to all third party contract records (at any tier) as needed for compliance with applicable Federal laws and regulations or to assure proper Project management as determined by FTA.

[FTA Master Agreement §17(u)]

E. Project Implementation.

Changes to Federal Requirements and Guidance.

(1) Requirements and Guidance. New Federal Requirements and Guidance may:

- a. Become effective after the FTA Authorized Official signs the Recipient's Underlying Agreement awarding funds for the Project, and
- b. Apply to the Recipient or its Project,

[FTA Master Agreement, §2.d (1)]

F. Civil Rights.

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Specifically:

a. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will:

(1) prohibit discrimination based on:

- (a) race,
- (b) color, or
- (c) national origin

(2) Comply with:

- (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*,
- (b) 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 C.F.R. Part 21 and
- (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the previous section 13.a of this Master Agreement, and

(3) Except as FTA determines otherwise in writing, follow

- (a) The most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance.
- (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964, 28 C.F.R. § 50.3, and
- (c) other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity.

(1) Federal Requirements and Directives. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and:

- (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*
- (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
- (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13.a of this Master Agreement, and,
- (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing.

(2) General. Recipient agrees to

(a) Ensure that applicants for employment and employees are treated during employment without discrimination on the basis of their:

- 1 Race,
- 2 Color,
- 3 Religion,
- 4 Sex,
- 5 Disability,
- 6 Age, or
- 7 National origin.

(b) Take affirmative action that includes, but is not limited to:

- 1 Recruitment advertising,
- 2 Recruitment,
- 3 Employment,
- 4 Rates of pay,
- 5 Other forms of compensation,
- 6 Selection for training, including apprenticeship,
- 7 Upgrading,
- 8 Transfers,
- 9 Demotions,
- 10 Layoffs, and
- 11 Terminations.

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with:

(a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and

(b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows:

(1) Requirements. The Recipient agrees to comply with:

(a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note,

(b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26 and

(c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in Section 13a. of this Master Agreement,

(2) Assurance. As required by 49 C.F.R. § 26.13(a), the Recipient provides assurance that:

The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, 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 the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. 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.*,

g. Nondiscrimination of the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

(1) Federal laws, including:

- (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
- (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities;
- (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities;
- (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
- (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities,

(2) The following Federal regulations including:

- (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37,
- (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27,
- (c) U. S. DOT regulations "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39,
- (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and
- (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35,
- (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36,
- (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630,
- (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F,
- (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and
- (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and

(1) Other applicable Federal civil rights and nondiscrimination guidance,
 [FTA Master Agreement §13(b) (c) (d) (g)]

G. Private Enterprise.

The Recipient agrees to protect the interests of private enterprise affected by Federal public transportation programs by:

- a. Participation. Encouraging private enterprise to participate in the planning of public transportation and the programs that provide public transportation, to the extent permitted by
(1) 49 U.S.C. § 5306,
[FTA Master Agreement §15(a)]

H. Right of the Federal Government to Terminate.

- a. Justification. After providing notice, the Federal Government may suspend, suspend then terminate, or terminate all or any part of the Federal funding awarded for the Project if:
 - (1) The Recipient has violated the Underlying Agreement or this Master Agreement, especially if that violation would endanger substantial performance of the Project,
 - (2) The Recipient has failed to make reasonable progress on the Project,
 - (3) The Federal Government determines that the continuation of the Federal funding for the Project does not adequately serve the purposes of the law authorizing the Project.
- b. Financial Implications.
 - (1) In general, termination of Federal funding for the Project will not invalidate obligations properly incurred before the termination date to the extent those obligations cannot be canceled, and
 - (2) The Federal Government may:
 - (a) Recover Federal funds it has provided for the Project if it determines that the Recipient has willfully misused Federal funds by:
 - 1 Failing to make adequate progress,
 - 2 Failing to make appropriate use of Project property, or
 - 3 Failing to comply with the underlying Agreement or this Master Agreement
 - (b) Require the Recipient to refund
 - 1 The entire amount of Federal funds provided for the Project, or
 - 2 Any lesser amount as the Federal Government may determine, and
- c. Expiration of Project Time Period. Except for a Full Funding Grant Agreements, expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the underlying Agreement.
[FTA Master Agreement §12]

I. Debarment and Suspension.

The Recipient agrees that:

- (1) It will not engage Third Party Participants that are debarred or suspended except as authorized by:
 - (a) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200,
 - (b) U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including any amendments thereto, and
 - (c) Executive Orders Nos. 12549 and 12689. "Debarment and Suspension," 31 U.S.C. § 6101 note,
- (2) It will review the "Excluded Parties Listing System" at <http://epls.gov/> (to be transferred to <https://www.sam.gov>), if required by U.S. DOT regulations, 2 C.F.R. Part 1200, and
- (3) It will include, and require its Third Party Participants to include a similar condition in each lower tier covered transaction, assuring that all lower tier Third Party Participants:
 - (a) Will comply with Federal debarment and suspension requirements, and
 - (b) Review the "Excluded Parties Listing System" at <http://www.epls.gov/> (to be transferred to <https://www.sam.gov>), if necessary to comply with U.S. DOT regulations 2 C.F.R. part 1200. *[FTA Master Agreement §3.b]*

J. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U. S. domestic preference requirements and follow Federal guidance, including:

- a. Buy America. Domestic preference procurement requirements of:
 - (1) 5323 (j), as amended by MAP-21, and
 - (2) FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with MAP-21
- b. Fly America. Air transportation requirements of:
 - (1) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and
 - (2) U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 - 301-10.143.

[FTA Master Agreement §16(a)(c)]

K. Disputes, Breaches, Defaults or Other Litigation.

The Recipient understands and agrees that:

- a. FTA Interest. FTA has a vested interest in the settlement of any disagreement involving the Project including, but not limited to:
 - (1) a major dispute,
 - (2) A breach,
 - (3) A default, or
 - (4) Litigation,
- b. Notification to FTA. If a current or prospective legal matter that may affect the Federal

Government emerges:

(1) The Recipient agrees to notify immediately:

- (a) The FTA Chief Counsel, or
- (b) The FTA Regional Counsel for the Region in which the Recipient is located, (2)

The types of legal matters that require notification include, but are not limited to:

- (a) A major dispute,
- (b) A breach,
- (c) A default,
- (d) Litigation, or
- (e) Naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason, and(3) The types of matters that may affect the Federal Government include, but are not limited to:
 - (a) The Federal Government's interests in the Project, or
 - (b) The Federal Government's administration or enforcement of Federal laws or regulations,

c. Federal Interest in Recovery.

(1) General. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the Federal share for the Project, but

(1) Liquidated Damages. Notwithstanding the preceding section 96.c(1) of this Master Agreement, the Recipient may return all liquidated damages it receives to its Project Account rather than return the Federal share of those liquidated damages to the Federal Government,

d. Enforcement. The Recipient agrees to pursue its legal rights and remedies available under:

- (1) Any third party agreement,
- (2) Any Federal law or regulation, (3)
- Any State law or regulation, or (4)
- Any local law or regulation,

e. FTA Concurrence. If a legal matter described in section 96(2) and (3) of this Master Agreement involves the Project or the Recipient, FTA reserves the right to concur in any:

- (1) Compromise, or
- (2) Settlement, and

- f. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

[FTA Master Agreement §96]

L. Lobbying Restrictions.

The Recipient agrees that, as provided by 31 U.S.C. §1352(a):

- (1) Prohibition on Use of Federal Funds. It will not use Federal funds

(a) To influence any:

1. Officer or employee of a Federal Agency
2. Member of Congress,
3. Officer or employee of Congress, or
4. Employee of a Member of Congress

(b) To take any action involving the Project or the Underlying Agreement for the Project, including any:

1. Award,
2. Extension, or
3. Modification

- (2) Laws and Regulations. It will comply, and will assure that each Third Party Participant complies with:

- (a) 31 U.S.C. § 1352 as amended,
- (b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with as necessary by 31 U.S.C. § 1352, as amended, and
- (c) Other applicable Federal laws and regulations prohibiting the use of Federal funds for any activity concerning legislation or appropriations designed to influence:

1. The U.S. Congress, or
2. A State legislature, but

- (3) Exception. The prohibitions of the preceding section 3.d(1) – (2) of this Master Agreement do not apply to any activity that is undertaken through proper official channels, if permitted by the underlying law or regulations,

[FTA Master Agreement §3.d (1)(2)]

M. Environmental Protections.

a. Air Quality. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Air Act, as amended, 42 U.S.C. §§ 7401 - 7671q, and implementing Federal regulations, as provided in Federal guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

- (1) Public Transportation Operators. It will comply with:

- (a) U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85;
- (b) U.S. EPA regulations "Control of Emissions from New and In-Use Highway Vehicles and Engines," 40 C.F.R. Part 86, and
- (c) U.S. EPA regulations "Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles," 40 C.F.R. Part 600 and any revisions to these regulations.

- (2) State Implementation Plans. It will support State Implementation Plans by:

- (a) Implementing each air quality mitigation or control measure incorporated in the documents accompanying the approval of the Project,
- (b) Assuring that any Project identified as a Transportation Control Measure in its State Implementation Plan will be wholly consistent with the design concept and scope of the Project described in the State Implementation Plan, and
- (c) Complying with:

- 1. Subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c),

- 2. U.S. EPA regulations, “Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects developed, Funded or Approved Under Title 23, U. S. C. or the Federal Transit Laws,” 40 C.F.R. Part 93, subpart A, and

- 3. Other applicable Federal conformity regulations that may be promulgated at a later date, and

(3) Violating Facilities. It will:

- (a) Comply with the notice of violating facility provisions of section 306 in the Clean Air Act, as amended, 42 U.S.C. § 7414, and

- (b) Facilitate compliance with Executive Order No. 11738, “ Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

b. Clean Water. The Recipient agrees to, and assures that its Third Party Participants will, comply with the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377, and implementing Federal regulations, and follow Federal implementing guidance, except as the Federal Government determines otherwise in writing. Among its responsibilities, the Recipient agrees that:

- (2) Drinking Water. It will protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f - 300j-6.

- (3) Violating Facilities. It will.

- (a) Comply with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and

- (b) Facilitate compliance with Executive Order No. 11738, “Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,” 42 U.S.C. § 7606 note.

[FTA Master Agreement §29(c),(d)]

N. Employee Protections.

The Recipient agrees to comply, and assures that each Third Party Participant will comply, with all of the following:

- a. **Construction Activities.** Federal laws and regulations providing protections for construction employees involved in Project activities, including:

- (1) **Prevailing Wage Requirements.**

- (a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA’s “Davis-Bacon Related Act”),

- (b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and

- (c) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5,

(2) Wage and Hour Requirements.

- (a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and
- (b) U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5,

(3) “Anti -Kickback” Prohibitions.

- (a) Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874,
- (b) Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145, and
- (c) U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 C.F.R. part 3,

(4) Safety at the Construction Site.

- (a) Section 107 of that Contract Work Hours and Safety Standards Act, as amended, U. S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*,and
- (b) U.S. DOL regulations, “Safety and Health Regulations for Construction,” 29 C.F.R. part 1926,

[FTA Master Agreement §28.a]

O. Energy Conservation.

The Recipient agrees to and assures its Subrecipients will:

- a. State Energy Conservation Plans. Comply with the mandatory energy standards and policies of its State energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 *et seq.*, except as the Federal Government determines otherwise in writing, and
- b. Energy Assessment. Perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. Part 622, Subpart C.

[FTA Master Agreement §30]

ATTACHMENT C

Debarment Certification

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this Agreement, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by **Metro**. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to **Metro**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Agreement. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature _____

Name _____

Title _____

Organization _____

Date _____

DRAFT