



Metropolitan/Regional Transportation Planning Organization Agreement			Term of Agreement		
			Start Date	End Date	Fiscal Period
Agreement No.	CFDA No	WSDOT Region	Metropolitan Planning Organization/Regional Transportation Planning Organization		
Lead Planning Agency					
			County(ies) included in the MPO/RTPO		

This Agreement, made and entered into on the Start Date under Term of Agreement above, regardless of the date of signature execution, between the Washington State Department of Transportation “WSDOT”, acting by and through its Director, Multimodal Planning Division, hereinafter called the “STATE,” and the above named Metropolitan Planning Organization/Regional Transportation Planning Organization, hereinafter called the “MPO/RTPO,” collectively referred to as “Parties” and individually as “Party,” “MPO,” and “RTPO.”

WHEREAS, the above named county(ies) has(have) created a RTPO in accordance with the requirements set forth in RCW 47.80.020;

WHEREAS, the above-named county(ies) includes an urbanized area(s) with a population in excess of fifty thousand individuals, for which a MPO has been designated for each urbanized area pursuant to 23 U.S.C. § 134;

WHEREAS, the STATE has available funds, which have been allocated to it by: (a) the United States Department of Transportation, hereinafter called “USDOT,” (b) the Federal Highway Administration, hereinafter called “FHWA”; (c) the Federal Transit Administration, hereinafter called “FTA; (d) STATE RTPO funds; and/or (e) possibly funds from other federal or state agencies, which can be used to facilitate urban and regional transportation planning;

WHEREAS, federal funding is authorized under 49 U.S.C. Ch. 53; Title 23 U.S.C. (Highways); the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), enacted as Public Law (P.L.) 109-59, August 10, 2005; as amended, the SAFETEA–LU Technical Corrections Act of 2008, P.L. 110 244, June 6, 2008; the Transportation Equity Act for the 21st Century (TEA-21), enacted as P.L. 105 178, June 9, 1998, as amended, the National Capital Transportation Act of 1969, D.C. Official Code, §§ 9-1111.01 et seq.; and

WHEREAS, federal funding is authorized under the Moving Ahead for Progress in the 21st Century Act (MAP–21), enacted as P.L. 112-141, July 6, 2012; the Fixing America’s Surface Transportation (FAST) Act, enacted as P.L. 114-94, December 4, 2015; or other federal laws the FTA administers to the extent FTA so determines.

NOW, THEREFORE, pursuant to RCW 39.34, the above recitals that are incorporated herein as fully set forth below, and in consideration of the terms, conditions, and promises contained herein, and/or attached hereto as Exhibits, and by this reference made a part of this Agreement, it is mutually agreed as follows:

1. Work Scope and Budget

- 1.1 The work scope and budget for the MPO/RTPO planning activities funded by this Agreement shall be documented annually (or biennially with an annual review) in a Unified Planning Work Program hereinafter called “UPWP”. The UPWPs are kept on file in the WSDOT Headquarters, Tribal & Regional Coordination Office.
 - a. The UPWP Guidelines developed jointly by the State, FHWA, FTA, and the MPOs/RTPOs by December 31 each year will serve as a resource for developing the UPWPs. The UPWP Guidelines identify key emphasis areas for work tasks to accomplish UPWP purposes.

- 1.2 The STATE will inform the MPO/RTPO of expected allocations of FHWA Metropolitan Planning funds (PL funds) and FTA Section 5303 funds, STATE RTPO funds and any other STATE-administered funds that are available to MPO/RTPOs by December 31 each year for the following State fiscal year, which is defined as July 1 to June 30 for all MPOs except the Lewis-Clark Valley Metropolitan Planning Organization (LCVMPO), which is between October 1 to September 30. The MPO/RTPO will then prepare a draft UPWP and submit the draft to the STATE by the specific dates listed in the UPWP Guidance for MPO/RTPOs (UPWP Guidelines) prepared by the STATE each December.

The final UPWP shall be adopted by the MPO/RTPO and submitted to the STATE for approval prior to June 15, preceding the start of each subject state fiscal year (or biennium). The STATE shall notify the MPO/RTPO, in writing, of its approval of the UPWP for the subject fiscal year by June 30 of each year, unless otherwise noted in the UPWP Guidelines. However, the MPO/RTPO may prepare a two-year UPWP if it desires. Written amendments to the two year UPWP may be required in order to authorize expenditure of all federal funding and to comply with federal obligation authority. Changes to the federal surface transportation act may also necessitate amendments to UPWPs approved by the MPO/RTPO Policy Board, FHWA and FTA.

- 1.3 The UPWP shall document all transportation and related planning activities for the ensuing STATE fiscal year, July 1 to June 30, unless otherwise noted in the UPWP Guidelines. As per 23 C.F.R. pt. 450.308(c), each MPO, in cooperation with the STATE and public transportation operator(s), shall develop a UPWP that includes a discussion of the planning priorities facing the MPO. The UPWP shall identify work proposed for the next one- or two-year period by major activity and task (including, but not limited to, activities that address the planning factors in 23 C.F.R. pt. 450.306(b)), in sufficient detail to indicate whether the MPO, STATE, public transportation operator(s), local government, consultant(s), or other identified Party, will perform the work, the schedule for completing the work, the resulting products, the proposed funding by activity/task, and a summary of the total amounts and sources of federal and matching funds.

The RTPO UPWP should include for each work element a description of the proposed work, an indication of the MPO/RTPO staff anticipated to be performing the work, and a budget which itemizes funding sources by work element and task.

Required local matching funds shall be itemized separately. Under no circumstances shall the MPO/RTPO required match amount be less than the required 13.5 percent match for FHWA PL funds. The match for FTA 49 U.S.C. § 5303 funds will be 20 percent, or as low as 13.5 percent when consolidated with FHWA 23 U.S.C. § 134 funds, as determined by the FTA, STATE, and MPO/RTPO.

- 1.4 The MPO/RTPO shall perform the approved work tasks within the approved budget during the subject STATE fiscal year. The STATE's approval of the UPWP incorporates the adopted UPWP and budget for the subject fiscal year.
- 1.5 Should the Parties decide it is mutually beneficial for the STATE to perform specific work tasks identified in the UPWP, the Parties agree that the STATE may retain actual costs as documented in writing and approved by the MPO/RTPO.

2. Planning Standards and Guidelines

- 2.1 The MPO/RTPO shall comply with the most current Planning Standards and Guidelines developed by the STATE for the RTPO, RCW 47.80, and any amendments made thereto. In addition, the MPO must comply with 23 C.F.R. pt. 450, Subpart C, and 49 C.F.R. pt. 613, Subpart A - Metropolitan Transportation Planning and Programming.

3. Conservation

- 3.1 The MPO/RTPO shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321 et seq.).

4. Payment

- 4.1 The STATE agrees to reimburse the MPO/RTPOs actual direct and related indirect costs of work approved as part of the UPWP. The maximum amount that the STATE shall reimburse the MPO/RTPO shall not exceed the total amount of approved, appropriated, and authorized FHWA, FTA, and STATE RTPO funds contained in an approved UPWP, less any amounts retained by the STATE to cover costs for all agreed upon work performed by the STATE. All costs must be consistent with the federal cost principles contained in 2 C.F.R. pt. 200, or as modified or amended.
- 4.2 All indirect costs will be based on a cost allocation plan or indirect cost rate proposal that is approved by the MPO Policy Board and maintained on file by the MPO for audit purposes. Annually, the MPO shall prepare an indirect cost rate proposal which covers all anticipated indirect costs for the MPO, plus or minus, over or under, recovered indirect costs from the previous year.
- 4.3 The MPO/RTPO may submit requests to the STATE for reimbursement of funds as they are expended on UPWP activities at any time, but not more frequently than one (1) such request every month. Such requests for reimbursement shall document the amount of funds that have been expended during the period for the total Project, as well as for the current billing period. The request for reimbursement shall contain sufficient detail to inform the STATE, FHWA, FTA, and any other entities providing funding for the work as to the progress on each work element contained in the UPWP. The STATE shall review and approve each request for payment in an expeditious manner and shall reimburse the MPO/RTPOs no later than fifteen (15) business days after the date of receipt by the STATE of a request for reimbursement of expenditures made by a MPO/RTPO for carrying out 23 U.S.C. § 134 (23 U.S.C. § 104(d)(2)(B)).

5. Reports

- 5.1 The MPO/RTPO shall communicate with the STATE from time to time, or as often as required by the STATE, during the term of this Agreement to keep the STATE up to date about the progress of the work being performed as described in the UPWP. The STATE reserves the right to request interim written progress reports during the fiscal year, if the MPO/RTPO's monthly billing report is deemed insufficient in detail, the MPO/RTPO undergoes major structural changes, or there are changes to the MPO/RTPO's core organizational functions/activities. The interim reports are due to the STATE within twenty-one (21) calendar days of being notified in writing by the STATE. The interim reports shall include a summary of work progress during the course of the fiscal year, costs incurred in accordance with the approved UPWP and budget, and progress to date, including any problems or work delays. The STATE may delay reimbursement of billings if the requested interim reports are not submitted as specified.
- 5.2 On or before September 30 of every calendar year, unless otherwise noted in the UPWP Guidelines, after the conclusion of each STATE fiscal year, the MPO/RTPO shall prepare and submit to the STATE a performance and expenditure report. MPOs are required, as a subrecipient of the STATE, to contribute to the annual performance and expenditure report prepared by the STATE and provided to the FHWA and FTA pursuant to 23 C.F.R. pt. 420.117(b)(1). This final report shall summarize work accomplished under the UPWP, costs incurred by work element, and identify any carryover of funds. Each annual report must contain at a minimum:
 - a. Comparison of actual performance with established goals;
 - b. Progress in meeting schedules;
 - c. Status of expenditures in a format compatible with the work program, including a comparison of budgeted (approved) amounts and actual costs incurred;
 - d. Cost overruns or underruns;
 - e. Approved work program revisions; and
 - f. Other pertinent supporting data.

6. Assignment of Work Items

- 6.1 The work items may be accomplished by joint effort between the staff of the MPO/RTPO, the STATE, and/or local government agencies. Such assignments will be clearly listed in the UPWP and be in compliance with 23 C.F.R. § 450.318.

7. Project Records

- 7.1 The MPO/RTPO shall establish and maintain books, records, documents, and other evidence and accounting procedures and practice, sufficient to reflect properly all direct and indirect costs of whatever nature incurred and anticipated to be incurred for the performance of this Agreement. To facilitate the administration of the Project, separate accounts shall be established and maintained within the MPO/RTPO's existing accounting system or an independent accounting system may be set up. Such accounts are referred to herein collectively as the "Project Account." The MPO/RTPO shall charge to a Project Account all eligible costs of the Project. Costs in excess of the latest approved budget, or attributable to actions which have not received the written approval of the STATE, shall not be eligible for reimbursement. All costs charged to the Project, including any approved services contributed by the MPO/RTPO or others, shall be supported by executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges as the STATE deems appropriate.

8. Audits, Inspection, and Retention of Records

- 8.1 The STATE, the USDOT, FTA, FHWA, the State Auditor, the Inspector General, and/or any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as they deem necessary, all MPO/RTPO records, paper and electronic, with respect to all matters covered by this Agreement. Such entities and their representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make copies of all contracts, invoices, materials, payrolls, and other matters covered by this Agreement. All documents, papers, accounting records, and other material pertaining to costs incurred in connection with the Project shall be retained by the MPO/RTPO for six (6) years from the date of completion of the Project to facilitate any audits or inspections.
- 8.2 Furthermore, if any litigation, claim, or audit arising out of, in connection with, or related to this Agreement is initiated before the expiration of the six-year period, the cost records and accounts shall be retained until such litigation, claim, or audit is completed.
- 8.3 All MPO/RTPOs that expend Seven Hundred Fifty Thousand Dollars (\$750,000.00) or more during the MPO/RTPO's fiscal year in federal awards must have a single audit or program specific audit in accordance with 2 C.F.R. pt. 200 (Subpart F- Audit Requirements).

9. Modifications

- 9.1 Either Party may request changes to the provisions of this Agreement and to the UPWP that will be developed. Changes to the work scope and budget changes shall be made by written amendment to the UPWP by the MPO/RTPO and approved in writing by the STATE, FHWA, and FTA. Other changes to this Agreement which are mutually agreed upon shall be incorporated as written amendments to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the Parties hereto.

10. Termination

- 10.1 This Agreement expires on the End Date under Term of Agreement above. If it is determined to be in the best interests of the STATE, the STATE may terminate this Agreement upon giving thirty (30) calendar days' notice in writing to the MPO/RTPO. If this Agreement is terminated prior to fulfillment of the terms stated herein, the MPO/RTPO shall be reimbursed only for actual expenses and non-cancelable obligations, both direct and indirect, incurred to the date of termination as determined by the STATE. The STATE will work with the MPO/RTPO to determine what obligations are non-cancelable.

11. Travel

11.1 Current state travel rates shall apply to all in-state and out-of-state travel for which reimbursement is claimed during the term of this Agreement. Reimbursement of travel expenses is limited to travel necessary for the completion of the UPWP tasks. All travel by RTPOs using state funds is subject to state travel rules as outlined in the State Administrative & Accounting Manual (SAAM). All travel by the MPO/RTPOs using federal funds is subject to federal rules and regulations as outlined in 2 C.F.R. pt. 200. In addition, all travel by the MPO/RTPOs using federal funds must be in compliance with its own internal policies, those of the fiscal agent, or the State's policies, whichever is more restrictive.

12. Subcontracting and Equipment

- 12.1 The services of the MPO/RTPO shall be directed by a Project Manager. The MPO/RTPO shall not assign, sublet, or transfer any of the work provided for under this Agreement without prior written approval from the STATE. The STATE shall have fourteen (14) calendar days to review and approve any MPO/RTPO consultant agreements and scope of work prior to execution. The MPO/RTPO shall comply with all current federal and state laws and regulations governing the selection and employment of consultants. The STATE reserves the right to appoint a representative to serve on the MPO/RTPO consultant selection committee. Subcontracts for consultant services must contain all the required provisions of this Agreement to the extent applicable.
- 12.2 If any equipment is purchased under this Agreement, it shall be listed under scope of work in the consultant agreement. All equipment must be purchased, managed, and disposed of in accordance with all current federal and state laws and regulations, and the nondiscrimination provisions of Section 18 of this Agreement. The procurement of all equipment must be used for the sole purpose of urban and regional transportation planning activities. Any equipment no longer required by the MPO/RTPO at the completion of the work shall become the property of the STATE.

13. Purchases

- 13.1 The MPO/RTPO shall make purchases of any equipment, material, incidental goods, or supplies, pursuant to this Agreement through procurement procedures approved in advance by the STATE and consistent with the following provisions:
- 13.2 General Procurement Requirements. The MPO/RTPO shall comply with the procurement procedures identified in FTA Procurement Circular 4220.1F, "Third Party Contracting Guidance," and any revision or replacement thereof; and applicable federal regulations or requirements identified in 2 C.F.R. pt. 200, "Uniform Administrative Requirements," and any amendments thereof, which by this reference are incorporated herein; any reference therein to "grantee" shall mean the MPO/RTPO or consultant.
- a. Preference for United States Products and Services. To the extent applicable, the MPO/RTPO agrees to comply with the following requirements:
 - a.1 Buy America. The MPO/RTPO shall comply with 49 U.S.C. § 5323(j) and 49 C.F.R. pt. 661, and any implementing guidance the USDOT may issue.
 - a.2 Cargo Preference - Use of United States Flag Vessels. The MPO/RTPO agrees to comply with U.S. Maritime Administration regulations "Cargo Preference - U.S. Flag Vessels" 46 C.F.R. pt. 381 to the extent those regulations apply to the Project.
 - a.3 Fly America: The MPO/RTPO understands and agrees that the Federal Government will not participate in the costs of international air transportation of any person involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S. flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. pts. 301-10.131-143.
 - b. Geographic Restrictions. The MPO/RTPO agrees to refrain from using any State or local geographic preference, except those expressly mandated or encouraged by federal statute or as permitted by USDOT.
 - c. Government Orders. In case any lawful government authority shall make any order with respect to the Project, Project equipment, or any part thereof, or the parties hereto, or either of them, the MPO/

RTPO or the consultant(s) shall cooperate with the STATE in carrying out such order and will arrange its operation and business so as to enable the STATE to comply with the terms of the order.

14. Incorporation of Federal Terms

- 14.1 Purchasing. This Agreement's provisions include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in this Agreement's provisions. All contractual provisions required by the FTA, as set forth in FTA Procurement Circular 4220.1F, 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 Agreement. The MPO/RTPO or the consultant(s) shall not perform any act, fail to perform any act, or refuse to comply with any STATE request, which would cause the STATE to be in violation of any USDOT term or condition.
- 14.2 Federal Changes. The MPO/RTPO shall, at all times, comply with all applicable FTA regulations, policies, procedures, and directives including, but not limited to, those listed directly or by reference in the Agreement as they may be amended or promulgated from time to time by the FTA during the term of this Agreement. The MPO/RTPO or consultant's(s') failure to so comply, shall constitute a material breach of this Agreement.

15. No Obligation by the Federal Government

- 15.1 The STATE and the MPO/RTPO 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 MPO/RTPO, the consultant(s), or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from this Agreement.
- 15.2 No contract between the MPO/RTPO and its consultant(s) shall create any obligation or liability of the STATE with regard to this Agreement without the STATE's specific written consent, notwithstanding its concurrence in, or approval of, the award of any contract, subcontract, or the solicitations thereof. The MPO/RTPO hereby agrees to include this provision in all contracts it enters into for the employment of any individuals, procurement of any materials, or the performance of any work to be accomplished under this Agreement. The MPO/RTPO agrees to require its consultant(s) to also include this provision in contracts entered into by any consultant, including consultant agreements, if any, with subcontractors.

16. Personal Liability of Public Officers

- 16.1 No officer or employee of the STATE shall be personally liable for any acts or failure to act in connection with this Agreement, it being understood that in such matters they are acting solely as agents of the STATE.

17. Ethics

- 17.1 Code of Ethics. The MPO/RTPO agrees to maintain a written code or standard of conduct that shall govern the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts supported by federal assistance. The code or standard shall provide that MPO/RTPO officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or subrecipients. The MPO/RTPO may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. The code or standard shall prohibit MPO/RTPO officers, employees, board members, or agents from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain. As permitted by state or local laws or regulations, such codes or standards shall include penalties, sanctions, or other disciplinary actions for violations by MPO/RTPO officers, employees, board members, agents, or by subcontractors, subrecipients, or their agents.
- 17.2 Personal Conflict of Interest. MPO/RTPO codes or standards shall prohibit MPO/RTPO employees, officers, board members, or agents from participating in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm or entity selected for award:

- a. The employee, officer, board member, or agent of the MPO/RTPO;
 - b. Any member of the immediate family, including any partner, of MPO/RTPO employees, officers, board members, or agents;
 - c. An organization that employs, or is about to employ, any of the above.
- 17.3 Organizational Conflict of Interest. The MPO/RTPO code or standard of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or impair its objectivity in performing the contract work.
- 17.4 Debarment and Suspension. The MPO/RTPO agrees to comply with the requirements of Executive Orders Numbers 12549 and 12689, "Debarment and Suspension," and Office of Management and Budget (OMB) regulations on Debarment and Suspension at 2 C.F.R. pt. 180 and 2 C.F.R. pt. 200. The MPO/RTPO is prohibited from contracting with or making sub awards to parties that are suspended or debarred, or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods and services equal to or in excess of \$25,000 and all non-procurement transactions (e.g., awards to subrecipients). MPO/RTPOs receiving individual awards for \$25,000 or more and all subrecipients must certify that the organization and its principals are not suspended or debarred. The MPO/RTPO agrees to, and assures that its subrecipients, lessees, third party contractors, and other participants at any tier of the Project will search the Excluded Parties Listing System records at www.sam.gov before entering into any third party sub agreement, lease, third party contract, or other arrangement in connection with the Project, and will include a similar term or condition in each of its Lower Tier Covered Transactions.
- 17.5 Bonus or Commission. The MPO/RTPO affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its application for federal financial assistance for this Project.
- 17.6 Relationship with Employees and Officers of the STATE. The MPO/RTPO shall not extend any loan, gratuity, or gift of money in any form whatsoever to any employee or officer of the STATE, nor shall the MPO/RTPO rent or purchase any equipment and materials from any employee or officer of the STATE.
- 17.7 Employment of Former WSDOT Employees. The MPO/RTPO hereby warrants that it shall not engage on a full-time, part-time, or other basis during the period of the Agreement, any professional or technical personnel who are, or have been, at any time during the period of the Agreement, in the employ of the STATE without written consent of the STATE.
- 17.8 Restrictions on Lobbying. The MPO/RTPO agrees to:
- a. Refrain from using federal assistance funds to support lobbying;
 - b. Comply, and assure compliance by each subcontractor at any tier and each subrecipient at any tier, with applicable requirements of USDOT regulations, "New Restrictions on Lobbying," 49 C.F.R. pt. 20, modified as necessary by 31 U.S.C. § 1352; and
 - c. Comply with federal statutory provisions to the extent applicable prohibiting the use of federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, as specified in 49 C.F.R. pt. 20.
- 17.9 Employee Political Activity. To the extent applicable, the MPO/RTPO agrees to comply with the provisions of the Hatch Act of 1939, 5 U.S.C. §§ 1501 through 1508, 7324-7326, and Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. pt. 151. The Hatch Act of 1939 limits the political activities of state and local agencies and their officers and employees, whose principal employment activities are financed in whole or in part with federal funds including a loan, grant, or cooperative agreement. Nevertheless, in accordance with 23 U.S.C. § 142(g), the Hatch Act of 1939 does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act of 1939 does not otherwise apply.
- 17.10 False or Fraudulent Statements or Claims. The MPO/RTPO acknowledges and agrees that the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and USDOT regulations, Program Fraud Civil Remedies, 49 C.F.R. pt. 31, apply to its activities in connection with this Project. Accordingly, by executing this Agreement the MPO/RTPO certifies or affirms the truthfulness and

accuracy of any statement it has made, it makes, or it may make in connection with the Project covered by this Agreement. In addition to other penalties that WSDOT reserves the right to impose on the MPO/RTPO, the MPO/RTPO also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to WSDOT or the Federal Government, WSDOT and the Federal Government, each, reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the MPO/RTPO to the extent either deems appropriate.

18. Civil Rights

- 18.1 The MPO/RTPO shall comply with all applicable civil rights statutes and implementing regulations including, but not limited to:
- 18.2 Nondiscrimination in Federal Transit Programs. The MPO/RTPO agrees to comply, and assures compliance by each third party contractor at any tier, with the provisions of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, religion, national origin, sex, disability, or age, and prohibits discrimination in employment or business opportunity.
- 18.3 Nondiscrimination--Title VI of the Civil Rights Act. The MPO/RTPO agrees to comply, and assures compliance by each third party contractor at any tier, with all requirements, prohibiting discrimination on the basis of race, color, or national origin, pursuant to Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; and USDOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. pt. 21, and any implementing requirements FTA may issue. Except to the extent FTA determines otherwise in writing, the MPO/RTPO also agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, and guidance; and U.S. Department of Justice (DOJ), "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. pt. 50.3, and any other applicable federal guidance that may be issued.
- 18.4 Equal Employment Opportunity. The MPO/RTPO agrees to comply, and assures compliance by each third party contractor at any tier, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332, and any implementing requirements FTA may issue. These Equal Employment Opportunity (EEO) requirements include, but are not limited to, the following:
- a. The MPO/RTPO agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. The MPO/RTPO agrees to take affirmative action to ensure that applicants are employed and that employees are treated equally during employment, without regard to their race, color, religion, national origin, sex, disability, or age. Such action shall include, but not be limited to, 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. The MPO/RTPO shall also comply with any implementing requirements USDOT may issue.
 - b. If the MPO/RTPO is required to submit and obtain Federal Government approval of its EEO program, that EEO program approved by the Federal Government is incorporated by reference and made part of this Agreement. Failure by the MPO/RTPO or the consultant(s) to carry out the terms of that EEO program shall be treated as a violation of this Agreement. Upon notification to the MPO/RTPO or the consultant(s) of its failure to carry out the approved EEO program, the Federal Government may impose such remedies as it considers appropriate, including termination of federal financial assistance, or other measures that may affect the MPO/RTPO's eligibility to obtain future federal financial assistance for transportation projects.
- 18.5 Nondiscrimination on the Basis of Sex. The MPO/RTPO agrees to comply with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., with USDOT regulations "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. pt. 25, and with any implementing directives that the USDOT or the FTA may promulgate, which prohibit discrimination on the basis of sex.
- 18.6 Nondiscrimination on the Basis of Age. The MPO/RTPO agrees to comply with applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., and implementing regulations, which prohibits discrimination on the basis of age.

- 18.7 Access Requirements for Persons with Disabilities. The MPO/RTPO agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires the provision of accessible facilities and services; and with the federal regulations, including any amendments thereto following:
- a. USDOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. pt. 37;
 - b. USDOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving Federal Financial Assistance," 49 C.F.R. pt. 27;
 - c. Joint U.S. Architectural and Transportation Barriers Compliance Board U.S. DOT regulations, Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles, 36 C.F.R. pt. 1192 and 49 C.F.R. pt. 38;
 - d. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. pt. 35;
 - e. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. pt. 36;
 - f. U.S. General Services Administration (GSA) regulations, "Uniform Federal Accessibility Standards," 41 C.F.R. Appendix to Subpart 101-19.6;
 - g. U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. pt. 1630;
 - h. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. pt. 64, Subpart F;
 - i. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. pt. 609; and
 - j. Any other nondiscrimination statute(s) that may apply to the Project.
- 18.8 Drug or Alcohol Abuse. Confidentiality and Other Civil Rights Protections. The MPO/RTPO agrees to comply with the confidentiality and other civil rights provisions of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.; with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq.; and comply with the Public Health Service Act, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments to these laws. MPO/RTPO understands the requirements of confidentiality concerning persons covered and/or receiving services and/or treatment regarding alcohol and drug abuse, as defined in the aforementioned acts as applicable, including any civil and criminal penalties for not complying with the requirements of confidentiality and that failure to comply with such requirements may result in termination of this Agreement.
- 18.9 Access to Services for Persons with Limited English Proficiency. The MPO/RTPO agrees to comply with applicable federal guidance issues in compliance with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000.
- 18.10 Environmental Justice. The MPO/RTPO agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority populations and Low-Income Populations," 42 U.S.C. § 4321; DOT Order 5610.2(a), "Department of Transportation Actions to address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377 (Apr. 14, 1997) et seq.; and the most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, except to the extent that the Federal Government determines otherwise in writing.
- 18.11 Other Nondiscrimination Statutes. The MPO/RTPO agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to the Project.

19. Participation of Disadvantaged Business Enterprises

- 19.1 The MPO/RTPO shall take the following measures to facilitate participation by Disadvantaged Business Enterprises (DBE) in the Project: The MPO/RTPO or the consultant(s) agrees to comply with § 1101(b) of SAFETEA-LU, 23 U.S.C. § 101, as amended by Section 451 of the Hiring Incentives to Restore Employment (HIRE) Act, P.L. 111-147, March 18, 2010, 23 U.S.C. § 101, or § 1101(b) of MAP 21, 23 U.S.C. § 101, as amended by the FAST Act, whichever is applicable according to the funding in this Agreement; and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in

Department of Transportation Financial Assistance Programs,” 49 C.F.R. pt. 26; and federal transit law, specifically 49 U.S.C. § 5332.

- 19.2 The MPO/RTPO or the consultant(s) agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any third party contract, or sub agreement supported with federal assistance derived from the USDOT or in the administration of its DBE program, or the requirements of 49 C.F.R. pt. 26. The MPO/RTPO agrees to take all necessary and reasonable steps under 49 C.F.R. pt. 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub agreements supported with federal assistance derived from the USDOT. The MPO/RTPO DBE program, as required by 49 C.F.R. pt. 26 and approved by the USDOT, is incorporated by reference and made part of this Agreement. Implementation of the DBE 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 MPO/RTPO of its failure to implement its approved DBE program, the USDOT may impose sanctions as provided for under 49 C.F.R. pt. 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, 31 U.S.C. § 3801 et seq.

20. General State and Federal Compliance

- 20.1 The MPO/RTPO agrees to, and shall provide for such methods of administration for the UPWP Project that are found by the U.S. Secretary of Transportation, or the official to whom the Secretary delegates specific authority, to give reasonable guarantee that it, and other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of federal financial assistance under such program, will comply with all requirements imposed by, or pursuant to the federal acts, regulations, and this assurance in Sections 18 and 19 above. The MPO/RTPO agrees to comply with the provisions of 2 C.F.R. pt. 200. The MPO/RTPO agrees to comply with the requirements of the United States and Washington State law. Any report or procedure developed by the MPO/RTPO pursuant to this Agreement shall become public property and shall not be subject to copyright. The MPO/RTPO agrees that the United States, any agency thereof, the U.S. Secretary of Transportation and any of the Secretary’s designees, have not only the right to monitor the compliance of the MPO/RTPO with the provisions of this assurance, but also have the right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance. It is understood by the MPO/RTPO that this assurance obligates the MPO/RTPO for the period during which federal assistance is extended to the Project.

21. Legal Relations

- 21.1 Each Party shall protect, defend, and hold harmless the other Party, its officers, officials, employees, and/or agents from and against all claims, suits, or actions arising from any intentional or negligent acts or omissions of that Party, its officers, officials, employees, and/or agents while performing under the terms of this Agreement. In the event of a claim for damages of any nature whatsoever arising out of the performance of this Agreement caused by the concurrent actions of the Parties, their officers, officials, employees, and/or agents, each Party shall provide its own defense and be liable for damages (to both persons and/or property), costs, fees, or other amounts only to the extent of its individual actions that are the basis for the imposition of liability or damages.
- 21.2 Further, the MPO/RTPO specifically assumes potential liability for actions brought by RTPO/MPO’s own employees or agents against the STATE and, solely for the purpose of this indemnification and defense, the MPO/RTPO specifically waives any immunity under State industrial insurance laws, Title 51 RCW. The provisions of this Section 21 shall survive the termination of this Agreement.

22. Interest of Members of or Delegates to Congress

- 22.1 No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement, or to any benefit arising therefrom.

23. Prohibited Interest

- 23.1 No member, officer, or employee of the MPO/RTPO during his or her tenure in office or employment, or one year thereafter, shall have any interest, direct, or indirect, in this Agreement or the proceeds thereof.

24. Labor Provisions

- 24.1 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, to work in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate of not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week.
- 24.2 Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in 29 C.F.R. § 5.8(a), the MPO/RTPO and any subcontractor responsible therefore shall be liable for unpaid wages. In addition, the MPO/RTPO and any 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 the clause set forth in 29 C.F.R. § 5.8(a) in the sum of Twenty-five Dollars (\$25) 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 the clause set forth in 29 C.F.R. § 5.8(a).
- 24.3 Withholding for Unpaid Wages and Liquidated Damages. The STATE or MPO/RTPO shall, upon its own action or 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 MPO/RTPO or subcontractor under any such contract or any 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 MPO/RTPO or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 C.F.R. § 5.5.
- 24.4 Nonconstruction Grants. The MPO/RTPO or subcontractor shall maintain payrolls and basic payroll records during the course of work and shall preserve such records for a period of six (6) 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 such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the MPO/RTPO or subcontractor for inspection, copying, or transcription by authorized representatives of the STATE and the Department of Labor, and the MPO/RTPO or subcontractor and will permit such representative to interview such employees during working hours on the job. If any litigation, claim or audit is commenced, the records and accounts along with supporting documents shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

25. Independent Contractor

- 25.1 The MPO/RTPO shall be deemed an independent contractor for all purposes and the employees of the MPO/RTPO or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of the STATE.

26. Liability

- 26.1 No liability shall attach to the STATE by reasons of entering this Agreement except as expressly provided herein.

27. Severability

- 27.1 If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform to the terms and requirements of applicable law and this Agreement.

28. Freedom of Information Act

28.1 The MPO/RTPO understands and agrees that the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Public Records Act, RCW 42.56 apply to the information and documents, both paper and electronic, submitted to the STATE, FTA, and U.S. DOT. The MPO/RTPO should therefore be aware that all applications and materials submitted that are related to Project will become agency records and are subject to public release through individual FOIA or State public disclosure requests.

29. Unique Identity Identifier

29.1 The MPO/RTPO shall, in accordance with 2 C.F.R. pt. 25, obtain a unique entity identifier required for System for Award Management registration to uniquely identify business entities.

30. Authority to Sign

30.1 The undersigned acknowledges that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date signed last by the Parties below.

**METROPOLITAN PLANNING ORGANIZATION/
REGIONAL TRANSPORTATION PLANNING
ORGANIZATION**

**WASHINGTON STATE
DEPARTMENT OF
TRANSPORTATION**

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: Director, Multimodal Planning Division

Date: _____

Date: _____