



# Request for Proposals

**For: Projections and Allocations of Population,  
Housing and Employment Growth**

## ANTICIPATED PROCESS SCHEDULE

Issue Request for Proposals:	January 13, 2023
Written Questions Deadline:	January 27, 2023
Submittal Deadline:	February 10, 2023
Interview Finalists (if necessary):	March 6–10, 2023
Notify Finalists of Decision by:	March 17, 2023
Contract Execution by:	April 14, 2023

January 13, 2023

## A. BACKGROUND INFORMATION

The Skagit Council of Governments (SCOG) is a voluntary organization of local and tribal governments in Skagit County, Washington whose purpose is to foster a cooperative effort in resolving problems, and preparing policies and plans that are common and regional. SCOG is the metropolitan planning organization designated under federal law, and regional transportation planning organization designated under state law, in Skagit County. According to recent SCOG estimates, there are approximately 130,000 residents, 55,000 housing units and 50,000 jobs in the planning area.

SCOG is initiating a request for proposals (RFP) from qualified firms for professional services to prepare projections and allocations of population, housing and employment growth in Skagit County. This RFP is only open to those qualified firms or individuals that satisfy the requirements stated herein and are licensed and available to do business in Washington state. SCOG has a budget of up to \$50,000 available for this project.

It is anticipated that an agreement will be executed by SCOG and a firm or individual for this project, with an approximate 12-month term. The agreement start date is anticipated to be **May 1, 2023**, with an end date of **April 30, 2024**.

The growth projections and allocations professional services contract will be funded through federal funds and local funds received by SCOG – all applicable state and federal laws must be followed. This contract is subject to the appropriations of the State of Washington.

## B. PROJECT OVERVIEW

This project has two separate, but related components: (1) countywide projections and allocations of population, housing and employment growth to 2045 for Growth Management Act (GMA) planning purposes; and (2) projections and allocations to 2050 for SCOG regional transportation planning purposes.

For the first component, countywide projections of growth for population, housing and employment will be prepared, and then allocated to: cities and towns, including their municipal urban growth areas; two non-municipal urban growth areas; and unincorporated areas outside of urban growth areas. Municipal and non-municipal urban growth areas are subject to a target of 80% of Skagit County's 20-year population projection going to those areas, with the remaining 20% going to unincorporated areas outside of urban growth areas. This 80/20 split is adopted in Skagit County Countywide Planning Policy 1.2. Products from this contract will inform local Growth Management Act (GMA) comprehensive plans, which are due by June 30, 2025 from local governments in Skagit County. Twenty-year planning horizons and these projections will extend to 2045.

For the second component, projections of population, employment and housing growth will be used for SCOG's federal and state compliant metropolitan-regional transportation plan, and the regional travel demand model that informs the plan. The horizon year for the plan and these projections will be 2050, and all growth projections should be consistent with projections and allocations prepared for the countywide process for population, housing and employment. An additional element of this component of the project is that growth in households and employment will need to be allocated to traffic analysis zones (TAZs). SCOG is in the process of updating the zonal structure of TAZs in late 2022 and early 2023. New TAZs resulting from this SCOG administrative process will provide the areas to allocate future growth of population, housing and employment. These TAZs will incorporate 2020 Census Block geographies, and be consistent with city-town limits and urban growth areas. The countywide process for projecting and allocating growth, which the contractor will assist with, will not require TAZ-level products for 2045, but SCOG will require 2050 TAZ-level allocations for use in the next update to the metropolitan-regional transportation plan and associated regional travel demand model. SCOG will begin preparing the next update to the plan after the contract ends, with the plan due in 2026. There are currently 329 TAZs in the SCOG travel demand model, though this figure is expected to change as TAZ boundaries are redrawn by SCOG staff in early 2023.

The Washington state Office of Financial Management (OFM) published 2022 GMA projections in December 2022, including low, medium and high projections for Skagit County total resident population. These projections form the basis for allocations that will occur with this project – a countywide projection within this range will need to be selected in 2023. The OFM medium population projection was selected the most recent time Skagit County went through a countywide growth allocation process in 2013–2014. According to their website, OFM will be publishing their full GMA report by spring 2023, which should be utilized for this project.

New for 2023 will be allocating housing at the jurisdictional level, consistent with House Bill 1220, which was signed into Washington state law in 2021. The Washington state Department of Commerce (Commerce) has been preparing materials to assist jurisdictions with meeting these new requirements. Recent estimates from Commerce indicate they will complete their process of projected housing needs, associated policies and guidance by February 2023. For the Skagit County project, it is anticipated that tools, methods and other materials prepared by Commerce will be used to prepare housing allocations, including the Housing for All Planning Tool (HAPT) Commerce is finalizing. In December 2022, Commerce updated the HAPT tool to include 20-year projections of population growth from OFM. Further refinements of this tool may occur in early 2023. It is assumed by SCOG that the HAPT tool will be used for this project, using Allocation Method A and B from HAPT, with minimal additional contractor support for housing allocations. A substantial expansion of scope for housing allocations is not anticipated by SCOG as Commerce has already prepared materials for use in countywide allocation

processes, and the budget for this project will not support significant scope expansion for housing allocations. While Commerce does suggest other alternative methodologies for allocating housing with examples from around the U.S., for this project there is not expected to be additional budget or time to substantially revise methodologies from those already developed by Commerce, nor prepare any new methodology. Deviation from Commerce-developed methodologies, if any, is expected by SCOG to be minor.

SCOG receives Quarterly Census on Employment and Wages (QCEW) data from the Washington state Employment Security Department (ESD) through agreement with the state agency. Due to confidentiality restrictions, SCOG is unable to share QCEW data with contractors or any other party. At the summary level, SCOG can share QCEW data, utilizing data-suppression techniques and following approval of ESD. Based on past experience, SCOG anticipates that two-digit North American Industry Classification System (NAICS) code summary data will be available to share with the contractor and local jurisdictions at the UGA level, with minimal levels of suppression. SCOG will work with the contractor to ensure available employment data is included in this project, acknowledging the value of including this QCEW employment data as practicable, while adhering to strict limits on sharing. There are no other socio-economic related data that SCOG uses with similar confidentiality restrictions. The contractor may need to utilize alternative data sources to fill any holes in suppressed employment QCEW data. Long-term aggregated industry employment projections from ESD were used in 2013–2014 to project employment growth countywide. The same source may be utilized for this project, or other sources could be considered, especially sources that project beyond 10 years.

Data sources for this project are expected to include data from the Skagit County assessor's office, local planning departments, Washington state Employment Security Department, Washington state Office of Financial Management, Washington state Department of Commerce, and data from the U.S. Census. Other data sources may be utilized for the project as well and contractors are encouraged to recommend additional sources of data that may be useful for the process of projecting population, housing and employment growth to 2045–2050.

It is anticipated that the project will be completed over a 12-month contract period. The GMA-related work to project and allocate growth to 2045 must be completed by December 2023, but the work needed for SCOG's metropolitan-regional transportation plan is not as time sensitive and should follow the earlier work, with completion in the first few months of 2024. SCOG endeavors to get local governments initial growth allocations by the end of 2023 to inform their work updating local comprehensive plans, which is expected to begin in early 2024.

## C. SCOPE OF SERVICES

The general scope of work for this contract is expected to include the tasks in this section. Proposers are strongly encouraged to consider best practices in projecting and allocating growth, and suggest changes from what appears in the Scope of Services section if warranted. Proposers are also encouraged to consider combining tasks, or other similar approaches, that will deliver desired content with resulting cost/time savings to contractor.

### **TASK 1: PROJECT ADMINISTRATION AND COORDINATION**

This task includes ongoing project administration and coordination with SCOG throughout the agreement period. Monthly invoices and progress reports should be submitted to SCOG for the previous month's work. Project meetings between SCOG and the contractor should occur as necessary through the agreement period. Any other meetings, if including other parties, should be attended by SCOG and the contractor. Meetings may be in-person, over the phone or via web conferencing, or a combination of formats. Keeping administrative costs low is encouraged, without foregoing communication that would aid project success.

Task 1 Contractor Deliverables:

- A. Project meetings as necessary; and
- B. Monthly invoices and progress reports.

### **TASK 2: TECHNICAL WORKSHOP(S) AND ONGOING OUTREACH**

Technical workshop(s) will be held with the contractor, SCOG staff and members of the Growth Management Act Technical Advisory Committee, which is composed of planners and other planning-related staff working in Skagit County. The committee meets the second Thursday of every month, though meetings are often cancelled if there are no substantive agenda items for that month. Potential workshop dates are **June 8, 2023** and/or **August 11, 2023**, though other dates may be considered, and the workshop(s) can occur outside of regularly scheduled meetings of the committee. SCOG is flexible on dates and wants to ensure any workshop date meets the needs and schedules of the contractor, the committee and SCOG staff.

Technical workshop(s) would be a good opportunity to talk about data needs, data availability and data limitations for the project with local government staff, particularly local data.

Task 2 Contractor Deliverables:

- A. One or two in-person Skagit County workshops with local planners; and

- B. Ongoing outreach with local planners, state agencies and other staffs as necessary.

### **TASK 3: EXISTING DATA REVIEW AND EVALUATION**

This task includes documenting and evaluating existing data for use on this project from available sources for population, housing, employment and land capacity.

Task 3 is expected to be an iterative process with Task 2, with data requests and review happening concurrently. Some of the data used for population and employment growth projections and allocations in 2013 and 2014 will no longer be useful. In particular, land capacity data had been available countywide through a previous planning process conducted in 2010, but the data will likely be of little value due to how old it is. However, many local jurisdictions completed land capacity analyses leading up to and following the 2016 round of periodic GMA comprehensive plan updates. These data will be more recent, though methodologies varied between jurisdictions and may not be extremely useful at a countywide level where consistency in methods may be valuable. As Skagit County is not a Buildable Lands county under RCW 36.70A.215, consistent data and methods on land capacity are unavailable through a countywide Review and Evaluation Program. Land capacity analyses leading up to 2025 comprehensive plan updates will be conducted by local governments after the contract ends.

SCOG staff will assist the contractor with making contacts to obtain relevant data. Skagit County assessor data is available – with information such as improvement value and square footage, land value, land use code, building style and year built – but has some limitations related to parcel-based zoning, which is not available for municipal areas through the Assessor. Cities and towns are the best sources for these zoning data, yet the quality of data may vary substantially, particularly between small towns with very few staff and much larger cities with robust geographic information systems functions and greater technical capabilities. One development limitation in certain areas is water availability, particularly where parcels are not in close proximity to existing water lines. Other constraints include critical areas and their associated buffers. As jurisdictions will later be conducting their own land capacity analysis, this project will not replicate/conflict with that future work, but will provide general land capacity assumptions and a model that can be utilized countywide to assist with projecting employment and households by TAZ for use in SCOG’s regional travel demand model and metropolitan-regional transportation plan.

Linking of projections will be essential for this project so relationships between different types of growth are reasonable. Population and employment projections should be linked with consideration given to long-term trends, using employment-population ratios and/or other methods. Population and housing projections should be linked using tools developed by Commerce, through their HNAT model. Percentage allocations of

population growth by jurisdiction should feed directly into the HNAT model, and can be utilized to test different alternatives of population growth impacts on housing needs by income type.

Federal and state data sources for the project are anticipated to be easily obtained where available, though recent delays in releasing data have made getting data in a timely manner more challenging than in past years.

There are no Contractor Deliverables associated with Task 3.

#### **TASK 4: INITIAL PROJECT MODELS AND OTHER TOOLS**

The population model(s) should be prepared prior to, or in concert with the HNAT model, as the HNAT model will require outputs from the population model indicating percentage of population growth by area. A range of growth scenarios should be included in the model, while maintaining the 80% urban/20% rural split. Countywide population shall be consistent with the published OFM range of 142,850 (low) and 195,316 (high) by 2045. For consistency, 2050 population for SCOG's metropolitan-regional transportation plan and regional travel demand model should be based on the same selection as the 2045 figure, with resulting consistent trendline allocations to UGAs from 2045 to 2050. These 2050 allocations will not be GMA-required allocations, but should be consistent with 2045 allocations as practicable.

SCOG staff will geocode ESD QCEW data and provide suppressed data to contractor for inclusion in the employment model, following approval by ESD on any data release. Other employment data sources may be necessary to supplement suppressed data. It is anticipated that QCEW data will be available for release, at the two-digit NAICS code, to share with the contractor and local planners. Though unlikely, if QCEW data is unavailable for this project, SCOG staff will work with the contractor to identify an alternative employment data source to utilize for the employment model. Employment growth is not subject to the 80% urban/20% rural split that population growth must adhere to in Skagit County. Due to data quality concerns, particularly related to county-to-county commuting flows for employers not submitting Multiple Worksite Reports to ESD, Census OnTheMap/Longitudinal Employment-Household Dynamics data should be avoided if possible.

The employment model(s) needs to include a reasonable method to expand "covered" QCEW employment to "total" employment. This expansion should estimate how many jobs exist in Skagit County that are not covered by unemployment insurance, such as: religious organizations; some agricultural workers; unpaid domestic workers; railroad workers; elected officials; and self-employed workers. Ten years ago in Skagit County, a 7.6% factor was applied to 2012 covered QCEW employment data to derive a total employment estimate, using a contractor-prepared method.

Task 4 Contractor Deliverables:

- A. Population model(s);
- B. Housing model utilizing HNAT allocation method A & B tools provided by Commerce, with minor modifications is necessary; and
- C. Employment model(s).

**TASK 5: DRAFT METHODOLOGY MEMORANDUM**

The methodology used to project and allocate growth shall be documented in a draft methodology memorandum. SCOG staff and Growth Management Act Technical Advisory Committee members will review the draft memorandum prior to it being finalized by the contractor in Task 6.

This methodology memorandum should exclude work associated with the 2050 allocations by TAZ, which is expected to follow the December 2023 deliverables. A reason for the delay is to provide initial population, housing and employment applications to the Growth Management Act Steering Committee prior to continuing work to continue projections from 2045 to 2050, and conduct allocations by TAZ.

Task 5 Contractor Deliverables:

- A. Draft methodology memorandum.

**TASK 6: FINAL DELIVERABLES**

All final deliverables shall be provided to SCOG staff with reasonable time for review prior to acceptance. SCOG staff will review all contractor provided final deliverables and submit comments to contractor in a timely manner prior to acceptance. Growth Management Act Technical Advisory Committee members may review deliverables as well, which will be coordinated by SCOG staff. Only timely comments are expected by SCOG to be addressed prior to finalizing deliverables, but reasonable timelines for review and comment should be provided by the contractor.

All project files associated with final deliverables including, but not limited to, Word documents, Excel workbooks, PowerPoint presentations, GIS files, PDF files, and InDesign files shall be provided to SCOG prior to contract closeout. SCOG staff will notify contractor in a timely manner if any files appear to be missing or cannot be accessed properly.

The Growth Management Act Steering Committee meets quarterly. The final presentation by the contractor is expected at the **December 20, 2023** meeting of the committee. This is a key date for the contract as the committee is not expected to meet again until March 2024.



Final models and other tools associated with the 2050 allocations by TAZ should be delivered by the contractor in early 2024. These deliverables are less time sensitive than the GMA-related growth projections and allocations that will be provided to the Growth Management Act Steering Committee in December 2023. The methodology memorandum, draft report, final report and presentation to the Growth Management Act Steering Committee are not expected to include project components associated with the 2050 allocations by TAZ. The contractor should document the methodology used to allocate growth to TAZ within models if practicable, or brief documentation outside of the models.

Models including 2050 allocations by TAZ will need to include household categories estimated by number of residents and workers (i.e. 1 to 4+ residents and 0 to 3+ workers), and employment estimated into categories (i.e. RETAIL, FIRES, GOV, EDU, WTCU, MANU, RESOURCE, and HEALTH). These categories of households and employment correspond to inputs into SCOG's regional travel demand model.

Task 6 Contractor Deliverables:

- A. Final methodology memorandum, which can be an appendix to the final report;
- B. Final models and other tools;
- C. Draft report;
- D. Final report; and
- E. Presentation to Growth Management Act Steering Committee.

## D. MINIMUM QUALIFICATIONS

Proposers must have demonstrated experience in the process of projecting and allocating growth, with a minimum of five years' experience of a principal project team member in conducting similar scopes of work.

## E. PROPOSAL SCORING CRITERIA AND CONTENT

Proposals will be scored using the following criteria:

### 1. QUALIFICATIONS - 50%

- A. Provide name, address and telephone number of the firm or individual;
- B. Describe experience on similar relevant projects with contact information for each project;
- C. Include names of project team members, professional certifications/registrations and relevant experience of each; and
- D. Provide references, including names and phone numbers of contact persons.

**2. APPROACH - 30%**

- A. Provide a detailed scope of work and describe how it will be accomplished. This scope should follow the tasks in the Scope of Services section of the RFP; and
- B. Proposers are strongly encouraged to consider best practices in growth projection and allocation, and suggest changes in the Scope of Services section if warranted. Proposers are also encouraged to consider combining tasks, or other similar approaches, that will deliver desired content with resulting cost/time savings to contractor.

**3. BUDGET - 10%**

- A. Provide a budget that includes estimates of billable hours, cost per hour, and hours per task for each individual on the contractor team, including subcontractors; and
- B. Clearly differentiate any subcontracted work in the budget.

**4. SCHEDULE - 10%**

- A. Provide a project schedule that includes all tasks from the Scope of Services, milestones and deliverables.

Proposals must total no more than 15 pages. A cover letter does not count toward the 15-page maximum and dividers do not count as pages if they do not contain content (i.e. text, pictures and graphics) other than what is necessary to identify the section of the proposal. Front and back covers of the proposal also do not count toward the 15 pages.

## F. CONTRACT TERM

The contract is anticipated to begin on **May 1, 2023** and end on **April 30, 2024**. Any contract extension must be mutually agreed by the contractor and SCOG.

## G. SUBMITTAL AND SELECTION PROCESS

Proposals must be received by **5:00 p.m.** (PT) on **February 10, 2023**. It is anticipated that submitted proposals will be evaluated within two weeks of the submission deadline. SCOG expects to make the selection decision after evaluating written proposals and contacting references. If SCOG determines that interviews are warranted, any interviews with prospective individuals or firms will be scheduled for **March 6-10, 2023**. A remote interview option will be provided to reduce travel time and associated costs. After interviews (if necessary), references will then be contacted and a firm or individual will be selected to undertake the project.

Proposals will be reviewed based upon the qualifications of the personnel assigned to the project and experience with similar projects, project approach, schedule and budget. Proposals will be evaluated by a review team selected by SCOG to determine which proposal, if any, would be in the best interest of SCOG.

SCOG reserves the right to accept or reject any or all proposals received from this RFP, or to negotiate separately with any proposer, and to waive any informalities, defects, or irregularities in any proposal, or to accept that proposal or proposals, which in the judgment of the proper officials, is in the best interest of SCOG.

This RFP includes the Scope of Services in Section C to be performed, which should be used as the general basis for the proposal. Variations or alternative approaches are welcome. Proposals which do not include all requested information listed in Section E may be considered non-responsive. All proposals will become a part of the public file on this matter without obligation to SCOG.

## H. INTERPRETATION OF RFP PRIOR TO PROPOSAL

Any person may request interpretation, clarification or correction of this RFP. Requests may be made to clarify intended meaning of any part of this solicitation, or to correct any discrepancies or omissions identified in the specifications. Such request must be by email and must be delivered to the SCOG contact person no later than **5 p.m. (PT) on January 27, 2023**. The person submitting the request is responsible for its timely delivery. Any interpretation, clarification, or correction to the RFP will be made by written addendum and will be available on the homepage of SCOG's website ([www.scog.net](http://www.scog.net)), under "Recent News".

Any questions concerning this solicitation should be directed during the hours of 8:00 a.m. and 5:00 p.m. (PT), Monday through Friday, to:

Mark Hamilton, AICP  
Senior Transportation Planner  
Skagit Council of Governments  
Telephone: (360) 416-7876  
Email: [markh@scog.net](mailto:markh@scog.net)

## I. POST-CLOSING DISCUSSION

Conversations may take place between SCOG and proposers after the responses are opened, for purposes of clarification. Proposers will be held to the information submitted in their proposals and subsequent negotiations.

Those submitting proposals may be required to make a presentation to SCOG as part of the selection process. The presenter shall be the person within the proposer's organization who is responsible for the professional service.

## **J. INCURRED COST**

This RFP does not obligate SCOG to award any contract. SCOG will not be held responsible for any cost or expense that may be incurred by the proposer in preparing and submitting a proposal in response to this RFP, or any cost or expense incurred by the proposer before the execution of a contract agreement. The proposer shall be solely responsible for any and all costs associated with submitting a proposal including any and all cost associated with interviews. No claims shall be submitted to SCOG for preparation or presentation of proposals.

All expenditures under any contract are subject to eligibility requirements in the SCOG-Washington State Department of Transportation Agreement included as Appendix A of this RFP, as well as all applicable state and federal laws.

## **K. PROTEST OF CONTRACT AWARD**

Protests concerning the contractor selection process must be delivered in writing to SCOG within 14 calendar days of the award announcement. SCOG will review the protest, contact the parties involved, and recommend the appropriate action to the SCOG Transportation Policy Board. The Board's decision will be the final SCOG position. The final decision will be presented to all interested parties within forty-five (45) calendar days of receipt of the protest.

## **L. ASSIGNMENT**

The awarded contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award or of any of its rights, title, or interests therein, without the prior written consent of SCOG.

## **M. ADDITIONAL LANGUAGE**

SCOG reserves the right to introduce additional terms and conditions at the time the final agreement is negotiated. Any additional terms or conditions would be limited to ones having the effect of clarifying the RFP language and/or correcting defects, such as omissions or misstatements, which are discovered after the RFP is issued, or that reflect state or federal law changes, or as required by funding entities.

## **N. PROPOSER'S RESPONSIBILITY**

By submitting a proposal, a firm or individual represents that:

1. The proposer has read and understands the RFP, and the proposal is made in accordance therewith;
2. The proposer is familiar with the local conditions under which this proposal must be performed. The proposer possesses the capabilities, resources, and personnel necessary to provide efficient and successful service; and
3. It is understood, and the proposer agrees, that the proposer shall be solely responsible for all services provided.

Each proposer shall be responsible for reading and completely understanding the requirements and specifications contained herein. The deadline for submission of proposals will be strictly adhered to. Late proposals will not be considered.

## O. CONTRACT REQUIREMENTS

The successful contractor will be required to enter into a contract with SCOG as per the provisions of Metropolitan/Regional Transportation Planning Organization Agreement GCB 3506 (Agreement), copies of which are available at the SCOG office and are included in Appendix A of this RFP. Through this reference, all the provisions within the Agreement are made a part of this RFP.

## P. PROFESSIONAL LIABILITY INSURANCE

Upon selection, the proposer shall be responsible for providing proof of professional liability insurance coverage for errors and omissions in the proposed work. The coverage should amount to at least \$1,000,000.

## Q. TITLE VI ASSURANCES

The Skagit Council of Governments, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

## R. PROPOSAL SUBMITTAL

Proposals must be received by **5:00 p.m.** (PT) on **February 10, 2023**. Late proposals will not be accepted. Proposals shall be emailed to:

Mark Hamilton, AICP  
Senior Transportation Planner  
Skagit Council of Governments  
Email: [markh@scog.net](mailto:markh@scog.net)

---

# APPENDIX A



**Washington State  
Department of Transportation**

Metropolitan/Regional Transportation Planning Organization Agreement		Term of Agreement	
		Start Date	End Date
Agreement No. GCB 3506	CFDA No 20.205 & 20.505	7/1/2021	6/30/2023
Lead Planning Agency Skagit Council of Governments 315 S 3 <sup>rd</sup> Street, Suite 100 Mount Vernon, WA 98273-3843		Metropolitan Planning Organization/Regional Transportation Planning Organization	
		Skagit Council of Governments (SCOG) MPO and RTPO	
		County(ies) included in the MPO/RTPO Skagit County	

This Agreement, is 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 and Data Division and the Tribal and Regional Integrated Planning office, 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."

**Recitals**

1. The above named county(ies) has (have) created a RTPO in accordance with the requirements set forth in RCW 47.80.020;
2. 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;
3. Federal funding is authorized under 49 U.S.C. Ch. 53 and 23 U.S.C. (Highways); and,
4. 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.

NOW THEREFORE, pursuant to RCW 39.34 and RCW 47.80, 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 Integrated Planning 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 include 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 STATE will inform the MPO/RTPO of expected allocations of State RTPO funds that are available to MPO/RTPOs by December 31 of even-numbered years for the following biennium. 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).

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 UPWP may be required in order to authorize expenditures of all federal and state funding. 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. 450.308(c), each MPO/RTPO, 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/RTPO. 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/RTPO, 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.

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 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.
- 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 Payment**

- 3.1 The STATE agrees to reimburse the MPO/RTPO's 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 identified in funding authorization letters provided by the STATE, 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.
- 3.2 All indirect costs will be consistent with the federal de minimus rate found in 2 C.F.R. 200 or based on a cost allocation plan or indirect cost rate proposal that is approved by the MPO/RTPO Policy Board annually and maintained on file by the MPO/RTPO for audit purposes. If indirect costs are based on an approved indirect cost allocation plan, the MPO/RTPO will provide a copy to TRIP annually, or when updated.
- 3.3 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 UPWP period, 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. Requests for reimbursement should be submitted to [TRCOFiscal@wsdot.wa.gov](mailto:TRCOFiscal@wsdot.wa.gov). The STATE shall review and approve each request for payment and shall reimburse the MPO/RTPOs no later than fifteen (15) business days after the date of receipt by the STATE.

## **4 Reports**

- 4.1 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.
- 4.2 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.

- 4.3 Reports as described in this section and other documentation or correspondence related to this Agreement should be sent via email to WSDOT's Tribal and Regional Integrated Planning Office at [trpo@wsdot.wa.gov](mailto:trpo@wsdot.wa.gov).

## **5 Assignment of Work Items**

- 5.1 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.

## **6 Project Records**

- 6.1 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 MPO/RTPO, separate accounts shall be established and maintained within the MPO/RTPO's existing accounting system or an independent accounting system may be set up for all eligible costs. 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 MPO/RTPO, 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.

## **7 Audits, Inspection, and Retention of Records**

- 7.1 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 this Agreement shall be retained by the MPO/RTPO for six (6) years from the date of final payment to facilitate any audits or inspections.
- 7.2 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.

- 7.3 All MPOs/RTPOs will be subject to audits by the State Auditor's Office. MPO/RTPOs that expend Seven Hundred Fifty Thousand Dollars (\$750,000) 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).

## **8 Modifications**

- 8.1 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.

## **9 Termination**

- 9.1 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.

## **10 Travel**

- 10.1 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.

## **11 Subcontracting and Equipment**

- 11.1 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 Tribal and Regional Integrated Planning Office in WSDOT's Multimodal Planning and Data Division shall have fourteen (14) calendar days to review and approve any MPO/RTPO consultant agreements prior to execution. The basis of review for proposed consultant agreements will be to ensure that the necessary terms and requirements have been incorporated into the agreement. The MPO/RTPO shall comply with all current federal and state laws and regulations governing the selection and employment of consultants. Subcontracts for consultant services must contain all the required provisions of this Agreement to the extent applicable.
- 11.2 If any equipment is purchased under this Agreement, it shall be listed in the UPWP. 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 17 of this Agreement. The procurement of all equipment must be used for the sole purpose of urban and regional transportation planning activities. Requests related to this provision shall be

emailed to trpo@wsdot.wa.gov.

- 11.3 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](http://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.

## 12 Purchases

- 12.1 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:
- 12.2 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:
    - a1 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.
    - a2 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 MPO/RTPO's work.
    - a3 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 MPO/RTPO 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 this Agreement, 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.

### **13 Incorporation of Federal Terms**

- 13.1 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.
- 13.2 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.

### **14 No Obligation by the Federal Government**

- 14.1 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.
- 14.2 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.

### **15 Personal Liability of Public Officers**

- 15.1 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.

### **16 Ethics**

- 16.1 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.

- 16.2 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,
  - c. board members, or agents; and
  - d. An organization that employs, or is about to employ, any of the above.
- 16.3 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.
- 16.4 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.
- 16.5 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.
- 16.6 Restrictions on Lobbying. The MPO/RTPO agrees to:
- a. Refrain from using federal or state 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.
- 16.7 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.
- 16.8 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. 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 administration of the MPO/RTPO 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 Fraud Civil Remedies Act of 1986, as amended, on the MPO/RTPO to the extent either deems appropriate.

## 17 Civil Rights

- 17.1 The MPO/RTPO shall comply with all applicable civil rights statutes and implementing regulations including, but not limited to:
- 17.2 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.
- 17.3 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.
- 17.4 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.

- 17.5 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.
- 17.6 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.
- 17.7 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.
- 17.8 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.

- 17.9 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.
- 17.10 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.
- 17.11 Other Nondiscrimination Statutes. The MPO/RTPO agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply.

## **18 Participation of Disadvantaged Business Enterprises**

- 18.1 The MPO/RTPO shall take the following measures to facilitate participation by Disadvantaged Business Enterprises (DBE): 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, 23 CFR 200.321; and federal transit law, specifically 49 U.S.C. § 5332.
- 18.2 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.

## **19 General State and Federal Compliance**

- 19.1 The MPO/RTPO agrees to, and shall provide for such methods of administration 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 17 and 18 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.

## **20 Legal Relations**

- 20.1 Each Party to this Agreement will protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and property), arising out of, or in any way resulting from, each Party's negligent acts or omissions with respect to the provisions of this Agreement. Neither Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, their agents, officials or employees, and/or involve those actions covered by RCW 4.24.115, the indemnity provisions provided herein will be valid and enforceable only to the extent of the negligence of the indemnifying Party, its agents, officials or employees.
- 20.2 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.

## **21 Interest of Members of or Delegates to Congress**

- 21.1 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.

## **22 Prohibited Interest**

- 22.1 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.

## **23 Independent Contractor**

- 23.1 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.

## **24 Liability**

- 24.1 No liability shall attach to the STATE by reasons of entering this Agreement except as

expressly provided herein.

**25 Severability**

25.1 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.

**26 Freedom of Information Act**

26.1 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 will become agency records and are subject to public release through individual FOIA or State public disclosure requests.

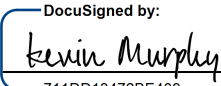

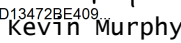
**27 Unique Identity Identifier**

27.1 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.

**28 Authority to Sign**

28.1 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.

<b>METROPOLITAN PLANNING ORGANIZATION/ REGIONAL TRANSPORTATION PLANNING ORGANIZATION</b>	<b>WASHINGTON STATE DEPARTMENT OF TRANSPORTATION</b>
Signed: 	Signed:  Digitally signed by Kerri Woehler Date: 2021.06.07 08:29:03 -07'00'
Printed Name:  Kevin Murphy	Printed Name: Kerri Woehler
Title: Executive Director	Title: Director, Multimodal Planning and Data Division
Date: 6/7/2021	Date:

<b>APPROVED AS TO FORM:</b>
Signed: /s/
Printed Name: James "J" Nelson
Title: Assistant Attorney General

Date: May 26, 2021