

G020-012023

- **Blue or gray highlighted areas indicate fields that need information provided or text that is optional. Optional language may be included or revised if it applies or deleted if it does not.**

**Do not use this template when federal funds are associated with the project. Anytime there are federal funds associated with a project, the entire project is considered federalized and requires federal terms and conditions in all agreements associated with the project.**

GRANT AGREEMENT  
OREGON DEPARTMENT OF TRANSPORTATION  
***Innovative Mobility Program Microgrant***

Recipient: **[Enter the recipient name] [select either Non-Profit/Private or Public] – Non-Profit/Private Entity or Public Agency**

Project Name: **[Enter the project name]**

THIS AGREEMENT is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "ODOT" or as the "State", and **[Enter recipient name]**, acting by and through its governing body, herein referred to as "Recipient" and both herein referred to individually or collectively as "Party" or "Parties."

The Innovative Mobility Program (IMP) and IMP microgrants are authorized by ORS 184.730, which allows ODOT to develop and finance transportation demand management (TDM) projects.

- 1. Effective Date.** This Agreement shall become effective on the date all required signatures are obtained and the Agreement is fully executed and approved as required by applicable law (the "Effective Date"). Unless otherwise terminated or extended, the availability of Grant Funds (as that capitalized term is defined in Section 3 below) under this Agreement shall end June 30, 2026 (the "Availability Termination Date"). No Grant Funds are available for any expenditure before the Effective Date or after the Availability Termination Date.
- 2. Agreement Documents.** This Agreement consists of this document and the following documents:
  - a. Exhibit A: Scope of Work
  - b. Exhibit B: Subagreement Insurance Requirements
  - c. **Exhibit C: Recipient Insurance Requirements or Reserved [Use if Recipient is a non-profit/private party]**

Exhibits A through C are attached hereto and by this reference made a part hereof of this Agreement. In the event of a conflict between two or more of the documents comprising

this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C.

- 3. Grant Award.** The total estimated costs to complete the Scope of Work described in Exhibit A (the “Project”) are \$[Amount] (the “Project Costs”). In accordance with the terms and conditions of this Agreement, ODOT shall provide Recipient, and Recipient shall accept from ODOT, the award of a grant in the not-to-exceed amount of \$ [Amount] (the “Grant Funds”) of the total eligible Project Costs to allow Recipient to perform the Project Tasks set forth in Exhibit A. Recipient shall fund all remaining Project Costs.
- 4. Project Implementation and Completion.** Recipient shall implement and complete the Project in accordance with Exhibit A. In accordance with the provisions of Section 5.d., Recipient shall notify ODOT in writing of all changes in the Scope of Work prior to performing any changes and shall not perform any changes without written prior approval from ODOT.
- 5. Grant Funds.**

  - a. Use of Grant Funds.** The Grant Funds shall be used solely for the Tasks described in Exhibit A and shall not be used for any other purpose. Grant Funds may not be used for any changes to the Tasks set forth in Exhibit A unless ODOT approves such changes pursuant to the Project Change Procedures in Section 5.d. or pursuant to the Amendment provisions of Section 14.c.
  - b. Eligible Project Costs.** The Grant Funds may be used only for Grantee’s actual Project costs to the extent those costs are (a) reasonable, necessary and directly used for the Project; and (b) eligible or permitted uses of the Grant Funds under, as applicable, federal and State law and this Agreement and are (c) not excluded from reimbursement or payment as a result of any later financial review or audit (“Eligible Project Costs”). Eligible Project Costs do not include any expenditures incurred outside of the Grant Period.
  - c. Project Change Procedures.** Project changes are permitted only to the Scope of Work and only with the prior written permission of ODOT. If Recipient anticipates a need for project change, Recipient shall submit a request via email to IMP Staff. IMP Staff may authorize changes to Scope of Work via email.
- 6. Project Reporting.** Recipient shall report to ODOT in writing on its progress and completion in performing the Project. Recipient shall submit a final outcomes report with metrics and social/demographic information on beneficiaries of the grant, in addition to receipts, invoices, or other proof of grant expenditures. Recipient shall submit the outcome report within 60 days of project completion. ODOT may, at its sole discretion, require Recipient to report on its progress quarterly. Each progress report shall include the work Recipient has

completed in the last quarter and corresponding Grant Funds expended in that quarter, and the amount of unexpended Grant Funds remaining. Upon ODOT'S request, Recipient shall provide proof of payment and backup documentation supporting Recipient's expenditures.

**7. Disbursement and Recovery of Grant Funds.**

**a. Disbursement Generally.** Upon execution of this Agreement, ODOT will disburse the Grant Funds to Recipient in a single lump sum for awards up to \$7,500. For awards greater than \$7,500, Grant Funds will be disbursed in two equal installments: the first installment upon execution of this Agreement and the second installment upon the Recipient's timely submission of its progress report as required by Exhibit A.

**b. Conditions Precedent to Disbursement.** ODOT's obligation to disburse Grant Funds to Recipient is subject to the conditions precedent that (1) ODOT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to make the disbursement; and (2) Recipient is in compliance with the terms of this Agreement.

**c. Recovery of Grant Funds.** Any Grant Funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of the Availability Termination Date or termination of this Agreement must be returned to ODOT. Recipient shall return all Misexpended Funds to ODOT no later than fifteen (15) days after ODOT's written demand.

**8. General Representations and Warranties of Recipient.** Recipient represents and warrants to ODOT as follows:

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

**b. Binding Obligation.** This Agreement has been duly executed and delivered by Recipient

and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

**c. Full Disclosure.** Recipient has disclosed in writing to ODOT all facts that materially adversely affect its ability to perform all obligations required by this Agreement. Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Agreement is true and accurate in all respects.

**d. Pending Litigation.** Recipient has disclosed in writing to ODOT all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the ability of Recipient to perform all obligations required by this Agreement.

**e. No Defaults.** Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party that would materially adversely affect the ability of Recipient to perform all obligations required by this Agreement. No Defaults or Events of Default exist or will occur upon authorization, execution or delivery of this Agreement.

**f. Compliance with Oregon Taxes, Fees and Assessments.** Recipient is, to the best of the undersigned's knowledge, and for the useful life of the Project will remain, current on all applicable state and local taxes, fees and assessments.

## **9. Records Maintenance and Access; Audit.**

**a. Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards, and minimum standards for audits of non-profit organizations. Recipient shall ensure that each of its sub-recipients and subcontractors complies with these requirements. ODOT, the Secretary of State of Oregon (Secretary) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, ODOT, the Secretary and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Nothing herein is meant to be or will be interpreted to be a waiver of any protection against disclosure of records or communication otherwise provided by law, including protection provided by attorney-client privilege or the attorney work product doctrine.

**b. Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records, that are directly related to this Agreement, the funds or the Project until the date that is six (6) years following the Availability Termination Date.

**c. Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by ODOT under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit ODOT to verify how the Grant moneys were expended.

This Section 9 shall survive any expiration or termination of this Agreement.

**10. Subagreements.** Performance of this Agreement shall not be subcontracted in whole or in part, except with the written consent of ODOT. If ODOT provides written consent for Recipient to enter into agreements with subrecipients, contractors or subcontractors (collectively, "subagreements") for performance of this Agreement, the following conditions apply:

**a Subagreements.**

- 1) All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
- 2) Recipient shall require all of its contractors performing work under this Agreement to name ODOT as a third-party beneficiary of Recipient's subagreement with the contractor and to name ODOT as an additional or "dual" obligee on contractors' payment and performance bonds.
- 3) Recipient shall provide ODOT with a copy of any signed subagreement upon request by ODOT. This paragraph 10.a.3) shall survive expiration or termination of this Agreement.
- 4) Recipient must report to ODOT any material breach of a term or condition of a subagreement within ten (10) days of Recipient discovering the breach.

**b. Subagreement indemnity;insurance**

- 1) Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in Oregon Revised Statute (ORS) 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, the Oregon Transportation Commission, and the Oregon Department of Transportation and their respective officers, members, employees and agents from and against any and all claims, suits, actions, losses, damages, liabilities, cost and expenses, including attorneys' fees, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of

such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.

- 2) Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.
- 3) Recipient shall require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to meet the minimum insurance requirements provided in Exhibit B. Recipient may specify insurance requirements of its contractor(s) above the minimum insurance requirements specified in Exhibit B. Recipient shall verify its contractor(s) meet the insurance requirements in Exhibit B.
- 4) Recipient shall determine insurance requirements, insurance types and amounts, as deemed appropriate based on the risk of the work outlined within the subagreement. Recipient shall specify insurance requirements and require its contractor(s) to meet the insurance requirements. Recipient shall obtain proof of the required insurance coverages, as applicable, from any contractor providing services related to the subagreement.
- 5) Recipient shall require its contractor(s) to require and verify that all subcontractors carry insurance coverage that the contractor(s) deems appropriate based on the risks of the subcontracted work.

## 11. Termination

**a. Mutual Termination.** This Agreement may be terminated by mutual written consent of the Parties.

**b. Termination by ODOT.** ODOT may terminate this Agreement effective upon delivery of written notice to Recipient, or at such later date as may be established by ODOT under any of the following conditions:

- 1) If Recipient fails to implement the Project within the time specified herein or any extension thereof.
- 2) If Recipient fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
- 3) If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;
- 4) If federal or state laws, regulations or guidelines are modified or interpreted in such a way that the Project work under this Agreement is prohibited or if ODOT is prohibited from paying for such Project work from the planned funding source; or
- 5) If, in the sole opinion of ODOT, the Project would not produce results that are commensurate with the further expenditure of funds.

**c. Rights upon Termination.** Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination. The remedies set forth in this Agreement are cumulative and are in addition to any other rights or remedies available at law or in equity.

**12. Defaults.** Any of the following constitutes an "Event of Default":

- a. Any false or misleading representation is made by or on behalf of Recipient in this Agreement or in any document provided by Recipient related to the Project.
- b. Recipient takes any of the following action or an action for the purpose of affecting any of the below.
  - 1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
  - 2) Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
  - 3) Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
  - 4) Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or

- 5) Recipient takes any action for the purpose of affecting any of the above.
- c. Recipient fails to perform any obligation required under this Agreement, other than those referred to in subsections a. and b. of this Section 12, and that failure continues for period of 30 calendar days after written notice specifying such failure is given to Recipient by ODOT. ODOT may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

### 13. Remedies.

- a. Upon any Event of Default, ODOT may pursue any or all remedies in this Agreement and any other remedies available at law or in equity to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
  - 1) Terminating ODOT's commitment and obligations under the Agreement.
  - 2) Requiring repayment of the Grant Funds and all interest earned by Recipient on those Grant Funds.
- b. Any moneys collected by ODOT pursuant to Section 13.a will be applied first, to pay any attorneys' fees and other fees and expenses incurred by ODOT; then, as applicable, to repay any Grant proceeds owed; and last, to pay any other amounts due and payable under this Agreement.
- c. No remedy available to ODOT is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Agreement will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. ODOT is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 8 of this Agreement.
- d. In the event ODOT defaults on any obligation in this Agreement, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of ODOT's obligations.

### 14. General Provisions.

***[Include the following a. Contribution section only for governmental recipients]***

#### **a. Contribution.**

- 1) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to



the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

- 2) Except as otherwise provided in Paragraph 15.b below, with respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim ), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- 3) Except as otherwise provided in Paragraph 15.b below, with respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

***[Include the following a. Indemnification section only for agreements with non-profit/private Recipients]***

**a. Indemnification.**

1) **RECIPIENT SHALL INDEMNIFY, DEFEND, SAVE AND HOLD HARMLESS, THE STATE OF OREGON, THE OREGON TRANSPORTATION COMMISSION, AND THE OREGON DEPARTMENT OF TRANSPORTATION AND THEIR RESPECTIVE OFFICERS, MEMBERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES LIABILITIES, COSTS (INCLUDING ATTORNEYS' FEES) AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF, OR RELATING TO THE INTENTIONAL MISCONDUCT, OR RECKLESS OR NEGLIGENT ACTS OR OMISSIONS OF RECIPIENT OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.**

2) State shall reasonably cooperate in good faith, at Recipient's reasonable expense, in the defense of a covered claim. Recipient shall select counsel reasonably acceptable to the Oregon Attorney General to defend such claim and all costs of such counsel shall be borne by Recipient. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before such counsel may act in the name of, or represent the interests of, State, its officers, employees or agents. State may elect to assume its own defense with an attorney of its own choice and its own expense at any time State determines important governmental interests are at stake. State agrees to promptly provide Recipient with notice of any claim that may result in an indemnification obligation hereunder. Subject to the limitations noted above, Recipient may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of State, which consent shall not be unreasonably withheld, conditioned or delayed.

**b. Contract-Related Indemnification.** Subject to any limitations imposed by State law and the Oregon Constitution, Recipient agrees to the following contract-related indemnification for all projects authorized under this Agreement:

Where Recipient contracts for services or performs project management for a project, Recipient shall accept all responsibility, defend lawsuits, indemnify, and hold State harmless, for all contract-related claims and suits. This includes, but is not limited to, all contract claims or suits brought by any contractor, whether arising out of the contractor's work, Recipient's supervision of any individual project or contract, or Recipient's failure to comply with the terms of this Agreement.

**c. Survival.** Sections 14.a and 14.b shall survive termination of this Agreement.

**[Include the following d. Insurance section only for agreements with non-profit/private Recipients]**

**d. Insurance.** Recipient shall meet the insurance requirements within Exhibit C.

- e. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- f. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- g. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- h. **No Third Party Beneficiaries.** ODOT and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.
- i. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email or mailing the same, postage prepaid, to Recipient Contact or ODOT Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- j. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive

jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- k. Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, including without limitation the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- l. Costs and Expenses Related to Employment of Individuals; Insurance; Workers' Compensation.** Recipient is responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to retirement contributions, Workers' Compensation, unemployment taxes, and State and Federal income tax withholding. In addition, all employers, including Recipient that employ subject workers who provide services in the state of Oregon shall comply with ORS 656.017 and shall provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's Liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall verify that each of its sub-recipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- m. Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of ODOT. Recipient has no right or authority to incur or create any obligation for or legally bind ODOT in any way. ODOT cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of ODOT, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- n. Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- o. Counterparts.** This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on

all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

- p. Integration and Waiver.** This Agreement, and attached Exhibits constitute the entire Agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.
- q. Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are “Electronic Signatures” under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. ODOT reserves the right at any time to require the submission of the hard copy originals of any documents.
- r. Survival.** The following provisions survive expiration or termination of this Agreement: Sections 9, 14(a), 14(b), 14(e), 14(i) and 14(j).

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that its signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Program is in the 2021-2024 Statewide Transportation Improvement Program, (Key #22769) that was adopted by the Oregon Transportation Commission on July 15, 2022 (or subsequently approved by amendment to the STIP).

**[Enter Recipient name]**, by and through its officials, **[update approving body if applicable]**

By \_\_\_\_\_  
(Legally designated representative)

Name \_\_\_\_\_  
(printed)

Date \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_  
(printed)

Date \_\_\_\_\_

**Recipient Contact:**

**[Name  
Recipient  
Address  
phone  
email]**

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Rail Operations & Statewide Multimodal Network  
Unit Manager

Name Jennifer Sellers \_\_\_\_\_

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Innovative Mobility Program Manager

Date \_\_\_\_\_

**ODOT Contact:**

Amanda Howell, Innovative Mobility Program  
Manager  
ODOT Public Transportation Division  
555 13<sup>th</sup> St. NE  
Salem, OR 97301  
971-718-1025  
[Amanda.howell@odot.oregon.gov](mailto:Amanda.howell@odot.oregon.gov)

## EXHIBIT A Scope of Work

### Program Goals and Objectives

The Innovative Mobility Program (IMP) aims to improve historically underserved communities' access to public and active transportation. Program goals also include reducing the number of trips Oregonians make by car and reducing greenhouse gas emissions.

### Project Summary

[Enter summary from application.]

### Project Activities

[Enter from application.]

***[Use the below if Recipient will not be operating a motor vehicle in the scope of the Project. In addition, mark Automobile Liability within Exhibit C as Not Required]***

Recipient covenants and agrees that no motor vehicles will be used by Recipient, its officers, employees, or agents to accomplish or in support of the project scope to be conducted by Recipient under this Agreement, excluding deliveries by common carriers and independently contracted for services.

### Project Outcomes

[Enter anticipated outcomes and how recipient plans to track outcomes from application.]

### Project Budget

[Enter budget from application.]

### Reporting

***[For grants that do not exceed \$7,500]***

Recipient shall submit a final outcomes report to ODOT IMP Staff within 60 days of Project completion with the above mentioned metrics and social/demographic information on beneficiaries of the grant, in addition to receipts, invoices, or other proof of grant expenditures.

***[For grants that exceed \$7,500]***

- On a form approved by ODOT, Recipient shall submit a progress report to ODOT IMP Staff no later than [INSERT DATE]
- Recipient shall submit a final outcomes report to ODOT IMP Staff within 60 days of Project completion with the above mentioned metrics and social/demographic information on beneficiaries of the grant, in addition to receipts, invoices, or other proof of grant expenditures.

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**EXHIBIT B**  
**Subagreement Insurance Requirements**

**1. GENERAL.**

- a. Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, (each a “Contractor”) to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, “TAIL” COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the Contractor is not in compliance with the insurance requirements. As used in this section, “first tier” means a subagreement in which Recipient is a Party.
- b. The insurance specified below is a minimum requirement that the Contractor within the subagreement shall meet. Recipient may determine insurance types and amounts in excess to the minimum requirement as deemed appropriate based on the risks of the work outlined within the subagreement.
- c. Recipient shall require the Contractor(s) to require that all of its subcontractors carry insurance coverage that the Contractor deems appropriate based on the risks of the subcontracted work. Contractor shall obtain proof of the required insurance coverages, as applicable, from any subcontractor providing Services related to the Contract.

**2. TYPES AND AMOUNTS.**

**a. WORKERS’ COMPENSATION AND EMPLOYER’S LIABILITY.**

All employers, including a Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide Workers' Compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). The coverage shall include Employer’s Liability

Insurance with limits not less than \$500,000 each accident. Each **Contractor shall require compliance with these requirements in each of its subcontractor contracts.**

**b. COMMERCIAL GENERAL LIABILITY.**

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

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

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

**c. AUTOMOBILE LIABILITY.**

**Required**  **Not Required**

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

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

If not required, Recipient covenants and agrees that no motor vehicles will be used by Recipient's contractor, its officers, employees, or agents to accomplish or in support of the project scope to be conducted by contractor under this agreement.

**d. EXCESS/UMBRELLA LIABILITY.**

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

**e. ADDITIONAL INSURED.**

The liability insurance coverages, except Professional Liability or Workers' Compensation/Employer's Liability, if included, must endorse the **"State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their**

**respective officers, members, agents and employees”** as an **endorsed** Additional Insured but only with respect to the Contractor’s activities to be performed under the Subagreement. Coverage shall be primary and noncontributory with any other insurance and self-insurance.

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations.

Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to Recipient.

**f. “TAIL” COVERAGE.**

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

**3. NOTICE OF CANCELLATION OR CHANGE.**

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

**4. CERTIFICATE(S) OF INSURANCE.**

Recipient shall obtain from the Contractor a certificate(s) of insurance for all required insurance before the Contractor performs under the Subagreement. The certificate(s) or an

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attached endorsement must endorse: i) **“State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees”** as an endorsed Additional Insured in regards to the Commercial General Liability and if applicable, Automobile Liability policies and ii) that all liability insurance coverages shall be primary and non-contributory with any other insurance and self-insurance, with exception of Workers’ Compensation/Employer’s Liability.

**EXHIBIT C**

**Recipient Insurance Requirements or Reserved [Remove the text below if Recipient is a public agency.]**

**1. GENERAL.**

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

**b. INSURANCE REQUIREMENT REVIEW.**

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

**2. TYPES AND AMOUNTS.**

**a. WORKERS COMPENSATION AND EMPLOYER'S LIABILITY.**

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

**b. COMMERCIAL GENERAL LIABILITY.**

**Required**

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

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

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

**c. AUTOMOBILE LIABILITY.**

Required  Not Required

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

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

***[Use the below if Recipient will not be operating a motor vehicle in the scope of the Project. In addition, mark Automobile Liability as Not Required]***

Recipient covenants and agrees that no motor vehicles will be used by Recipient, its officers, employees, or agents to accomplish or in support of the project scope to be conducted by Recipient under this agreement, excluding deliveries by common carriers and independently contracted for services.

**d. EXCESS/UMBRELLA LIABILITY.**

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

**e. ADDITIONAL INSURED.**

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

Additional Insured Endorsements on the Commercial General Liability shall be written on ISO Form CG 20 10 07 04, or equivalent, with respect to liability arising out of ongoing operations and ISO Form CG 20 37 07 04, or equivalent, with respect to liability arising out of completed operations.

Additional Insured Endorsements shall be submitted with the Certificate(s) of Insurance and must be acceptable to the State.

**f. "TAIL" COVERAGE.**

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

**3. NOTICE OF CANCELLATION OR CHANGE.**

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

**4. CERTIFICATE(S) OF INSURANCE.**

State shall obtain from Recipient a certificate(s) of insurance for all required insurance before the effective date of this Agreement. The certificate(s) or an attached endorsement must specify: i) "State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees" as an endorsed Additional Insured in regards to the Commercial General Liability and if applicable, Automobile Liability policies and ii) that all liability insurance coverages shall be primary and noncontributory with any other insurance and self-insurance, with exception of Workers' Compensation/Employer's Liability.

**5. STATE ACCEPTANCE.**

All insurance providers are subject to State acceptance. In addition, all of the following are subject to State acceptance and, if requested by State, Recipient shall provide complete copies of the following to State's representatives responsible for verification of the insurance coverages required by this Agreement: insurance policies, endorsements, self-insurance documents and related insurance documents.