

RESOLUTION NO. 5818

A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT FOR CALL-A-RIDE PARATRANSIT SERVICE BETWEEN THE CITY OF ALBANY AND THE LINN COUNTY.

WHEREAS, the City of Albany is the operator of the Call-a-Ride paratransit system, which provides public transportation to seniors and qualified persons with disabilities anywhere within three quarters of a mile of the Albany city limits; and

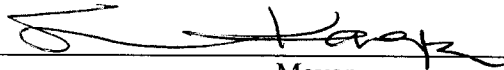
WHEREAS, Linn County has received an Oregon Department of Transportation 5310 Operating Grant to purchase paratransit service from Albany Call-a-Ride; and

WHEREAS, Linn County will pay quarterly payments to the City of Albany of \$9,515.50 less four percent (4%) for Linn County administrative expenses; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests, or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

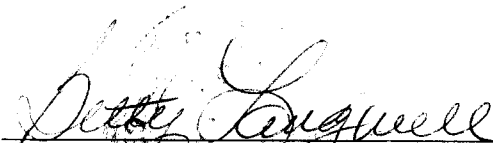
NOW, THEREFORE BE IT RESOLVED, the City Manager or his designee is authorized to execute the intergovernmental agreement between the City of Albany and the Linn County.

DATED AND EFFECTIVE THIS 12th DAY OF AUGUST 2009.

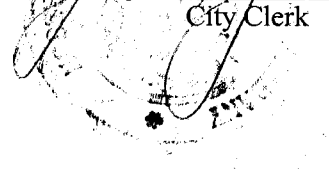


Mayor

ATTEST:



City Clerk



INTERGOVERNMENTAL AGREEMENT

(Resolution & Order No. 2009-322)

THIS AGREEMENT is made and entered into by and between the following parties:

LINN COUNTY, a political subdivision of the State of Oregon, (County), of P.O. Box 100, Albany, Oregon, 97321,
and

CITY OF ALBANY PARATRANSIT/CALL-A-RIDE, of P.O. Box 490, Albany, Oregon 97321, a political and
subdivision of the State of Oregon (Contractor), whose Federal Employer Identification No. is 93-6002114.

PROGRAM ABSTRACT:	Provide transportation services to seniors and persons with disabilities
TOTAL CONTRACT SUM:	an amount not to exceed \$76,124

The County requires the services described herein and desires that Contractor provide them. Contractor shall perform all necessary work in order to accomplish the services specified in consideration of the mutual agreements hereinafter set forth. IT IS AGREED:

1. **Term of contract:** This Agreement shall be effective and services required hereunder shall commence on July 1, 2009, and shall terminate on June 30, 2011, except as provided by the termination and non-funding provisions set out below.
2. **Consideration:** As consideration for the performance of all terms and conditions set forth in this intergovernmental Agreement, County promises to pay \$76,124 to Contractor in quarterly payments of \$9515.50, minus four percent (4%) for planning, contract management and technical assistance (consistent with OAR 732-005-0021(iii) and (iv)) to Cascades West Council of Governments, in the manner described State Grant Agreement No. 26083 (hereafter "Grant") attached as Exhibit A. Payment to Contractor is contingent upon County receiving funding from the State of Oregon for the services provides in this Contract. If payments to County are reduced by the State, payment to Contractor will be reduced on a pro-rata basis unless otherwise determined by the Linn County Board of Commissioners. Contractor shall be responsible for the local match of \$8,712 required under the terms of State Grant Agreement No. 26083.
3. **Contractor services:** Contractor agrees to perform the following services to the satisfaction of the County:
 - a. Provide paratransit services Monday through Friday 7:00 a.m. to 6:00 p.m. and Saturday 8:00 a.m. to 6:00 p.m.
 - b. Contractor agrees to comply with all terms, conditions, certifications and assurances described in State Grant Agreement No. 26083 (hereafter "Grant") attached as Exhibit A.
 - c. Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Oregon, or Linn County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. Contractor agrees further to certify annually its compliance with Parts 653 and 654 before March 15, 2010, and submit the Management Information System (MIS) reports before March 15, 2010, to Mark Volmert, Linn County Special Transportation Staff. To certify compliance, Contractor shall use the

"Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

4. **Declaration of the nature of the contractual relationship:** Contractor is an independent Contractor and not an employee of or agent of the County. County shall not be responsible for any claims, demands or causes of action of any kind or character arising in favor of any person, on account of personal injuries, or death, or damage to property occurring, growing out of, incident to, or resulting directly or indirectly from the operations or activities of the Contractor.

5. **Workers compensation provisions:**

- a. Contractor may employ workers, and if Contractor employs workers, Contractor shall obtain and at all time keep in effect Worker's Compensation insurance. Contractor represents to the County that it presently maintains coverage sufficient to meet the requirements of Oregon law by: CITY COUNTY INSURANCE SERVICES . Policy No. 09WALB.
- b. The parties hereto specifically agree that this Contract will render Contractor and Contractor's employees, if any, ineligible for benefits under ORS 656.029 and that the County shall not be liable for, responsible for, or in any way or manner be required to provide Worker's Compensation benefits for Contractor or Contractor's employees.
- c. Contractor knowingly waives any rights, as against Linn County, under the Worker's Compensation Law.
- d. Contractor agrees that all employers, working under this contract, including but not limited to Contractor, are "subject employers" as defined in ORS 656.005, that will comply with ORS 656.017.
- e. Contractors' who are not subject workers under ORS 656.027 who will provide services under this contract agree to either elect worker's compensation coverage under ORS 656.128 or specifically release County of any and all claims that would be covered by the workers' compensation laws of the state of Oregon if Contractor was a subject worker under ORS 656.027.

6. **Other insurance provisions:**

- a. **Indemnification.** Except as otherwise described below, each party to this Agreement shall defend, indemnify and hold harmless the other party and its officers, employees and agents from claims arising from:
 - i. injury to any person or damage to property caused by the negligence or other wrongful acts or omissions of the party, its officers, employees or agents; or
 - ii. failure or refusal of one party to perform or fulfill its responsibilities under this Agreement or any law, through no fault of the other party. The obligations or rights under this section may not be delegated or assigned without the express consent of the County.
- b. **General Liability.**
 - i. Contractor shall obtain and at all times keep in effect, liability insurance covering activities and operations of the Contractor. Such liability insurance shall meet the requirements set forth in the Oregon Tort Claims Act as codified in ORS 30.260 to 30.300. Such requirements include the following limits:
 - (1) \$50,000 to any claimant for any number of claims for damage to or destruction of property, including consequential damages, arising out of a single accident or occurrence;
 - (2) \$100,000 to any claimant as general and special damages for all other claims arising out of a single accident or occurrence, unless those damages exceed \$100,000, in which case the claimant may recover additional special damages, but in no event shall the total award of special damages exceed \$100,000; and
 - (3) \$500,000 for any number of claims arising out of a single accident or occurrence.

- ii. Contractor shall name County, and its officers, employees, and agents as additional insured's on any activities being performed under the Contractor Agreement. Such insurance shall be evidenced by a Certificate of Insurance issued by an insurance company licensed to do business in the State of Oregon, containing a thirty (30) day Notice of Cancellation endorsement and shall be forwarded to County prior to commencement of the services.
 - iii. Contractor has obtained insurance required by this section through Policy No. 09LALB, written by CITY COUNTY INSURANCE SERVICES.
 - c. **Professional Liability.** Contractor shall obtain and at all times keep in effect, any professional liability insurance required by law, or, if not required by law, any professional liability insurance Contractor holds at the time of execution of this Agreement.
 - d. **Policy Changes.** In the event of unilateral cancellation or restriction by the insurance company of an insurance policy referred to in this paragraph, the Contractor shall immediately notify County orally and in writing within three (3) business days.
- f. Contractor represents that it has obtained the insurance required by this Agreement.
7. **Other contractor duties:** Contractor further agrees to:
- a. Comply with all applicable Federal and State statutes, rules and regulations, specifically including the following provisions of the Oregon Revised Statutes:
 - i. ORS 279B.220, 279B.225, and 279B.235 which are incorporated by reference;
 - b. Not delegate the responsibility for providing services hereunder to any other individual or agency except as may be provided for above.
 - c. Provide County with periodic reports at the frequency and with the information prescribed to be reported by the County.
8. **Termination; for cause, non-funding, convenience:**
- a. **For Convenience.** Either party may terminate this Contract without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least thirty (30) days before the intended termination date to the other party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.
 - b. **For Cause.** In addition to its rights under subsection 8 (a) above, it is further agreed that the County may immediately terminate this agreement without liability or penalty for either of the following causes by the mailing of written notice to the Contractor at Contractor's address given above, specifying the cause:
 - i. Unsatisfactory performance or nonperformance. The Linn County Board of Commissioners is the sole judge of Contractor's unsatisfactory performance or nonperformance; or
 - ii. Loss of available funding.
9. **Waiver:** The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent breach.
10. **Assignment:** The Contractor shall not assign this Agreement in whole or in part for any purpose without the express written consent from the County.
11. **Severability:** If any provision of this agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

12. **Entire agreement:** This agreement, including Exhibit A, constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
13. **Governing law:** This agreement shall be governed and construed in accordance with the laws of the State of Oregon. Any claim, action, suit, or proceeding that arises from or relates to this agreement shall be brought in and conducted solely and exclusively within the circuit court of Linn County for the State of Oregon. Provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively with the United States District court for the State of Oregon.
14. **Notices:** Any notice or other communication required or permitted to be given under this agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at the addresses first set forth above. Any notice or other communication shall be deemed to be given at the expiration of forty-eight (48) hours after the deposit in the United States mail. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section.
15. **Other conditions:** Contractor agrees to comply with the Public Transit Division Agreement between ODOT and Linn County (ODOT Grant Agreement No. 26083) attached as Exhibit A. Contractor further agrees to comply with the Federal Fiscal Year 2010 Certifications and Assurances for Federal Transit Administration Assistance Programs.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this agreement represents and warrants to have the authority to execute this agreement.

CITY OF ALBANY PARATRANSIT/
CALL-A-RIDE

Wes Hare
Signature

Wes Hare
Name, Typed or Printed

City Manager
Title

8-13-09
Date

BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY

Roger Nyquist
Roger Nyquist, Chairman

[Signature]
John K. Lindsey, Commissioner

ABSENT

William C. Tucker, Commissioner

June 30, 2009
Date

APPROVED AS TO CONTRACT TERMS:

Mark Volmert
Mark Volmert
Linn County Special Transportation

APPROVED AS TO FORM:

Thomas N. Corr
Thomas N. Corr
Linn County Legal Counsel

**PUBLIC TRANSIT DIVISION
OREGON DEPARTMENT OF TRANSPORTATION**

THIS AGREEMENT is made and entered into by and between **The State of Oregon**, acting by and through its Department of Transportation, Public Transit Division, hereinafter referred to as "**State**," and **Linn County**, hereinafter referred to as "**Recipient**," and collectively referred to as the "**Parties**."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 184.670 to 184.733, the State, acting through the Oregon Transportation Commission, is authorized to enter into agreements and disburse funds for the purpose of supporting public transportation.
3. This Agreement is based upon and subject to ORS, Oregon Administrative Rules (OAR), and Federal Transit Administration (FTA) regulations such as those contained in ORS 323.455, ORS 391.800 through 391.830 and FTA Circular 9070.1F including all associated references and citations.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such Authority, Recipient enters into this Agreement with State to secure financial assistance to perform activities, hereinafter referred to as "Project," described in "Exhibit A," attached hereto and by this reference made a part hereof.
2. The total Project cost is estimated at **\$84,836.00**, which is subject to change. The maximum allowable reimbursement shall be either **89.73%** of allowable costs, or **\$76,124.00**, whichever is less.
3. The term of this Agreement will begin on **July 1, 2009** or upon execution by all Parties, whichever date is later, and will terminate on **June 30, 2011**, unless extended by an executed amendment.
4. It is mutually agreed and understood by State and Recipient that Recipient may enter into an agreement with one or more additional entities (subrecipients) to complete the Project under any of the following conditions:
 - a. If subrecipients are to be used, Recipient agrees to do so only through a signed written agreement (subagreement). Subagreements shall incorporate and pass through all of the requirements of this Agreement to any subrecipient. Use of a subagreement does not relieve the Recipient of its responsibilities to carry out the terms and conditions of this Agreement.
 - b. Recipient also agrees to provide State with a copy of any signed subagreement within thirty (30) days of execution. Any substantial breach of a term or condition of a subagreement by a subrecipient relating to funds covered by this Agreement must be reported by Recipient to State within ten (10) days of its being discovered.
 - c. The use of subagreements shall not apply to procurements of goods and services supplied by subcontractors. Recipients and subrecipients shall follow procedures described in Recipient Obligations, Paragraph A(4) of this Agreement for procurement contracts used to buy goods and services from subcontractors.
5. The following documents: Exhibit A: Project Description and Budget, and Exhibit B: Financial Information, are attached hereto and by this reference made a part of this Agreement. The following document is incorporated by reference: Fiscal Year 2009 Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements.

These certifications and assurances are used in connection with all Federal assistance programs administered by FTA during Federal Fiscal Year 2009. These certifications and assurances include all annual certifications required by 49 U.S.C. 5310.

RECIPIENT OBLIGATIONS

A. General Requirements

1. Recipient shall conduct Project activities in accordance with Exhibit A, Project Description and Budget. Recipient shall notify State in writing of changes to the Project. Recipient shall not perform any changes to the Project listed in Exhibit A without specific written approval from State.
2. To receive reimbursement as described in State Obligations, Paragraph A, of this Agreement, Recipient shall submit quarterly progress reports. Reports shall include a detailed statement of revenues and expenditures for each quarter, including documentation of local match contributions. State reserves the right to request such additional information as may be necessary to comply with federal or state reporting requirements.
3. The reporting periods are based on the state fiscal year. Quarter 1 is July through September, Quarter 2 is October through December, Quarter 3 is January through March, and Quarter 4 is April through June. Reports are due to State, Public Transit Division, 555 13th St. NE Suite 3, Salem OR 97301 no later than forty-five (45) days after the last day of the quarter.
4. Recipient shall make purchases of any equipment, materials, or services pursuant to this Agreement under procedures consistent with OAR Chapter 125 for the Oregon Department of Administrative Services and ORS and in conformance to FTA Circular 4220.1F, *Third Party Contracting Requirements*, ensuring that:
 - a. all applicable clauses required by Federal Statute, executive orders and their implementing regulations are included in each competitive procurement;
 - b. all procurement transactions are conducted in a manner providing full and open competition;
 - c. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
 - d. contracts will not exceed a period of five (5) years without prior approval of FTA; and
 - e. architectural and engineering procurements are based on Brooks Act procedures unless the State of Oregon has adopted a statute that governs such procurements.
5. Recipient shall not enter into any subagreements or contracts for any of the activities under this Agreement without obtaining prior written approval from State. *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, is available on the FTA website: www.fta.dot.gov.
6. Recipient, and any contractors, shall perform the activities under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the activities under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
7. All employers, including Recipient, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Recipient shall ensure that each of its subcontractors complies with these requirements.

8. Recipient certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Recipient, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Recipient.
9. Recipient shall defend, save and hold harmless the State of Oregon, including the Oregon Transportation Commission, State, and their members, officers, agents, and employees from all claims, suits, and actions of whatsoever nature resulting from or arising out of the activities of Recipient or its subcontractors, agents or employees under this Agreement. Recipient shall not be required to indemnify State for any such liability arising out of negligent acts or omissions of the State of Oregon, its employees, or representatives. This provision is subject to the limitations, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300.
10. Notwithstanding the foregoing defense obligations under Paragraph above, neither Recipient nor any attorney engaged by Recipient shall defend any claim in the name of the State of Oregon 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 of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Recipient is prohibited from defending the State of Oregon, or that Recipient is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against Recipient if the State of Oregon elects to assume its own defense.
11. Recipient shall retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with generally accepted accounting principles, generally accepted governmental accounting standards and state minimum standards for audits of municipal corporations. Recipient shall ensure that each of its subrecipients and subcontractors complies with these requirements.
12. Recipient acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Recipient which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
13. Recipient agrees to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270, which hereby are incorporated by reference. Without limiting 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 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.
14. Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from this Agreement.

15. Recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.
16. Recipient certifies that neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient must provide notice to State if at any time it learns that this certification is erroneous when submitted or if circumstances have changed (new personnel, indictments, convictions, etc.).
17. Recipient shall permit State, the Secretary of State, the Comptroller General of the United States, the US Department of Transportation, or their authorized representative, upon reasonable notice, to inspect all vehicles, real property, facilities, equipment purchased by the Recipient as part of the Project or transportation services rendered by Recipient or both, subrecipient or any subcontractor or both acting on behalf of the Recipient. Recipient shall permit the above named persons to audit the books, records, and accounts of Recipient relating to the Project.
18. Any recipient of grant funds, pursuant to this Agreement with State, shall assume sole liability for that Recipient's breach of the conditions of this Agreement, and shall, upon Recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the Recipient of grant funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

B. Audit Requirements

1. Recipients receiving Federal funds in excess of \$500,000 are subject to audit conducted in accordance with Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, Non-profit Institutions*. Recipient, if affected by this requirement, shall at Recipient's own expense, submit to State, Public Transit Division, 555 13th St. NE, Suite 3, Salem, OR 97301-4179, a copy of its A-133 annual audit covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subcontractor of Recipient responsible for the financial management of funds received under this Agreement.
2. Recipients receiving less than \$500,000 in Federal funds shall, at Recipient's own expense, submit to State, Public Transit Division, 555 13th St. NE, Salem, OR 97301-4179, a copy of any annual audit covering the funds expended under this Agreement by Recipient or any subcontractor of Recipient receiving funds as a result of this Agreement; and a copy of the management letter and any report that accompanies the annual audit covering the funds expended under this Agreement.
3. Recipient shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Oregon Secretary of State's Audits Division in response to allegations with respect to the funds expended under this Agreement. Recipient's liability for any costs incurred under this provision is not limited to the grant amount defined by the Terms of Agreement, and is binding whether or not the allegations are substantiated. It is also mutually agreed and understood that any audit costs incurred as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

C. Other Federal Requirements

One of the principles of contracting with Federal funds received indirectly from the FTA is recognition that, as a condition of receiving the funds, certain specific requirements must be met not only by the Recipient, but also by any subrecipients and contractors. To the extent applicable, Federal requirements extend to the third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier. The specific requirements for particular grant funds are found in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300 or accessing the FTA website: www.fta.dot.gov.

The following is not a complete list of Federal requirements. Rather it is a summary of various primary requirements associated with the type of transaction covered by this Agreement and the type of funds described in Exhibit A.

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 *Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance* which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.
4. Recipient will correct any condition which State or FTA believes "creates a serious hazard of death or injury" in accordance with Section 22 of the Federal Transit Act, as amended.
5. Recipient will comply with the applicable provisions of 49 CFR 26 related to Disadvantaged Business Enterprises and report quarterly to State. Each contract Recipient signs with the contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of State-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Recipient deems appropriate.
6. Recipient and contractors receiving in excess of \$100,000 in Federal funds must certify to State that they have not and will not use Federal funds to pay for influencing or attempting to influence an office or employee of any Federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal grant, cooperative agreement or any other Federal award. If non-federal funds have been used to support lobbying activities in connection with the Project Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

STATE OBLIGATIONS

- A. State shall reimburse eligible costs incurred in carrying out the Project subject to the amounts shown in the Terms of Agreement. Eligible costs are the reasonable and necessary costs incurred by the Recipient or subrecipient in completing the Project as defined by Exhibit A and that are not excluded from reimbursement by State, either by the Agreement or by exclusion as a result of financial review or audit. Expenses that are ineligible include expenses associated with lobbying, personal expenses and expenses not directly associated with the Project or that are incurred inappropriately, e.g., failure to follow the terms of the Agreement when procuring goods and services.
- B. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- C. State reserves the right to withhold payment of funds if there are unresolved audit findings, or inadequate information concerning Recipient's activities. State reserves the right to reallocate any portion of the Agreement amount which State reasonably believes will not be used by Recipient within the Terms of Agreement.

GENERAL PROVISIONS

- A. This Agreement may be terminated by mutual written consent of both Parties. State may terminate this Agreement, in whole or in part, effective upon delivery of written notice to Recipient, or at such later date as may be established by State, under any of the following conditions:
 - 1. If Recipient fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or
 - 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 State fails to correct such failures within ten (10) days or such longer period as State may authorize; or
 - 3. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
 - 4. The requisite local funding to continue the Project becomes unavailable to Recipient; or
 - 5. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the activities described in Exhibit B of the Agreement are no longer allowable or no longer eligible for funding proposed by this Agreement; or
 - 6. The Project would not produce results commensurate with the further expenditure of funds; or
 - 7. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State; or
 - 8. The commencement, prosecution, or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, illegal; or
 - 9. Recipient is in default under any provision of this Agreement.
- B. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

- C. This Agreement may be executed in several counterparts (facsimile or otherwise), all of which when taken together shall constitute one agreement binding in all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- D. This Agreement and attached referenced 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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On March 18, 2004, the Director approved Subdelegation Order No. 14, which delegates the authority to conduct the following day-to-day operations to the Public Transit Division Administrator:

Execute Oregon Transportation Commission intergovernmental agreements and grants for special payments to local governments and other non-profit units and operators of public transportation services for disbursement of state and federal funds for public transit programs. The Division Administrator will maintain a listing of all intergovernmental agreements and grants and submit a quarterly report to the OTC.

SIGNATURE PAGE TO FOLLOW

Linn County, by and through its

By _____
(Legally designated representative) **Roger Nyquist**
Board of Commissioners

Name Roger Nyquist, Chairman
(printed)

Date _____

By _____

Name _____
(printed)

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By _____
Recipient's Legal Counsel

Date _____

Agency Contact:

Mark Volmert
PO Box 100
Albany, OR 97321
1 (541) 924-8430
mvolmert@ocwcog.org

State Contact:

Jean Palmateer
555 13th St. NE, Ste. 3
Salem, OR 97301-4179
1 (503) 986-3472
Jean.M.PALMATEER@odot.state.or.us

State of Oregon, by and through its
Department of Transportation

By _____
Michael R. Ward
Public Transit Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(For state funding over \$100,000)

By _____
Assistant Attorney General

Name _____
(printed)

Date _____

EXHIBIT A

Project Description and Budget

Project Description/Scope of Work The sole purpose of this Grant Agreement is to provide funding for the following projects:

Project Title: 26083 - Linn County - 5310 Purchased Service				
<i>5310 Purchase Service</i>				
Item #1: Contracted Service (5310 only)				
	Total	Grant Amount	Local Match	Match Type(s)
	\$42,418.00	\$38,062.00	\$4,356.00	Local
Item #2: Contracted Service (5310 only)				
	\$42,418.00	\$38,062.00	\$4,356.00	Local
Sub Total	\$84,836.00	\$76,124.00	\$8,712.00	
Grand Total	\$84,836.00	\$76,124.00	\$8,712.00	

- *The purpose of this Agreement is to Purchase service to provide transportation options for older adults and people with disabilities. The purchased service will be provided by a contractor selected by Recipient. The purchased services will be designed to benefit older adults and people with disabilities, and may also be made available to the general public.*

The service to be provided is complementary paratransit operations. The service is the complement to the fixed route operated by City of Albany.

SERVICE GUIDELINES

Recipient will market the services to the target users.

To the extent possible, Recipient and contractor will coordinate the delivery of transportation services with other public and private transportation providers to enhance regional services and to avoid duplication of services.

Recipient may amend the service design at any time in accordance with local demand, funding issues or other situation that requires service to be changed. Recipient will inform ODOT if there is a change in the service funded by this Agreement.

PROJECT ACCOUNTING, BUDGET AND MATCH

The grant offered by ODOT through this Agreement is for the purchase of transportation services under a contract, lease, or other arrangement. Purchased service is defined as "capital" for the purposes of the 49 USC § 5310 program, as described in Circular 9070.1F. Generally accepted accounting principles and the Recipient's accounting system determine those costs that are to be accounted for as operating costs. Recipient may not count the same costs twice if they have multiple agreements for which these costs may be eligible. The service provider may use capital equipment funded from USDOT- or ODOT-source grants when performing services rendered through a contract funded by this Agreement. Depreciation of capital equipment funded from USDOT- or ODOT-source grants is not an eligible expense.

Recipient is encouraged to generate program income to help defray program costs. Recipients may not use grant-acquired assets to compete unfairly with the private sector.

Sources of funding that may be used as match for this Agreement include local funds; Special Transportation Formula Funds; service contract revenue, advertisement and other earned income; cash donations; and, verifiable in-kind contributions that are integral to the project budget. In-kind contributions claimed as match will be reported on a form provided by ODOT. Recipient will not use fares as match.

Program income from fares, tickets and passes, either pre- or post-paid, will be deducted from

the gross eligible operating costs in determining the net allowable costs on which the grant share is based. All administrative and operating expenses incurred by the contractor are defined as operating expenses.

PROJECT EXPENSE

Service Agreement: \$84,863

SOURCE AND AMOUNT OF MATCHING SHARE

City of Albany General Fund: \$8,713

PROJECT PERFORMANCE MEASURES

The following measures are established to evaluate the performance of the service:

1. INDIVIDUALS SERVED: This measure will identify the numbers of individuals served by the project, called an Unduplicated Passenger Count (UPC). UPC is defined as the actual or estimated number of individuals served who are older adults and people with disabilities that are provided transportation services, not including personal care attendants and non-paying escorts.

No specific goal is established for this project. Recipient will report the UPC as available. The methodology for identifying the UPC is at the discretion of the Recipient.

2. RIDERSHIP: The actual or estimated one-way passenger trips provided to older adults and people with disabilities. A passenger trip is a unit of service counted each time a passenger enters the vehicle, is transported and then exits the vehicle. Each different destination would constitute a passenger trip.

A ridership goal is established for this project: 22,000 one way rides

EXHIBIT B

FINANCIAL INFORMATION

The information below will assist auditors to prepare a report in compliance with the requirements of the Office of Management and Budget (OMB) Circular A-133.

This grant is financed by the funding source as indicated below:

Federal Program	Federal Funding Agency	Federal Catalog	Total Federal Funding
49 U.S.C. 5310	U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	20.513 (5310)	\$76,124.00

Administered By Public Transit Division 555 13th St. NE, Ste. 3 Salem, OR 97301-4179
