

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6749

**AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE PORTLAND DEVELOPMENT COMMISSION
AND THE PORTLAND BUREAU OF TRANSPORTATION IN
AN AMOUNT NOT TO EXCEED \$22,147,000 FOR THE
PORTLAND STREETCAR LOOP PROJECT**

WHEREAS, on June 25, 2003, Portland City Council (“Council”) adopted the Eastside Streetcar Alignment Study, which proposed a stakeholder-preferred alignment for an extension of the Portland Streetcar (the “Project”) across the Willamette River to Portland’s eastside, and recognized that federal funding would be required for implementation;

WHEREAS, the reauthorization of the Surface Transportation Bill (SAFETEA-LU), signed into law on August 10, 2005, established a new federal funding program for Small Starts that provides for fixed-guideway projects not exceeding a total cost of \$250 million with a federal request of no more than \$75 million for which the Project would be eligible;

WHEREAS, on July 12, 2007, Governor Kulongoski signed HB 5036 that provides \$20 million in State lottery funds to purchase streetcar vehicles from an Oregon-based and Oregon-owned manufacturer;

WHEREAS, on September 6, 2007, by way of Resolution No. 36531, Council committed \$15,000,000 from assessments from property owners in the Portland Streetcar Loop Extension Local Improvement District, \$6,000,000 from Transportation Systems Development Charge funds, and \$3,733,000 from regional transportation funds, and recommended that the Portland Development Commission (“PDC”) Board of Commissioners (the “Board”) provide \$27,184,000 in tax increment funds, all in addition to the above-referenced \$20 million in State lottery funds, as the required local match;

WHEREAS, on August 27, 2008, by way of Resolution No. 6633, the Board committed \$5,287,000 for the completion of the design and engineering work provided for under an Intergovernmental Agreement with the Portland Bureau of Transportation (“PBOT”). With the completion of the design and engineering work, the Project will be ready for construction, subject to the award of the necessary federal funds to complete the Project;

WHEREAS, accordingly, PDC and PBOT desire to enter into an Intergovernmental Agreement (the “IGA”) to establish their respective roles and responsibilities in connection with the construction of the Project; and

WHEREAS, the Federal Transit Administration (FTA) is providing \$75 million for the Project, and the City has negotiated to operate under the umbrella of TriMet’s Disadvantaged Business Enterprises (DBE) Program, which PDC deems adequate to meet the goals of its Business and Workforce Equity program;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the Executive Director to enter into the IGA in the form attached hereto as Exhibit A with PBOT in an amount not to exceed \$22,147,000, for the purpose of contributing funds to PBOT for the construction of the Project, subject to the following conditions:

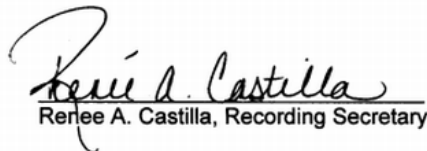
1. \$14,963,000 will be funded from the Adopted FY 2009-2010 Budget for the River District Urban Renewal Area to be effective upon adoption of this resolution;
2. \$6,184,000 will be funded from the Adopted FY 2009-2010 Budget for the Central Eastside Urban Renewal Area to be effective upon adoption of this resolution; and
3. \$1,000,000 will be funded from existing resources in the FY 2009-2010 Budget for the Oregon Convention Center Urban Renewal Area to be effective upon adoption of this resolution;

BE IT FURTHER RESOLVED that PDC hereby waives its Business and Workforce Equity requirements because they are adequately satisfied by TriMet's DBE Program;

BE IT FURTHER RESOLVED that the Board hereby authorizes the Executive Director to approve minor amendments and adjustments to the IGA including extension of the IGA termination date, changes in the IGA's scope of work and adjustments to the allocation of TIF funds between urban renewal districts, and reallocation of any unspent funds from the previous IGA No. 53130 approved by Resolution No. 6633, provided that the expenditures do not exceed actual Project costs within that district nor increase the total PDC committed budget amount of \$27,434,000 for the Project; and

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission on November 10, 2009.


Renee A. Castilla, Recording Secretary

INTERGOVERNMENTAL AGREEMENT
Between
Portland Development Commission
And
Portland Bureau of Transportation
For the
Portland Streetcar Loop Project
Construction Phase

This Intergovernmental Agreement (this “Agreement”), dated this ____ day of _____, 2009, (“Effective Date”) is made and entered into by and between the **City of Portland, Bureau of Transportation** (the “Bureau”) and the **Portland Development Commission** (“PDC” or the “Commission”). PDC and the Bureau may be referred to jointly in this Agreement as the “Parties” or individually as a “Party”

RECITALS

1. PDC, as the duly-designated Urban Renewal agency of the City of Portland (the “City”), is granted broad powers under ORS 457.170 for the planning and implementation of urban renewal projects.
2. The Bureau is responsible for transportation operations and improvements within the City public rights of way.
3. A cooperative partnership between the Commission and the Bureau will be beneficial to the implementation of urban renewal plans and the development of other public policies, plans and capital projects.
4. The Parties desire to enter into an agreement that will establish terms and conditions by which one Party will engage and compensate the other Party for performing specific services.

Now therefore, the Parties agree as follows:

AGREEMENT

I. SCOPE OF WORK

A. Background

1. Through a multi-year financial partnership and cooperative working relationship, PDC and PDOT have provided the resources needed to support the Portland Streetcar Loop Project (the “Loop Project” or “Project”), formerly known as the Eastside Streetcar Project. The Loop Project will connect the Pearl District, Old Town/China Town, the Oregon Convention Center, the Lloyd District, and Central Eastside via the Portland Streetcar (the “Streetcar”).

2. The Loop Project supports the objectives of the Oregon Convention Center Urban Renewal Area (“OCC URA”) including the Lloyd District, by providing the key transportation infrastructure in support of growth of employment and the tourism industry, as well as new housing development. The Lloyd District Development Strategy calls for the development of a “transit hub” in the Lloyd Central Core area, generally between NE Martin Luther King Jr. Blvd. and NE 9th Avenue and NE Halsey and NE Multnomah Streets, through which the Streetcar will travel.
3. The Central Eastside Urban Renewal Area (“CES URA”) Plan calls for improvements of the conditions and appearance of the area, elimination of blight and blighting influences, expansion and improvement of public facilities including transportation systems, and stimulation of private investment and economic growth in the area. Central Eastside stakeholders recognize that the implementation of the Loop Project through the district supports these efforts.
4. The River District Urban Renewal Area (“RD URA”) calls for the creation of a high-density urban residential neighborhood, fostering a “24-hour” community for residents, visitors and employees. The Loop Project will provide high quality transit access between the RD URA and Portland’s eastside, which will bring people to the many restaurants, galleries, retail stores, theaters and parks in the RD URA. Conversely, the Loop Project will provide additional access to the Rose Garden, Lloyd District, Oregon Convention Center and OMSI from the RD URA.
5. The Loop Project supports regional goals, including those recognizing the Central City as the region’s premier mixed-use center. It will foster more intensive development promoting greater efficiency in the use of land and provide a major contribution to reducing vehicle miles traveled.
6. The Loop Project supports Central City Plan, the Central City Transportation Management Plan and other City goals for housing and employment.
7. Past work related to the Loop Project includes the following:
 - a. FY 2003-04: Development of the Eastside Streetcar Alignment Study.
 - b. FY 2004-05: Initiated the process through which federal funds could be sought, including the start of an Alternatives Analysis.
 - c. FY 2005-06: Adoption of the Locally Preferred Alternative.
 - d. FY 2006-07: Small Starts Project Development application approved by the Federal Transit Administration and technical work required to meet the federal needs begun.
 - e. FY 2007-09: Development Phase, Design Development Phase and Final Engineering Phase.
8. To the extent that there remain unexpended resources budgeted by PDC for the Loop Project in any given fiscal year, it is agreed that staff will recommend to the Commission that those funds be carried forward into the subsequent fiscal year(s) unless the Loop Project is terminated or the Parties otherwise agree that the funds are not needed.

10. On April 30, 2009, U.S. Transportation Secretary Ray LaHood announced the award of \$75 million in federal Small Starts funds for the Loop Project, the first streetcar project in the United States to be awarded such funds.
11. The FTA requested that the Tri-County Metropolitan Transportation District of Oregon (“TriMet”), the grant recipient of the Small Starts funds, submit the Project Construction Grant Agreement (“PCGA”) application to the Region X office by May 13, 2009; the PCGA application was so submitted. The FTA now indicates that the PCGA approval letter will be issued on September 30, 2009, after a 60-day period for Congressional review.
12. On June 10, 2009, the Portland City Council (“Council”) approved, among other things, a Construction Services Contract with Stacy and Witbeck, Inc. (the “SWI Contract”) for advance water main work in connection with the Project; such water main work will be performed under a no prejudice authority granted by the FTA as a result of the Loop Project being approved for the Project Development phase.
13. On June 10, 2009, Council also gave authority for the Director of the Bureau of Transportation and the City Auditor to enter into this IGA with PDC as a financial partner in the Construction Phase of the Portland Streetcar Loop Project.
14. On July 8, 2009, Council approved an amendment to the SWI Contract for the advanced purchase of rail and special track work, for which the FTA granted a waiver from Buy America requirements and no prejudice authority. On September 2, 2009, Council is expected to approve an additional amendment to the SWI Contract for advanced sewer work.
15. Council will be asked to approve further amendments to the SWI Contract for rail, electrical and civil work, as well as for improvements at the Maintenance Facility; said contract amendments contingent on the issuance of the PCGA.
16. The Scope of Work covered in this Agreement is the construction of the Project described in Section I. A. 1. above.
17. It is estimated that the total costs for the Project for each fiscal year during the construction phase will be as follows:
 - FY 09-10: \$47,300,000
 - FY 10-11: \$53,486,000
 - FY 11-12: \$19,764,000

The above referenced costs will be funded by tax increment financing from the RD URA, CES URA, OCC URA, federal Small Starts, assessments from the Portland Streetcar Loop Project LID, Transportation SDCs and regional transportation funds.

17. Because the Loop Project is funded in part by federal funds, it is subject to the planning guidance and requirements of the Federal Transit Administration, including participation by Disadvantaged Business Enterprises (“DBEs”). It is anticipated that TriMet and the **City** will enter into an intergovernmental agreement to allow TriMet to disburse federal grant funds for the Loop Project and for TriMet to provide oversight related to FTA requirements.

B. Schedule of Work and Budget

Plan			Budget FY 2009-10				
Work Item	Description	Timeline Completion*	Personal Services	Materials & Services	Outside Contracts	Total PDC Budget	Other Funding Sources
A	Construction Phase						
A.1	Reimbursement to Bureau for construction and construction related expenses – RD URA Contingency	June 2010	\$300,000		\$10,100,000 \$63,000		
A.2	Reimbursement to Bureau for construction and construction related expenses – OCC URA				\$1,000,000		
	SUB-TOTAL for FY 09-10		\$300,000		\$11,163,000	\$11,463,000	
Plan			Budget FY 2010-11				
Work Item	Description	Timeline Completion*	Personal Services	Materials & Services	Outside Contracts	Total PDC Budget	Other Funding Sources
A	Construction Phase						
A.1	Reimbursement to Bureau for construction and construction related expenses – RD URA	June 2011	\$200,000		\$4,300,000		
A.2	Reimbursement to Bureau for construction and construction related expenses – CE URA		\$200,000		\$2,984,000		
	SUB-TOTAL for FY 10-11		\$400,000		\$7,284,000	\$7,684,000	
Plan			Budget FY 2011-12				
Work Item	Description	Timeline Completion*	Personal Services	Materials & Services	Outside Contracts	Total PDC Budget	Other Funding Sources
A	Construction Phase						
A.1	Reimbursement to Bureau for construction and construction related expenses – CE URA	March 2012	\$100,000		\$2,900,000		
	SUB-TOTAL for FY 11-12		\$100,000		\$2,900,000	\$3,000,000	
	TOTAL FOR FY 09-10, FY 10-11 and FY 11-12		\$800,000		\$21,284,000	\$22,147,000	

- C. The Party who will provide the funds for tasks listed in this Agreement shall be referred to in this Agreement as the “Funding Agency”. PDC, for purposes of this Agreement, shall be the Funding Agency.
- D. The Party managing the construction contract shall be referred to in this Agreement as the “Performing Agency”. The Bureau, for purposes of this Agreement, shall be the Performing Agency.
- E. **Project Staffing – Performing Agency:** The tasks and associated budget listed in this Agreement will be for construction of the Project.
 - 1. Vicky L. Diede, Project Manager
- F. **Project Staffing – Funding Agency:** The following Funding Agency personnel are being assigned to perform the work described above.
 - 1. Ross Plambeck, Project Manager

II. CONTRACT MANAGEMENT

A. Commission.

- 1. Contract Signatory. The Commission Contract Signatory shall be Bruce A. Warner, or such other person as designated in writing by the PDC Executive Director (the “PDC Contract Signatory”). The PDC Contract Signatory is authorized to give notices and to carry out other Commission actions referred to herein, including termination of this Agreement as provided in Section V.
- 2. Contract Manager. The Commission Contract Manager shall be Lois Cortell (the “PDC Contract Manager”). The PDC Contract Manager is responsible for the day-to-day management of the Agreement as provided herein and serves as the first level of conflict resolution.

B. Bureau.

- 1. Bureau Contract Signatory. The Bureau Contract Signatory shall be Susan D. Keil, or such other person as designated in writing by the Director of the Portland Department of Transportation (the “Bureau Contract Signatory”). The Bureau Contract Signatory is authorized to give notices and to carry out other Bureau actions referred to herein, including termination of this Agreement as provided in Section V.
- 2. Bureau Contract Manager. The Bureau Contract Manager shall be Greg Jones (the “Bureau Contract Manager”). The Bureau Contract Manager is responsible for the day-to-day management of the Agreement as provided herein and serves as the first level of conflict resolution.

C. Management Staffing.

- 1. A Project Manager shall be designated by the Bureau (the “Bureau Project Manager”), and a Project Manager shall be designated by the Commission (the “PDC Project Manager”) to carry out designated responsibilities related to the Scope of Work.

- a) The PDC Project Manager shall be Ross Plambeck, or such other person as designated in writing by the Director of Urban Development.
 - b) The Bureau Project Manager shall be Vicky L. Diede, or such other person as designated in writing by the Director of the Portland Bureau of Transportation and approved by the PDC Project Manager.
2. If either Project Manager is not performing or is not able to continue performing the responsibilities related to the Scope of Work, then the respective Contract Manager shall designate a replacement Project Manager. If a replacement Project Manager is not available, then upon written agreement of the parties, the other Party may take on all project management responsibilities designated in the Scope of Work.
 3. The PDC Contract Manager and the Bureau Contract Manager will confer quarterly to review project management and staffing needs and performance, and identify desired changes, if any. If either Commission or Bureau desires to replace a Project Manager, or other key staff identified in the Scope of Work, the Party's Contract Manager shall notify the other Contract Manager in writing, and if required, they will meet to discuss and agree on adjusting the Scope of Work accordingly to provide adequate time to make such change.

D. Approvals.

1. No work shall be performed and no funds shall be obligated on the Project identified in the Schedule of Work until this Agreement is executed.
2. The Performing Agency is not obligated to perform, and the Funding Agency is not authorized to pay for, any work not identified in the Schedule of Work.

E. Project Management.

1. The Bureau Project Manager is responsible for the day-to-day oversight of work performed by consultants, contractors and City staff. She will verify that charges submitted to PDC for reimbursement are appropriate, correct and verifiable.
2. The Bureau will provide and post Project signage that will include the PDC logo and logo of other agencies providing funds to the project and "business open" signs during construction.
3. PDC's Project Manager will assign a representative to participate in design meetings, construction meetings, the Loop Project Advisory Committee and others, as required.

F. Public Involvement.

1. The Parties will keep each other informed of written material (e.g., news releases, brochures, news letters, reports) produced for the project that are intended for public distribution and will provide adequate time for review and discussion prior to distribution.

2. Each Project Manager will inform the other of inquiry from a media or press representative and make reasonable efforts to consult with the other Project Manager prior to any verbal or written information on the project being provided to such a representative; if unable to make a prior consultation, notice will be provided afterwards..

G. Meeting Participation. The PDC Project Manager and the Bureau Project Manager shall invite each other to attend all regular construction meetings for work associated with the PDC owned property.

H. Subcontractors. A subcontractor is any other entity that the Performing Agency uses to carry out all or part of work during the Construction Phase of the Loop Project. The Performing Agency shall have the sole authority to direct the work of any authorized and approved subcontractors. Subcontractors approved by the PDC Project Manager are Stacy and Witbeck, Inc. and Portland Streetcar, Inc. with work performed by Shiels Obletz Johnsen, Inc. and URS Corporation.

I. Regional Arts & Culture Council (“RACC”) – Percent for Art Program

1. The RACC Percent for Art Program requirements apply to the construction of the Project and the Bureau will be responsible for the payment to RACC.
2. The Parties will work together with RACC and its advisory panels to oversee the selection of artist and artwork for the Project or otherwise apply these funds towards artwork in the Project area.

J. Minority and Women Owned Businesses, and Emerging Small Businesses

1. The Project is funded in part by the Federal Transit Administration through an Intergovernmental Agreement with TriMet. The Bureau shall operate under the umbrella of and in accordance with TriMet’s Disadvantaged Business Enterprise (DBE) Program. It is the policy of TriMet that DBEs, as defined by 49 CFR Part 26, shall be provided with a level playing field to participate in the performance of contracts financed in whole or in part with Federal funds.

III. FUNDING / COMPENSATION / ALLOWABLE COSTS

- A.** The Commission shall pay the Bureau a sum not to exceed **Twenty two million and one hundred forty seven thousand dollars (\$22,147,000)** for construction and construction related expenses for the Loop Project.
- B.** PDC funding for this Project shall be from the River District Urban Renewal Area in the amount of \$14,963,000; from the Oregon Convention Center Urban Renewal Area in the amount of \$1,000,000 and from the Central Eastside Urban Renewal Area in the amount of \$6,184,000.
- C.** The full amount of funds is not authorized in the current fiscal year’s budget. If the project funding spans multiple fiscal years, the Commission will encumber the funds as the funds are approved through budget appropriation. All funding is subject to budget appropriation. If the full amount of funds is not authorized in the current fiscal year’s budget, it is acknowledged that contract amounts identified for expenditure in future fiscal years have not been appropriated in the current year

- budget. If funding has been identified in the Portland Development Commission Five-Year Budget Forecast, Commission staff agree to recommend to the Commission Budget Workgroup that the funds identified in the Five-Year Budget Forecast be appropriated in subsequent budgets.
- D.** Commission funds shall only be expended on Tax Increment Financing eligible uses, for example, planning for improvements, design and engineering for improvements, and construction of improvements. Costs for operations, maintenance, and moving transit stock are not typically eligible for Tax Increment Financing. Streetcar vehicles for the Loop Project are being funded by State of Oregon lottery-backed bonds in the amount of \$20,000,000.
- E.** The Performing Agency will submit invoices at least quarterly to the Funding Agency for funds identified in the scope of work above.
1. Direct Costs
- a) Personal Services. Reimbursement for direct wages, actual benefit charges and actual accrued leave allowance paid to personnel engaged in authorized work under this Agreement.
- b) Contracted Services. Reimbursement for contracted professional or construction services in carrying out authorized work under the Scope of Work and within the authorized budget.
- F.** Expense Costs. Expenses, including personal services, incurred for out of town travel, training, educational expenses and equipment purchase are not reimbursable under this Agreement unless mutually agreed to in advance.

IV. BILLING AND PAYMENT PROCEDURE

- A.** The Performing Agency shall submit to the PDC Contract Manager a separate itemized billing for work performed under this Agreement for review and approval at least quarterly. The billing shall include the names, rates and hours worked of personnel, as well as disbursements to consultants, contractors and outside vendors for materials and services.
- B.** Each billing shall include a copy of the federal Quarterly Report required by the Federal Transit Administration.
- C.** If billings are received with incomplete information or disputed items, the Funding Agency will advise the billing Party in writing what specific information is missing or disputed. The Funding Agency will proceed to process payment for items not in dispute.

V. GENERAL

A. Termination.

1. The Termination Date of this Agreement is **December 31, 2012.**
2. Early Termination of this Agreement.

- a) This Agreement may be terminated at any time by mutual written consent.
- b) Upon thirty (30) days written notice, either Party may terminate this Agreement where the public interest requires work to cease.
- c) In the event of early termination of the Project, the work shall cease promptly and a final billing request submitted within sixty (60) days of the effective date of termination. In the event of early termination, eligible costs incurred through the date of the Project's termination will be reimbursed.

B. Change and Conflict Resolution.

1. Every effort has been made to accurately identify the Project scope, schedule and budget for this phase of work. The Performing Agency and the Funding Agency recognize that events and conditions may arise that significantly impact the Project. A "significant impact" is one that may require an increase of the budget beyond the total authorized budget amount shown in I, B., or delay completion of this phase of the Project more than one year. Should either Party identify or foresee such a circumstance, both Parties agree to the following:

- a) As soon as practicable, notify the PDC Project Manager and the Bureau Project Manager and the PDC Contract Manager and the Bureau Contract Manager in writing of the circumstance, its origin and anticipated or confirmed impact.
- b) The PDC Project Manager and the Bureau Project Manager shall make reasonable efforts to meet within 14 days to identify anticipated or confirmed affects to the project's scope, schedule and budget.
- c) Both parties shall seek to reach agreement on any necessary revisions to this IGA as described below in Section V. B. 2.

2. If a dispute arises regarding performance, cost, schedule, scope, quality or other terms and conditions of this Agreement, all parties agree to exercise good faith in expeditiously resolving said conflict in the following manner.

- a) All conflicts should first be discussed and resolved if at all possible by the Project Managers specified in Section II.
- b) If the conflict cannot be resolved by the Project Managers, or involves one of the Project Managers, then the conflict should be elevated to the Contract Managers specified in Section II for discussion and resolution.
- c) Any conflicts not resolved by the Contract Managers shall be elevated to the Contract Signatories for discussion and resolution.

C. Compliance with Laws. In connection with its activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws and regulations.

D. Indemnification.

Subject to the limits of the Oregon Tort Claims Act and Oregon Constitution, the Bureau agrees to indemnify, hold harmless and defend, PDC, its directors, officers,

employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys fees, resulting from or arising out of the activities of City, its officers, employees or agents under this Agreement.

Subject to the limits of the Oregon Tort Claims Act and Oregon Constitution, PDC agrees to indemnify, hold harmless and defend, City, its officers, employees and agents from and against all claims, suits, actions of whatsoever nature, damages or losses, and all expenses and costs incidental to the investigation and defense thereof including reasonable attorneys fees, resulting from or arising out of the activities of PDC, its directors, employees or agents under this Agreement.

E. Subcontracting. Work under this Agreement shall not be subcontracted in whole or in part to other than City agencies, without the prior written approval of the PDC Project Manager. The Funding Agency will not unreasonably delay or withhold subsequent authorization for contractors identified by the Performing Agency to perform work under the Agreement, and that its failure to notify the Performing Agency in writing of denial of authorization within 10 business days after the Project Manager's receipt of a written request for authorization from the Performing Agency would be deemed as authorizing those identified contractors to perform work under the Agreement. The Performing Agency shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the Performing Agency as specified in this Agreement. Notwithstanding approval by the PDC Project Manager of a subcontractor, the Performing Agency shall remain obligated for full performance hereunder, and the Funding Agency shall incur no obligation to the subcontractor hereunder. The Performing Agency shall have the sole authority to direct the work of any authorized and approved subcontractors.

F. Ownership of Work Product.

Ownership of any and all plan sets, technical data, documents, plans, designs, drawings, technical data reports, specifications, working papers and other materials produced in connection with this Agreement (the "Work Product") will be handled as described below. Ownership of the Work Product includes all rights, title and interest, including but not limited to copyright rights of specified Work Products. Notwithstanding anything to the contrary contained herein, the parties acknowledge that section 17.24.085 of the City Code may require that all or part of the Work Product will become the property of the City and be transferred to the City Engineer upon completion of the Project.

1. Except as described in paragraph 2 below, the Performing Agency shall own all Work Product.
2. If the Parties determine that the Performing Agency is unable or unwilling to complete the Project, and the Funding Agency determines that a transfer of ownership of the Work Product is necessary in order to effect completion of the Project, upon the Funding Agency's written request the Performing Agency shall assign ownership of the Work Product to the Funding Agency.
3. Regardless of ownership of the Work Product, the Parties shall have reasonable access to the Work Product.

- G. Status Reports.** Project Status Reports relating to work items identified in this agreement will be submitted with invoices and/or submitted upon request by the PDC Project Manager after execution of this Agreement. A failure to produce Project Status Reports will be brought to the attention of the Contract Manager by the PDC Project Manager. Repeated failure to submit Project Status Reports may result in the Funding Agency withholding payment.
- H. Delivery / Maintenance of Records.** The Performing Agency shall maintain records on a current basis to support its billings to the Funding Agency. The Funding Agency or its authorized representative shall have the authority to inspect, audit and copy, on reasonable notice and from time to time, any records of the Performing Agency regarding its billings or its work hereunder, for a period of 3 years after completion or termination of this Agreement.

VI. Amendments

1. Except as otherwise provided for in this Agreement, the Bureau or PDC may amend this Agreement only in writing signed by their respective Contract Signatories.
2. Changes to the Scope of Work and Budget
 - a) Changes to the Scope of Work and Budget, including changes to scope, schedule, and budget, and changes to this Agreement's termination date, which do not increase the total compensation under this Agreement, may be made upon written agreement by the Project Managers identified in Section II of this Agreement.
 - b) Changes will not take effect or be binding on either Party until agreed to in writing.

VII. Merger Clause

This Agreement contains the entire agreement between PDC and the Bureau. It supersedes all prior written or oral discussions or agreements concerning work to be performed by either Party.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF PORTLAND

PORTLAND DEVELOPMENT COMMISSION

Susan D. Keil, Director
Portland Bureau of Transportation

Bruce A. Warner, Executive Director

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Legal Counsel

City Auditor

PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6749

Title:

AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE PORTLAND DEVELOPMENT COMMISSION AND THE PORTLAND BUREAU OF TRANSPORTATION IN AN AMOUNT NOT TO EXCEED \$22,147,000 FOR THE PORTLAND STREETCAR LOOP PROJECT


Adopted by the Portland Development Commission on November 10, 2009.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Steven Straus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Charles Wilhoite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

Certification

The undersigned hereby certifies that:

The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.


Renee A. Castilla, Recording Secretary

Date: November 18, 2009