

MEMORANDUM OF AGREEMENT

Contract No. _____

THIS MEMORANDUM OF AGREEMENT (“MOA” or “Agreement”) is between Metro (“Metro”), the City of Oregon City (the “City”), and Clackamas County (the “County,” and together with Metro and the City, the “Parties”).

RECITALS

- A. By the authority granted in ORS 190.110 and 283.110, units of local government may enter into agreements with other units of local government for the performance of any or all functions and activities that the parties to the agreement, its officers, or agents have the authority to perform.
- B. The U.S. Environmental Protection Agency (“EPA”) has awarded the Parties a \$600,000 Coalition Assessment Grant (the “Assessment Grant”), which runs from 2016-2019 and will focus on the assessment of properties that contain petroleum contamination or hazardous substance contamination within a designated 9-mile stretch of the McLoughlin Corridor, which corridor is depicted on the attached Exhibit A (the “Corridor”).
- C. The purpose of the Assessment Grant is to add to existing brownfield inventories, assess properties in the Corridor in an attempt to help spur redevelopment or re-use, and help achieve local and regional land use goals. In addition, the Assessment Grant will pay for continued assessment of the Willamette Falls Legacy Project site, in downtown Oregon City.
- D. EPA will disburse the Assessment Grant funds to Metro on September 1, 2016 provided that EPA requirements are met.
- E. The Parties desire to enter into this MOA to set forth roles and responsibilities for deliverables and implementation of the Assessment Grant.

NOW THEREFORE, in consideration of the foregoing, and the mutual promises herein, it is agreed by and among the parties as follows:

TERMS OF AGREEMENT

1. **Term.** This MOA shall be effective as of the last date all required signatures are obtained (the “Effective Date”) and shall be completed and automatically terminate on December 31, 2019, unless extended by a fully executed amendment in writing and signed by all parties.

2. **Project Lead; Approvals.** Metro agrees to take the lead to implement the Assessment Grant by entering into an agreement with EPA (the “EPA Agreement”) and performing the requirements set forth in the EPA Agreement. Notwithstanding the foregoing, any major changes to plans and strategies described in the Assessment Grant application and any material decisions that affect the Assessment Grant shall require the written approval of the Parties, including, without limitation, selection of contractors, scope determination and/or changes, approval of change orders, approval of work reports, evaluation of the need for follow-up work or projects, and such other management decisions as necessary

to effectuate the Assessment Grant. Metro agrees that it shall receive the affirmative consent of the City and County before making such decisions on behalf of the grantees. Such approval shall be evidenced by email among the Parties' project managers. A Party may change its project manager by written notice to the other Parties. The project managers for the Parties are, as of the date of this Agreement:

Oregon City:	Christina Robinson-Gardner
Clackamas County:	Catherine Grubowski-Johnson
Metro:	Brian Harper

3. Advisory Group. The parties acknowledge and agree that as a condition of the Assessment Grant, EPA requires the parties to form an advisory committee to help recommend projects in the Corridor and provide comments regarding disbursement of grant funds (the "Advisory Group"). The Advisory Group shall meet quarterly, or more frequently if necessary, at a location to be determined by Metro. Each party shall appoint an equal number of members to the Advisory Group, and such members shall serve for the term of the Assessment Grant. In the event of any vacancy, the applicable party shall appoint a replacement member. If any member of the Advisory Group cannot attend a meeting of the Advisory Group, such member shall send a designate alternate. While Metro shall lead the formation of the Advisory Group and the logistics of organizing meetings of the Advisory Group, the County and City shall provide staff to attend the quarterly Advisory Group meetings. Additionally, County and City staff shall assist Metro in ensuring participation and attendance by Advisory Group members from their respective jurisdictions. Advisory Group members will serve as volunteers and not be compensated for their participation.

4. General. Each party shall, in the course of this Agreement:

- a. Comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement.
- b. Perform the work under this Agreement as an independent contractor and be exclusively responsible for all costs and expenses related to its employment of individuals performing the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

5. Insurance. The parties are individually insured for general liability insurance and workers' compensation insurance coverages. Each party is responsible for the wages and benefits of its respective employees performing services under this agreement.

6. Indemnification. Each party shall indemnify, defend, and hold harmless such other party (and its officers, employees, and agents) from all claims, suits, actions, or expenses of any nature resulting from or arising out of the acts, errors, or omissions of the assigned personnel or agents acting pursuant to the terms of this Agreement, within the limits of the Oregon Tort Claims Act and the Oregon Constitution.

7. Access to Records. All parties and their duly authorized representatives shall have access to books, documents, papers, and records otherwise privileged under Oregon Law which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.

8. Non-Discrimination. In their respective performances of this Agreement, neither party shall unlawfully discriminate against any person on the basis of race, ancestry, national origin, sex, disability,

age, religion, marital status or sexual orientation. Moreover, each party shall comport its performance with all applicable federal, state and local anti-discrimination acts and associated regulations.

9. Merger/Entire Agreement. This Agreement and attached exhibit(s) 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 it is 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 a part to enforce any provision of this agreement shall not constitute a waiver by that party of that provision or of any other provision.

10. Default / Termination. If a party fails to perform any of the provisions of this MOA after receipt of written notice from a non-defaulting party and fails to correct such failures within 10 days, then the non-defaulting parties may either (i) terminate this MOA as to the defaulting party by written notice to the defaulting party or (ii) institute enforcement proceedings to require compliance with the terms hereof, including requiring termination of unauthorized contracts and reimbursement of unauthorized expenditure of grant funds. Any termination of this MOA as to a defaulting party shall not prejudice any rights or obligations accrued to the parties prior to termination, and upon termination, the defaulting party shall be responsible for repayment of any lost or forfeited grant funds due to the default.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the last date set forth below.

METRO

CITY

By: _____
Metro Chief Operating Officer

By: _____

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

By: _____

By: _____

COUNTY

By: _____

Date: _____

Approved as to Form:

By: _____

MEMORANDUM OF AGREEMENT

Exhibit “A” Depiction of the Corridor