

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING)	RESOLUTION NO. 09- 4051
INTERGOVERNMENTAL AGREEMENT NO.)	
929262 WITH CLARK COUNTY PUBLIC)	Introduced by Chief Operating Officer
TRANSPORTATION BENEFIT AREA)	Michael Jordan with concurrence of Council
AUTHORITY (C-TRAN) FOR)	President Bragdon
ADMINISTRATION AND OPERATION OF)	
VANPOOLS.)	

WHEREAS, Metro adopted the 2004 Regional Transportation Plan on July 8, 2004; and

WHEREAS, Policy 19.0 Regional Transportation Demand Management (TDM) calls for enhanced mobility and supports the use of alternative transportation modes by improving regional accessibility to public transportation, ridesharing, telecommuting, bicycling and walking options; and

WHEREAS, Metro adopted the 2003 Regional Travel Options (RTO) Strategic Plan on January 15, 2004; and

WHEREAS, the 2003 RTO Strategic Plan identified Metro as the lead agency for developing and operating a vanpool program serving commuters living both within and in areas surrounding the Portland metropolitan area; and

WHEREAS, Metro has operated said vanpool program since July 1, 2006; and

WHEREAS, Metro has incurred vanpool program operations and marketing costs on behalf of residents of SW Washington at the request of Clark County Public Transportation Benefit Area Authority (C-TRAN); and

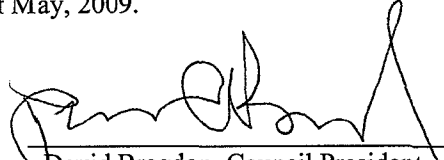
WHEREAS, C-TRAN has agreed to pay Metro \$340,272 for costs incurred on behalf of SW Washington residents between July 1, 2006 and April 30, 2009; and

WHEREAS, Metro Code Section 2.04.026 requires the approval of the Metro Council of agreements by which Metro assumes any function or duty of another governmental body; and

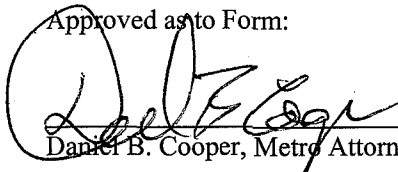
WHEREAS, in consideration both of the RTO Strategic Plan and of the request of C-TRAN, the Chief Executive Officer has reviewed and recommends approval of Metro Contract No. 929262 with C-TRAN; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute Metro Contract No. 929262 with C-TRAN, as set forth as the attached Exhibit "A".

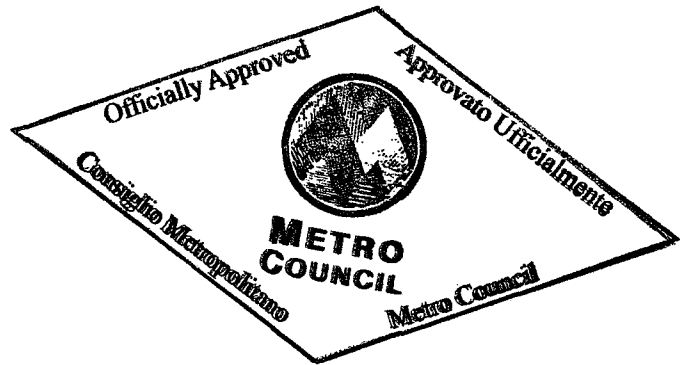
ADOPTED by the Metro Council this 28th day of May, 2009.



David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney



INTERLOCAL/INTERGOVERNMENTAL AGREEMENT
Vanpool services funding agreement

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232-2736 (hereinafter "Metro"), and Clark County Public Transportation Benefit Area (C-TRAN"), a public transportation benefit area of the state of Washington (hereinafter "C-TRAN").

RECITALS

1. C-TRAN is a recipient of a Congestion Mitigation and Air Quality ("CMAQ") grant from the Federal Highway Administration ("FHWA"), administered by the Federal Transit Administration ("FTA").
2. C-TRAN and Metro wish to enter into an agreement to utilize these federal funds.
3. The Regional Vanpool Program supports local and regional Commute Trip Reduction in both Southwest Washington and in Oregon by providing a ride-sharing option to reduce single-occupant vehicle trips during peak commute periods.
4. The primary goal of Metro's Regional Vanpool Program is to reduce the use of single-occupant vehicles using major regional facilities, including the Interstate-5 Columbia River Bridge.
5. Metro operates the Regional Travel Options ("RTO") program which is designed to assist local governments in managing the demand on the regional transportation system and to increase the use of methods of travel that present an alternative to the use of single-occupant vehicles. Metro's RTO program manages the existing Regional Vanpool Program, which currently provides a financial subsidy to approximately 15 vanpools that travel from Clark County Washington into the State of Oregon each work day.
6. By the authority granted in RCW 39.34 and ORS 190.410, units of local government may enter into interstate agreements to perform any functions or activities that parties to the agreement or their officers or agents have the duty or authority to perform.
7. C-TRAN and Metro desire to enter in to this Agreement for their mutual benefit and to provide van pool services to the residents and businesses of Southwest Washington;

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

PROVISIONS OF AGREEMENT

1. **PURPOSE OF AGREEMENT.** The purpose of this agreement is for Metro to provide, on behalf of C-TRAN, Regional Vanpool Program services to the residents and businesses of Southwest Washington, in exchange for payment from C-TRAN through a federal CMAQ grant awarded to C-TRAN through the Southwest Washington Regional Transportation Council.

2. **TERM OF AGREEMENT.** This agreement shall be effective as of January 1, 2007 and shall continue until June 30, 2009.

3. **RESPONSIBILITIES OF C-TRAN.** C-TRAN shall provide the following services to Metro:

a. In consideration of Metro's performance of the work described in this Agreement, and Metro's performance of all duties, tasks and obligations of this Agreement, throughout the term of this Agreement, C-TRAN agrees to pay Metro in accordance with the provisions set forth in Paragraph 5; and to perform any other obligation specifically enumerated in this Agreement. Notwithstanding any other provision of this Agreement, C-TRAN shall have no obligation to notify Metro when to begin, cease or resume and work or performed under this Agreement, nor in any way to supervise so as to relieve Metro from any responsibility required to be performed under this Agreement.

b. C-TRAN shall use its best efforts to co-ordinate with Metro to achieve the purposes of this agreement.

c. C-TRAN shall process all invoices for payments within 30 days of receipt and detail data required by FTA.

4. **METRO'S RESPONSIBILITIES.** Metro agrees to:

a. Manage lease contracts with vendors selected through a Request for Proposals process to provide van pool services, with leases providing for vehicles for vanpool groups and for screening and training of drivers;

b. Ensure that costs reimbursed under this agreement relate to vanpools that travel three or more days per week either no less than 20 miles round-trip or travel through a heavily congested corridor;

c. Implement and market Regional Vanpool Program in target markets in collaboration with local partners, including but not limited to Transportation Management Areas, with the goal of expanding the program to no less than 24 van pool groups;

d. Manage contracts and leases with private sector vanpool vendors;

e. Provide vanpooling in targeted markets;

f. Develop marketing materials including but without limitation fact sheets, brochures, web pages, testimonials;

g. Respond to customer service inquires via phone and online;

h. Provide administrative support for the vanpool data base;

- i. Provide project management to maintain ridematching system until regional bi-state or state service is available;
- j. Continue participation in development of regional bi-state ride-matching system and migrate the regional system to Ride-Share Online;
- k. Refine targets for services and outreach;
- l. Track and report on program performance;
- m. Support co-ordination of RTO working group partner communications;
- n. Provide deliverables including regional rideshare collateral materials, quarterly progress reports, NTD reports and invoices for both direct expenditure and administrative expenditures; and
- o. Unless the parties agree otherwise, Metro shall submit to C-TRAN a quarterly program summary within 30 days following the end of each calendar quarter. Such program summary shall include without limitation, the following information, as defined by the Code of Federal Regulations, for all interstate and intrastate van pool trips, regardless of the state of origin:

- 1. Passenger boardings
- 2. Passenger miles
- 3. Operating miles
- 4. Operating hours
- 5. In-service miles
- 6. In-service hours
- 7. Net operating costs
- 8. Operating revenues
- 9. Passengers per in-service hour
- 10. Costs per passenger mile
- 11. Costs per operating mile
- 12. Cost per passenger boarding
- 13. Cost per operating hour
- 14. Operating revenue per passenger
- 15. Percent of operating revenue to operating costs
- 16. Full-time equivalent employees

In addition, Metro shall use its best efforts to co-ordinate with C-TRAN to achieve the purposes of this agreement.

5. PAYMENT FOR SERVICES AND REPORTING REQUIREMENTS

a. Subject to the limitations set forth in the regulations and guidelines for the FHWA CMAQ program; the guidelines of the Washington State Department of Transportation; and the provisions of this Agreement; C-Tran agrees to reimburse Metro for its cost in operating the Regional Vanpool Program in an amount not to exceed \$340,270.00 (THREE HUNDRED FORTY THOUSAND, TWO HUNDRED SEVENTY DOLLARS AND NO CENTS) during the term of this Agreement, payable to Metro as follows:

For invoices provided by Metro for the period of January 1, 2007 through June 30, 2007 (Metro fiscal year 2007), C-TRAN shall reimburse Metro the total sum not exceeding \$111,170.00.

For invoices provided by Metro for the period of July 1, 2007 through June 30, 2008 (Metro fiscal year 2008), C-TRAN shall reimburse Metro the total sum not exceeding \$84,200.00.

For invoices provided by Metro for the period of July 1, 2008 through June 30, 2009 (Metro fiscal year 2009), C-TRAN shall reimburse Metro the total sum not exceeding \$144,900.00.

b. Upon Metro's submittal of an invoice meeting the requirements of the FHWA CMAQ program for services performed in the operation of the Regional Vanpool Program, C-TRAN shall reimburse Metro in the full amount of such invoice. Metro shall submit such invoices within 30 days following the execution of this agreement. Such invoice shall identify the dates, itemized program costs for vanpool leases, copies of lease invoices, marketing and administrative services labor detail, and the amount due for the billing period. Invoices shall include sufficient documentation that is consistent and reconcilable with Metro's internal accounting system to allow for verification of program activity for the billing period.

c. In the event that the FTA denies reimbursement to C-TRAN of costs paid to Metro by C-TRAN for services performed in the execution of this agreement, Metro agrees to reimburse C-TRAN in the amount of the denied costs within 30 days of notification by C-TRAN.

d. The parties acknowledge that effective January 1, 2007, funding received from the FHWA CMAQ program may be managed by means of FTA Section 5307 Grant Program of the U.S. Department of Transportation. Accordingly, Metro shall report on the services it performs in accordance with the requirements of the National Transit Database and shall acquire user access identification for such database. Metro shall provide C-TRAN with online viewer access of all reports submitted to the National Transit Database.

e. Metro shall maintain all fiscal records relating to the Agreement in accordance with generally accepted accounting principles. In addition, Metro shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Metro's performance. Metro acknowledges and agrees that C-TRAN, FTA, U.S. Secretary of Transportation, Comptroller of the United States or their authorized representative shall have access to such fiscal records and other books, documents, papers, plans, and writings that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts. Metro Also acknowledges and agrees that it shall retain such documents for a period of six years, or such longer period as may be required by applicable law, after termination of the Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Copies of applicable records shall be made available upon request.

6. TERMINATION. This agreement may be terminated at any time by the mutual agreement of the parties. In addition, either party may terminate this Agreement at any time by providing no less than 60 days written notice of its intention to terminate. Reimbursement for services performed before the effective date of any termination shall be made in accordance with the terms of this Agreement.

7. INDEMNITY. Metro agrees, to the greatest extent permitted by the Oregon Constitution and subject to the limitations of the Oregon Tort Claims Act, to indemnify and hold harmless, C-TRAN, its agents, employees, successors and assigns from any and all liability, damages, claims, demands, actions, causes of action, attorney fees (including on appeal), costs and expenses of whatsoever nature arising directly or indirectly from or relating to any of Metro's obligations under this Agreement, except to the extent arising from the negligence or the intentional misconduct of C-TRAN. C-TRAN agrees to indemnify and hold harmless Metro, its officials, officers, employees, and agents from any and all liability, damages, claims, demands, actions causes of action, attorney fees (including on appeal), costs and expenses of whatsoever nature arising directly or indirectly from or relating to any of C-TRAN's obligations under this Agreement, except to the extent arising from the negligence or the intentional misconduct of Metro.

8. ACCESS TO RECORDS. Metro and C-TRAN shall have access to the books, documents, papers and records that are directly related to this Agreement for the purpose of making any audit or performance examination.

9. OWNERSHIP OF WORK PRODUCT. All work products relating to the agreement shall become the exclusive property of Metro. Notwithstanding the foregoing, C-TRAN reserves the right to retain copies of any such work products related to this agreement

10. COMPLIANCE WITH LAWS. Metro and C-TRAN shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Intergovernmental Agreement. Without limitation, the parties expressly agree to comply with Title VI of the Civil Rights Act of 1964; Section V of the Rehabilitation Act of 1973; the provisions of the Americans with Disabilities Act of 1990 and ORS 659.425; all regulations and administrative rules establish pursuant to the foregoing laws; and all other applicable requires of federal and state civil rights and rehabilitation statutes, rules and regulations.

11. INDEPENDENT CONTRACTORS. Each of the parties hereto is an independent contractor, and neither party shall have the authority to act on behalf of or incur obligations on behalf of the other party.

12. NO THIRD PARTY BENEFICIARY. Except as set forth herein, this Agreement is between Metro and C-TRAN and creates no third party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to any third parties unless such third party is expressly described as an intended

beneficiary under this Agreement. Metro and C-TRAN are the only parties to this Agreement and as such are the only parties entitled to enforce its terms.

13. SEVERABILITY & SURVIVAL OF PROVISIONS. The illegality of any provision of this Intergovernmental Agreement shall not affect the remainder of the Agreement. Any provisions concerning the limitation of liability, indemnity or conflicts of interest shall survive the termination of this Agreement.

14. APPLICABLE LAW & VENUE OF DISPUTES. This Agreement shall be construed and enforced in accordance with the laws of the state of Washington. Any dispute arising under this agreement shall be resolved solely by mean of mutually binding arbitration which shall be conducted in Vancouver, Washington.

15. CAPTIONS. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

16. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the C-TRAN and Metro. This Agreement supersedes all prior understandings and agreements between C-TRAN and Metro. This Agreement may not be modified or amended except by a writing executed by C-TRAN and Metro. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by any party of that or any other provision.

C-TRAN

Metro

By: *Paul Halsey* *for Jeff Hansen*
Title: *Director of Operations*
Date: *5/6/09*

By _____
Title: _____
Date: _____

<p>Approved as to form by C-TRAN Legal Counsel Date: _____</p>	<p>Approved as to form by the Office of the Metro Attorney Date: _____</p>
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Attachment 1: Regional Rideshare - Vanpool Program

This program markets carpooling and vanpooling to employers, provides web-based ride-matching services through CarpoolMatchNW.org, and provides vanpool incentives and services.

RTO staff will work with project partners at the local and regional level to market rideshare resources to employers in areas that have the best potential for increased levels of carpooling and vanpooling. The marketing strategy includes promotions that provide incentives to members of the public who participate in a carpool or vanpool three or more days per week.

Services available to employers through the RTO program include assistance identifying groups of employees that could form carpools or vanpools; collateral materials that promote the benefits of ridesharing; presentations to employee groups; financial incentives for vanpool groups; and informational tables at employee events. In addition, the RTO will work with partners in Clark Co., Washington and Columbia Co., Oregon to increase awareness of available rideshare services among residents of these areas who commute into the Portland metropolitan area.

Metro RTO staff provides customer service and administrative support for project management CarpoolMatchNW.org. The RTO program contracts with the city of Portland for web site hosting and maintenance. RTO staff will continue to work with partner organizations in Oregon and Washington to develop options for a bi-state database and online ride-matching system to support increased levels of carpooling and vanpooling.

This scope of work includes continued implementation of the vanpool pilot program strategy adopted by the RTO subcommittee in 2006.

The strategy seeks to grow the vanpool fleet from 17 to 65 vanpool groups over two years and is supported by funds from ODOT, C-TRAN, and the RTO program. The program will target markets identified in the Rideshare Program Market Research and Implementation Plan study completed in 2005.

Metro RTO program staff will manage lease contracts with vendors selected through a Request for Proposals process to provide vanpool services. Vendors provide vehicles for vanpool groups through a lease agreement, as well as driver screening and training. Financial incentives of up to 50% of the vehicle lease cost are available to vanpool groups. Vanpools must travel at least 20-miles roundtrip (or through a heavily congested corridor) three or more days per week to be eligible for financial incentives.

The RTO program staff (1.5 FTE), augmented by contracted professional services, will carry out the following tasks:

1. Implement vanpool pilot projects in target markets in collaboration with local partners, including TMAs, with the goal of starting 23 new vanpool groups.
2. Manage contracts and lease agreements with private sector vanpool vendors.
3. Market carpooling, vanpooling, and rideshare services, such as CarpoolMatchNW.org, in targeted markets.
4. Develop collateral materials including fact sheets, brochures, web pages, testimonials, and other collateral.
5. Provide customer service via phone and email for CarpoolMatchNW.org.
6. Provide administrative support for the CarpoolMatchNW.org database.
7. Provide project management for CarpoolMatchNW and work with the City of Portland to maintain the system until a bi-state or statewide service is available.
8. Continue participation in development of statewide ridematching system; determine timeline for migration of the regional system to the statewide system.
9. Refine targets for services and outreach.
10. Track and report on program performance.
11. Support rideshare working group of RTO Subcommittee for effective coordination and partner communication.

Deliverables

- Regional rideshare services collateral materials
- Quarterly progress reports

Budget

	Van Lease Costs (100% federal)	Materials & Services (100% federal)	Labor – Marketing (100% federal)	Labor – Vanpool Admin. (80% federal)	Totals by year (billed to C-TRAN)	Local match (paid by Metro)
FY 2007	\$45,083	\$13,662	\$52,427	\$0	\$111,172	\$0
FY 2008	\$75,980	\$0	\$0	\$8,220	\$84,200	\$1,644
FY 2009	\$66,240	\$6,765	\$56,408	\$15,487	\$144,900	\$3,871
Totals	\$187,303	\$20,427	\$108,835	\$23,707	\$340,272	\$5,515

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4051, FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH CLARK COUNTY PUBLIC TRANSPORTATION BENEFIT AREA AUTHORITY (C-TRAN) FOR ADMINISTRATION AND OPERATION OF VANPOOLS.

Date: May 19, 2009

Prepared by: Dan Kaempff

BACKGROUND

One of the goals identified in the 2003 Regional Travel Options (RTO) Strategic Plan was a renewed effort to expand the region's vanpool program. Prior to this, TriMet and C-TRAN each managed vanpool programs separately for a number of years and then consolidated the program at TriMet. Both agencies' programs utilized third-party vanpool providers and paid a portion of the van lease costs as a fiscal incentive for passengers.

Each agency had been limited in their capacity to develop a regionally integrated plan for vanpool administration and marketing. In developing the 2003 Strategic Plan, RTO partners agreed that the vanpool program had lacked focus and needed a unified marketing and funding approach in order to be successful. Metro was asked to lead this effort.

In July 2006, Metro began a three-year pilot project aimed at growing the number of vanpools in the region. This project was based on recommendations found in two reports generated by the RTO program; one analyzing the region's potential vanpool market, the other outlining options for the financial plan.

Based on these reports, RTO staff developed a vanpool program that provides a fiscal incentive of up to 50 percent of the monthly cost of a leased van, not including fuel. Vanpool groups are required to lease a van from a provider under contract with Metro in order to receive the incentive. Since its inception in July 2006, the vanpool program has reduced over 4 million Vehicle Miles Traveled from the region's roads and highways.

As Metro assumed administration of the vanpool program, the City of Vancouver/Clark County approached Metro with an offer of federal Congestion Mitigation and Air Quality (CMAQ) funding to help support marketing and administrative work for the regional vanpool program, as well as paying for the lease costs of vanpools originating in Washington and traveling to Oregon destinations. Prior to the two agencies formalizing an agreement, the Regional Transportation Council (RTC) and local partners in Vancouver and Clark County agreed to shift responsibility for the CMAQ funding from the City of Vancouver/Clark County to C-TRAN.

C-TRAN subsequently announced that it intended to transition to an in-house operated vanpool program and discontinue its involvement with Metro's program. C-TRAN's in-house vanpool program began on May 1, 2009. The funding provided by the subject Intergovernmental Agreement covers Metro's costs previously incurred in management and funding of Washington vans between January 1, 2007 and April 30, 2009.

The agreement provides \$340,272 of CMAQ funds to Metro, covering vanpool program costs incurred from January 1, 2007 to April 30, 2009. \$152,969 is designated for marketing and administrative expenses; the balance of \$187,303 is to pay vanpool lease incentives.

ANALYSIS/INFORMATION

1. **Known Opposition** – None known.
2. **Legal Antecedents** – Metro Code Section 2.04.026 requires approval by Metro Council of agreements by which Metro assumes any function or duty of another governmental body.
3. **Anticipated Effects** – If approved, \$340,272 in federal funds from C-TRAN will be accepted to reimburse Metro for vanpool expenses incurred on behalf of C-TRAN between January 1, 2007 and April 30, 2009.
4. **Budget Impacts** – This action accepts \$340,272 in federal funds from C-TRAN. \$5, 515 in required local matching funds will be paid by Metro. Failure to approve resolution will require vanpool expenses incurred by Metro on behalf of C-TRAN to be paid from other program funds. This would subsequently result in funding cuts to other RTO programs.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this ordinance.