



METRO

Agenda

MEETING: METRO COUNCIL
DATE: November 15, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. NATURAL AREAS PROGRAM

Flynn

**4. 2006-07 MINORITY WOMEN AND EMERGING SMALL
BUSINESS ANNUAL REPORT**

Matthews

5. CONSENT AGENDA

5.1 Consideration of Minutes for the November 8, 2007 Metro Council Regular Meeting.

5.2 **Resolution No. 07-3880**, For the Purpose of Amending the 2004 Regional Transportation Plan (RTP) and 2006-2009 Metropolitan Transportation Improvement Program (MTIP) and the 2008-11 MTIP to Include the Interstate 5: Wilsonville Road Interchange Project.

5.3 **Resolution No. 07-3884**, For the Purpose of Confirming the Appointment of Michelle K. Poyourow as Multnomah County Citizen to the Metro Policy Advisory Committee (MPAC)

5.4 **Resolution No. 07-3881**, For the Purpose of Approving a Sole Source Contract for the Collection and Analysis of Financial Trend Data.

6. ORDINANCES – FIRST READING

6.1 **Ordinance No. 07-1168**, For the Purpose of Amending Metro Code Chapter 2.21 (Claims under ORS 197.352) to Implement Ballot Measure 49 and Declaring an Emergency.

7. RESOLUTIONS

7.1 **Resolution No. 07-3831**, For the Purpose of Approving the Federal Component of the 2035 Regional Transportation Plan (Public Hearing)

Park

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for November 15, 2007 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, Nov. 15 (Live)	Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, Nov. 18 2 p.m. Monday, Nov. 19
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, Nov. 19	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, Nov. 17 11 p.m. Sunday, Nov. 18 6 a.m. Tuesday, Nov. 20 4 p.m. Wednesday, Nov. 21
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

NATURAL AREAS PROGRAM.

Auditor Report

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber



METRO

PEOPLE PLACES
OPEN SPACES

www.metro-region.org



Natural Areas Program

Improved transparency recommended

October 2007
A Report by the Office of the Auditor

Suzanne Flynn
Metro Auditor

Audit Team: Fred King, Senior Management Auditor
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METRO

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M E M O R A N D U M

October 16, 2007

To: David Bragdon, Council President
Rod Park, Councilor, District 1
Vacant Position, District 2
Carl Hosticka, Councilor, District 3
Kathryn Harrington, Councilor, District 4
Rex Burkholder, Councilor, District 5
Robert Liberty, Councilor, District 6

From: Suzanne Flynn, Metro Auditor

A handwritten signature in cursive script, appearing to read 'Suzanne Flynn'.

Re: **Audit of Natural Areas Program**

The attached report covers our audit of the Natural Areas Program in the Department of Regional Parks and Greenspaces. This audit was included in our FY07-08 Audit Schedule.

This audit was intended to assist management and the Metro Council in establishing a strong foundation to begin the 2006 bond measure program. We followed up recommendations from two previous audits and a review by a consulting firm. We focused on whether processes were in place to ensure that Program activities would be accountable and transparent.

During the first bond measure, the Program devoted most of its efforts to acquiring land and establishing a strong program. It is the conclusion of our audit that the Program now needs to direct some of its future efforts to building a performance measurement system, improving communication and using past experience to continuously improve operations.

We have discussed our findings and recommendations with Jim Desmond, Director, Regional Parks and Greenspaces. A formal follow-up to this audit will be scheduled within 1-2 years. We would like to acknowledge and thank the management and staff in the Department, Office of Metro Attorney and Public Affairs who assisted us in completing this audit.

TABLE OF CONTENTS

Summary	1
Background	3
Property acquisition process	4
Scope and methodology	5
Additional areas of concern	6
Results	9
Performance measures would assist the Program and Council	9
Considerable data is currently available	10
Closing memos could capture important data	10
Program goals should be prioritized	13
Some measures not reported	13
Information needed from other sources	14
Reports need to link to Program goals and priorities	15
Communication plan needed	16
Metro should evaluate public involvement	17
Communication can be improved to partners	18
Communication does not correspond to goals and priorities	18
Better use of signage would communicate results	19
Program can increase accountability through communicating about ethics	20
Program needs to preserve lessons learned	21
Recommendations	23
Response to Audit	25
Appendix	29

Summary

Metro has the authority to acquire, develop and maintain a system of parks, open spaces and recreational facilities for regional use. In 1992, the Metro Council adopted a Greenspaces Master Plan which inventoried natural areas in the region and proposed a plan to protect these areas. After voters approved a bond measure, the 1995 Open Spaces Program was created to implement the Plan by acquiring and protecting land. In 2006, voters approved a second ballot measure to issue \$227.4 million in bonds to acquire additional natural area land.

The purpose of this audit was to determine if the Natural Areas Program had processes in place to ensure transparency and accountability. Specifically, the audit reviewed performance measures, communications, and whether the Program was able to benefit from lessons learned in the previous land acquisition program.

While data collection systems were started during the 1995 Open Spaces Program, staff focused primarily on putting an effective program in place. It is typical for a program to go about the work it was set up to do and develop performance measures after a need becomes apparent.

We determined that the Program could improve its transparency if it used data to more systematically create and report on performance measures. The Program designed a database with some information that could be used to report performance relative to goals and over time. However, the data is collected inconsistently and some data necessary to gauge success is not collected.

The goals of the 2006 bond measure fell into three general areas: conservation, water quality protection and preserving land for future public use. Reporting on performance measures in each of these goal areas could assist the Metro Council, the public, the Natural Areas Oversight Committee, and management to determine Program effectiveness as well as make adjustments when needed. Because the goals can conflict with each other, they need to be prioritized so that there is a target available to judge success.

Communication could also be improved. Currently the Program communicates mainly about single purchases, rather than providing a region-wide picture. It did engage in a large public outreach campaign to solicit input in setting land acquisition priorities reaching more than 500 people at open houses and receiving over 900 responses through an online survey. A communication plan would help the Program communicate more effectively about meeting bond goals and create opportunities to partner with other groups and government agencies.

The Program is in the real estate business. Over time, staff has learned some valuable lessons about how to effectively meet targets in a changing environment. These lessons have not always been formally

captured or communicated to all staff so that effectiveness can be increased.

We recommend that the Natural Areas Program develop a more comprehensive set of performance measures and the means to capture and report these measures. The Program should also plan a communication strategy to improve communication with the public and increase opportunities for involvement of other governments and partners. Valuable information about purchasing real estate for a public purpose should be documented to allow the Program to continue to improve its effectiveness.

Background

Metro is the regional government serving residents of Clackamas, Multnomah and Washington counties and the 25 cities of the Portland, Oregon metropolitan area. Metro's charter gives it the authority to acquire, develop and maintain a system of parks, open spaces and recreational facilities of metropolitan concern.

In 1991, Metro conducted a livability survey and found that "being close to nature" was important to people in the region. This led to the adoption of the Greenspaces Master Plan by Metro Council in 1992. The Master Plan is an inventory of the natural areas in the region and a proposal to protect and restore them.

The 1995 Open Spaces Program was designed to implement the Master Plan by acquiring and protecting land. The Program used \$135.6 million in bond funds to purchase natural areas throughout the region. Of that, \$25 million was used for local jurisdictions. The Program estimated that it would acquire approximately 5,982 acres of land. However, Program records indicate it exceeded this estimate by over 2,148 acres.

In 2006, voters in the Metro region approved a second ballot measure to issue \$227.4 million in bonds to acquire natural area land. The name of the Program was changed in 2006 from the Open Spaces Program to the Natural Areas Program. The measure included:

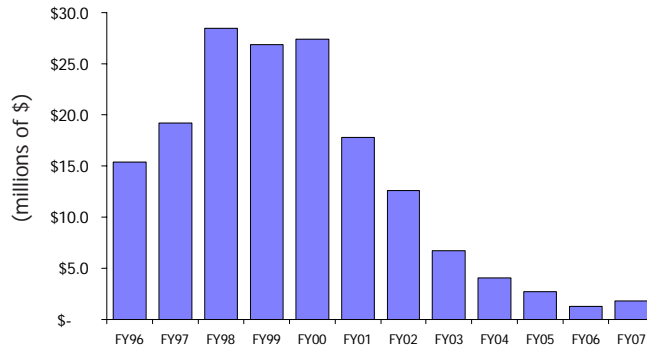
- \$168.4 million to buy land in river and stream corridors, headwaters, wildlife areas in 27 target areas;
- \$44 million in grants for 28 cities, counties and local park providers to acquire land for and improve neighborhood parks, buy and restore natural areas, improve water quality and fish and wildlife habitat, and for capital projects;
- \$15 million capitol grant program to increase natural features and their ecological functions on public lands in neighborhoods.

The 2006 Program has a goal of purchasing 3,600 to 4,500 acres in 27 target areas. These sites include many of the 1995 target areas, nine additional areas and four additional trail corridors. The 2006 Program has two new requirements to enhance accountability and transparency: creating a citizen oversight committee and requiring an annual financial audit of the Program to be published in local newspapers.

Currently, fourteen staff members out of 59 Regional Parks and Greenspaces staff are devoted to the Program plus an additional five staff in the Office of the Metro Attorney. Staffing for the Program increases at the beginning of the bond measure and decreases as bond funds decline.

During the last bond measure, the Program's expenditures increased gradually over the period between 1996 and 1998, then decreased through 2006. The Program had higher expenditures during the period it was acquiring more property.

EXHIBIT 1 1995 Open Spaces Expenditure
Adjusted for inflation (2006 Dollars)



SOURCE: *Open Spaces Program*

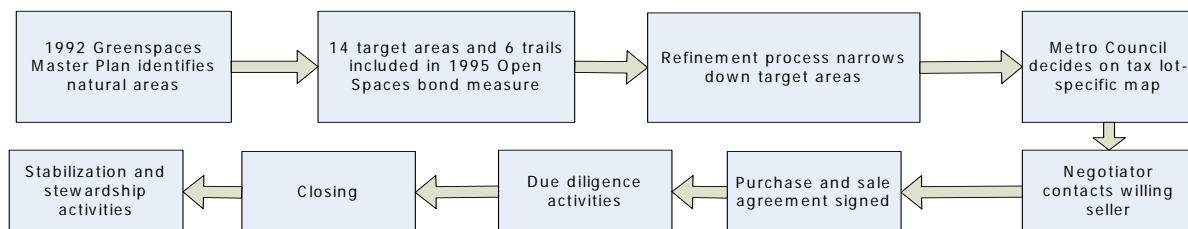
Budgeted staffing followed the same pattern. The Program's staff was largest during the period of time that the most property was being acquired.

Property acquisition process

In order to execute land purchasing in the 1995 bond measure, the Program developed an Implementation Work Plan similar to the one used currently. First, the Program conducted a "refinement process" to select the specific parcels to be purchased in each target area. A project manager interviewed stakeholders (conservation groups, natural resource agencies, water providers, citizen's groups) who had expert knowledge of these target areas to assist in selection. Citizens provided input at public open houses for each target area. Based on this information, Program staff made recommendations for acquisitions. Actual properties targeted for purchase were identified on confidential refinement maps. A subcommittee of Metro Council reviewed the staff reports, after which Metro Council went into executive session to vote on approval of the tax-lot specific maps.

Once these maps were approved, negotiators made contact with the landowners. When a willing seller was found, staff evaluated the property, walking the land to determine whether it appeared to be of value as a natural area. If the assessment confirmed their expectations, the negotiator and landowner entered into an agreement. At that point, staff requested an appraisal and also examined the property's title, inspected the property and initiated an environmental audit by a contractor. Once these activities were satisfactorily accomplished, Metro completed the transaction.

EXHIBIT 2 Open Spaces Acquisition Process



SOURCE: Metro Auditor's Office

Scope and methodology

The objective of this audit was to evaluate whether processes were in place to ensure the transparency and accountability of the Program. Specifically, we looked at performance measures, communications and lessons learned.

The Program was reviewed on three previous occasions. Two audits were conducted by the Office of the Metro Auditor in 1996 and 2000, and a review was completed by a consulting firm in 2006. Both the 2000 audit and the 2006 review recommended improvements in Program transparency, including:

- improving reports to the Metro Council to allow more meaningful comparisons between goals and expenditures (2000 audit, Office of the Metro Auditor);
- establishing a more meaningful, effective, and relevant methodology for assessing Program performance (2006 Talbot, Korvola and Warwick review);
- designing all Program activities “to allow for clear understanding and communication to the Metro Council and regional voters” (2006 Talbot, Korvola and Warwick review).

In addition, the 2006 review recommended that the Program update its planning to reflect lessons learned from the 1995 Program. We followed up on these reports to determine whether the recommendations had been implemented.

The scope of the audit included both the 1995 Open Spaces Program and the 2006 Natural Areas Program. We included the 1995 bond measure Program because it was the model for the current Program. We audited only the regional share portion of the Program. We excluded the \$44 million in bond funds allocated to local jurisdictions and the \$15 million allocated to the new capital grant program, except in the area of communications.

Additionally, the audit team reviewed Program documents and audit reports of similar programs in other jurisdictions. We conducted extensive interviews with key staff and management from Metro's Regional Parks and Greenspaces Department, former Program staff, staff of the Office of the Metro Attorney, representatives of stakeholder groups, and contracted appraisers. We polled the Metro Committee for Citizen Involvement and reviewed relevant articles from newspapers and applicable periodicals.

We conducted a five-year analysis of the budget and staff and reviewed the Regional Parks and Greenspaces' organizational structure. We analyzed the Program's property acquisition database and accompanied science staff on a visit to a property being considered for acquisition.

To provide additional background for our work, we attended refinement meetings and public open houses. We conducted research on standard industry practices in property appraisal and performance measurement in land acquisition programs to get a background on how these processes are generally conducted.

We determined there was no need to coordinate with other audit departments or rely on their work. This audit was included in the FY07 audit schedule and conducted under generally accepted government auditing standards.

Additional areas of concern

Additional areas of concern were identified during the audit but excluded from its scope. However, these areas may be considered in subsequent audits. They are:

- the potential for inflated appraisals in the acquisition process; and
- planning for ongoing costs of managing natural areas.

The potential for inflated appraisals. The possibility that appraisals in the Program are subject to inflation was thoroughly explored in a 2000 audit by the Metro Auditor's office. We examined the procedures used to identify, negotiate for and purchase properties. We determined that while there continued to be risks in these areas, the Program is aware of the risks and has put additional controls in place.

We concluded the best way to reduce the risk further is for the Program to support and maintain an ethical environment. There exists an ongoing and understandable conflict inherent in the Program between the desire to acquire sensitive lands and the need to be responsible stewards of public funds that should be addressed directly.

Upper management needs to set the ethical tone (tone at the top) so that the Program staff serve as a control. The Metro Attorney issued a memo explaining State ethics laws and discussing potential conflicts of interest. Staff working in the Program and members of the Oversight Committee must sign a statement of "Acknowledgement of Ethical Obligations." Management stated there are on-going discussions among staff about ethical expectations. We recommend leadership continue to engage in ongoing discussions of ethics.

Ongoing costs of management. With the acquisition of thousands of acres of additional land, the cost of maintaining and restoring this property will increase. Bond funds cannot be used for these purposes, so funding must be found elsewhere. We considered including this topic in the current audit but decided that it would be more effective to examine it in the context of a broader look at how the Program interacts with Metro municipalities through the local share program. We recommend that Program staff provide Metro Council with estimates of known or likely projected costs of ongoing operations for future years to provide greater visibility of future expenditure needs.

Results

The Program has had mixed success in evaluating and communicating the results of its bond-funded land acquisition programs. The 1995 Program reported that it exceeded its acreage targets and it was widely considered to be a success. The Program has broad popular support, demonstrated by the passage in 2006 of a second bond. Nevertheless, it is difficult to understand and communicate the full impact the Program has had on preserving natural areas. We found that the Program can make improvements to how it measures its performance, communicates with its stakeholders, and captures the informal knowledge of staff to improve Program operations.

Performance measures would assist the Program and Council

Like any government program, the Program has a responsibility to operate in a transparent manner. Anyone interested in learning how well the Program is doing should have access to information to answer that question. However, the Program needs performance measures that gauge results and to report on key operational measures.

The goals of the 2006 bond measure fall into three general areas: conservation, water quality protection and preserving land for future public access. While some information was gathered in the past about the properties acquired that relate to these goals, it was limited and not gathered consistently. Without performance measures, it is difficult to tell whether the Program is achieving what it is intended to achieve and what was promised to voters in the bond measure.

The use of performance measures would give Metro Council more complete information than they currently get from quarterly reports. While current reports include financial information, additional performance data that shows progress toward achieving goals is needed. This will allow the Council to make decisions based on the Program's scientific and social goals, rather than political pressures. For example, it could give Metro a basis for saying "No" to decisions that have strong political or community support but do not meet the scientific requirements of the Program, or from acquiring properties that other organizations could protect.

Performance measures also could improve citizen involvement and confidence in government. The public is more likely to support the Program if they understand the progress it has made. More clearly articulated performance measures would result in increased public confidence. Similarly, print and broadcast media is more likely to understand the Program when it has access to information that details objective measures of Program performance.

Considerable data is currently available

Currently, the Program tracks information about each property in a property acquisition database. The Program also maintains other sources of data including a restoration database (information about restoring the property), a volunteer database and closing memos on each property when it is purchased. The property database is set up to generate quarterly reports, with information on land acquisitions by target area, county, council district, city, and negotiator. We found that this database includes only some of the data needed to track performance, and that data is not collected consistently.

Fortunately, the Program has the ability to create performance measures. It is already collecting data in each important goal and accountability area. The Program's property acquisition database includes approximately 173 fields for many types of information: financial, appraisal, acreage, municipal partnerships, purchase price, leases, restoration, and stewardship. The data is collected from an Acquisition Summary Form which is completed by the negotiator and the legal due diligence staff. Closing memos for the properties purchased to date also contain a great deal of information about the unique natural features of the properties that were purchased. Closing memos and the acquisition, restoration and stewardship databases can be used as the basis for a more comprehensive data collection system.

Through a review of Program documents, a literature review of measures used by similar programs and discussions with key Program staff and stakeholders, we identified potential performance measures. Out of a potential 26 measures grouped into four categories: conservation, water quality, public access and accountability, the Program currently reports regularly on three. (See appendix for a list of these measures.) However, the Program has the capability of reporting on most of the remaining 23 with data currently collected using data from closing memos, the acquisition database and other sources.

Closing memos could capture important data

We reviewed the information that the Program currently collects. Some of the fields in the database would provide useful information. However, data has been entered inconsistently. We decided to independently develop a database derived from closing memos. Closing memos, letters describing each property and information about its purchase, are a potential source of data. Over the course of the Program, the type of information included in closing memos has changed. For this and other reasons, this information is not collected systematically. For example, these reports do not describe the quality of each acquisition in a consistent manner. Some riparian properties are rated in terms of a 30 point scale, while others are not.

Another problem is that the closing memos for properties purchased prior to 2003 are not available electronically. As a result, the information cannot be summarized easily, used to make comparisons over time, or tracked to determine progress toward achieving Program goals. Unless this information is collected systematically, it can't be used to indicate Program performance or to show trends.

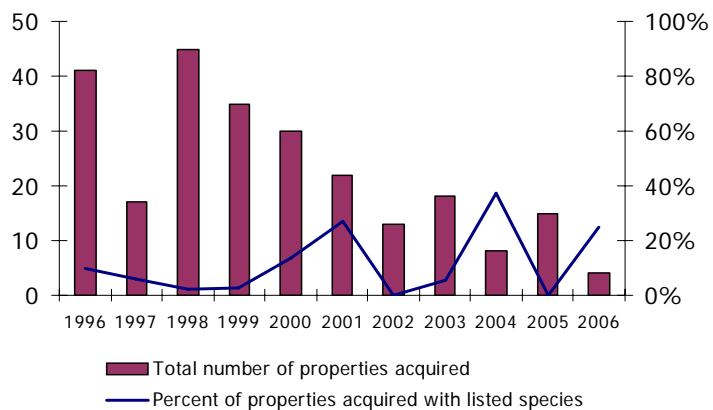
To illustrate how performance measures might be developed, we created examples for three performance goal areas: conservation, water quality, and public access. Using data from closing memos we demonstrate how data can be used to show trends in achieving the Program's goals.

It is important to note that these graphs are based on information which may not be complete. They were created only to illustrate how available data could be used to show performance related to Program goals. While these examples use annual data, quarterly information would provide a better picture of short-term trends.

Conservation goal: Properties with threatened or endangered wildlife.

By showing the proportion of properties with threatened or endangered wildlife species the Program can see if there is a trend that might lead them to increase their effectiveness in obtaining these properties. Or, they can determine when more purchases are needed in this area. If conservation is a priority in the Program, the percentage should be higher than other types of purchases.

EXHIBIT 3 Properties Acquired with Listed Species

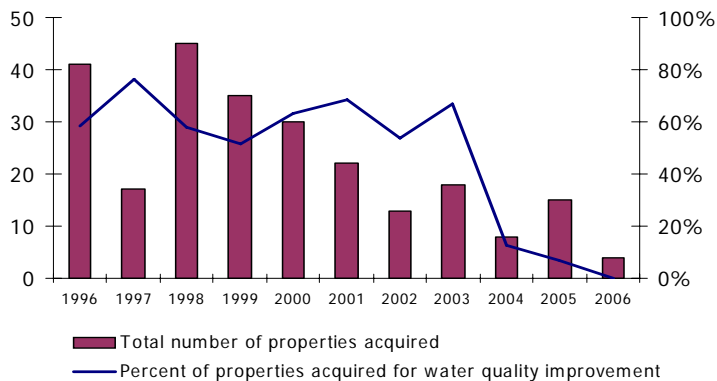


Source: Review of closing memos, Office of the Metro Auditor

NOTE: This data should be used cautiously as it is incomplete and may not be accurate. It is offered as an illustration only.

Water quality goal: Properties acquired to improve water quality.
 A larger percentage of properties with this characteristic appear to be purchased overall. Purchases also follow the general acquisition pattern which is that more properties are purchased in the early years of the bond. If water quality is a higher priority goal than conservation, these results represent a positive trend.

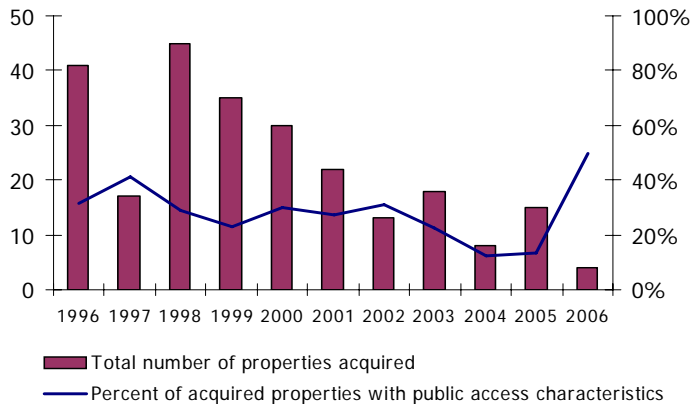
EXHIBIT 4 Properties Acquired for Water Quality Improvement



Source: Review of closing memos, Office of the Metro Auditor
 NOTE: This data should be used cautiously as it is incomplete and may not be accurate. It is offered as an illustration only.

Public access goal: Properties with potential trails and public access.
 The percentage of properties with public access potential seems to be higher than those with habitat protection but lower than those with potential to improve water quality. This may mean that water quality is the highest priority goal, with public access the next priority, and wildlife habitat the lower priority. Tracking these three measures would allow the Metro Council and the Program to judge whether the right property mix is being purchased to meet bond objectives.

EXHIBIT 5 Properties with Public Access Characteristics



Source: Review of closing memos, Office of the Metro Auditor
 NOTE: This data should be used cautiously as it is incomplete and may not be accurate. It is offered as an illustration only.

Program goals should be prioritized

The Program's three goals can conflict with each other. For example, increasing public access to an area reduces its value for wildlife habitat. In our interviews, we found that there were different understandings of the purpose and priorities of the Program. As a result of the lack of agreed-upon priorities, it is difficult to hold the Program accountable for achieving its goals.

Without prioritized goals there is no target available to judge actual progress. While we believe that the Program is being conducted properly by professional and capable staff, Program staff could identify any feature that made acquired parcels desirable and describe the Program as successful. Based upon the graphs on the preceding page, it does appear that some prioritization is occurring. However, it may not be the prioritization that the Council has approved or the public expects.

The Program does set priorities at the target area level. During the refinement process, project managers used information from key stakeholders and the public to set priorities. Using this information, Metro Council designates Tier I (first choice) and Tier II (second choice) properties within each target area, authorizing the Program to purchase those properties without further Council action. However, the relative importance between target areas is not explicitly stated. There is a sense that making acquisitions in some areas is more pressing than others for various reasons. It appears that staff are working with priorities in mind that are not stated explicitly. If so, this should be used in a transparent way to make Program decisions.

Some measures not reported

Currently, the property acquisition database and closing memos do not include all of the information that is needed. For example, one way to assess whether purchases are being made in regionally significant areas is to determine whether they fall into Tier I and Tier II categories. Tier I properties are those that were identified by Metro Council as the highest priority. However, there is no field for "Tier I" in the database or on the Acquisition Summary Form.

In addition to tracking progress toward Program goals, the Program needs to be able to report performance measures related to accountability. These measures would inform Metro Council about the projected future costs of the Program for planning purposes and the Program's financial soundness and integrity.

Future costs of the Program. The Program currently reports on increasing future operating costs resulting from land acquisitions in Metro's five-year capital budget. The Program should consider raising the visibility of increasing operating costs by reporting this as a performance measure.

The use of easements will also add to ongoing administrative costs. Once an easement is granted, subsequent transactions of the property are likely to require additional legal work to interpret the easement. Given the increased emphasis on using easements, the Program should plan on reporting about the ongoing costs of monitoring these easements into perpetuity.

Staff costs. Some staff members' positions are funded fully by the bond measure, while others are only partially funded. The staff time devoted to work in the Program exceeds the funding currently allocated from bond funds. This is probably due to staff being conservative in charging their time to the bond measure. Furthermore, some activities relate to multiple programs, not just the bond measure. Program documents do not reflect the extent to which the Program is supported by the general fund.

Water quality. Water quality improvement is a key feature of both the 1995 and 2006 bond measures. This raises an expectation that activities of the Program will result in some improvement in water quality. For example, activities that could be measured include:

- descriptions of properties purchased in watershed areas that otherwise would have been developed for residential or industrial use;
- restoration of areas near streams to reduce the amount of pollutants entering the water, or reduce the temperature of the water; or
- efforts to reduce sources of water pollution on acquired properties (barriers between farmland and waterways, efforts to limit access by cows, changes in ground permeability to reduce run-off).

Information needed from other sources

In addition to data already being collected by the Program, information from other sources will be needed. Below are some suggested sources for data for water quality, wildlife corridors, and public access and proximity.

Water quality. While it may not be reasonable to expect substantial changes in water quality, it is still reasonable to report on water quality benefit.

There are discrete measures of water quality improvement that could be used to show the effect of the Program on water quality. By carefully selecting the type of water quality measurement to be used and making comparisons over time to similar streams, the Program could measure its effect on water quality even if overall water quality in the state declines. A source of data for this measure is the State of Oregon's Water Quality Index, which reports water quality in every major river and stream in the state.

Improvements to wildlife corridors. Information about wildlife corridors is available from Metro's "Portland Metropolitan Region State of the Watersheds Report." This report includes a monitoring strategy to track the condition of local watersheds over time and suggests an indicator for improvements to wildlife corridors. This information can be used to show the Program's progress toward the goal of improving wildlife corridors.

Increase in park access. In addition to having physical access to parks, people benefit from having greenspaces nearby. The Coalition for a Livable Future has developed measures for neighborhood access to natural areas. This information can be used to determine the effect of the Program on increasing access and proximity to greenspaces for neighborhoods.

Reports need to link to Program goals and priorities

A performance measurement system is more than collecting data. To be effective, these data have to be linked to Program goals and priorities. Measures should also be reported regularly to the audiences that need the information to make decisions about the Program. These elements constitute a performance measurement system.

The Program currently has a rudimentary performance measurement system. This system includes data on acquired properties stored in a property acquisition database, quarterly reports to Metro Council, and biennial reports to citizens. However, acquisition data in the quarterly reports is not summarized in terms of how each property helps the Program to achieve its goals. It is difficult for Program managers to look at aggregate data and reflect on where the Program stands at any given time.

It is not unusual for government programs to start at different points to link performance to goals. It is typical for a program to go about the work it was set up to do and develop performance measures when the need becomes apparent. It is important for the Program to now turn to putting in place a performance measurement system.

The Program should link data it already collects to Program goals. Once linked it could use the information to monitor Program performance. For example, in our review of the closing memos from the last bond measure:

- 19% mention trails as a reason for the purchase.
- 55% of the closing memos mention water quality or some related natural feature (flood plain, riparian area, waterway frontage, or wetland) as an important consideration.

These elements are all related to goals of the bond measure, but it is not clear whether these results represent the targets the Program was trying to achieve. If the Program tracks this information it can review purchases regularly and methodically. If needed it can adjust course and focus resources where targets are not being reached.

We identified at least four audiences for Program reports: the public, Metro Council, the Natural Areas Oversight Committee, and Metro management. Ideally, different audiences would get information tailored to their needs. Metro Council needs a depth of understanding about various policy choices they have to make. The public has a need to understand the Program's efforts in more general terms. The Oversight Committee needs information to review the procedures and practices of the Program and to comment on the agency's adherence to sound fiduciary principles. Metro's Chief Operating Officer's information needs may focus on Program accountability measures.

For each audience, the performance measurement system should also provide varying levels of detail about Program performance. Each audience should receive information on the three major goal areas (conservation, water quality and public access) and Program accountability measures at a basic level, with more detailed information available if desired.

Communication plan needed

The Program can provide more clarity and openness about its activities by increasing communication and improving information available to the public. This will result in a more accountable and transparent Program. It should have processes in place to:

- achieve cost savings in its communication activities;
- foster the active participation of other organizations and the public;
- make sure its messages relate to Program goals; and
- demonstrate top management commitment to an ethical workplace.

People we interviewed agreed that communication has been insufficient. The Program needs to communicate on a more regular basis. It communicates mainly about single purchases and could do a better job of presenting a regional or total picture. While the Program does not currently have a communication plan, Public Affairs staff say they plan to develop one.

The Program faces several risks by not having a communication strategy. If very little information is available, any disclosure of perceived Program failure or missteps will be taken as a more significant piece of news. Without information, people do not have context for forming opinions. As a result, opinions may be based on partial information. In addition, fewer people may participate in the Program because they are not informed about it.

The Program works together with many partners, from conservation groups to local government agencies. Through improved outreach to potential partners, it may be able to leverage additional resources and identify a larger pool of grant recipients

The Program operates within tight limits to overhead spending. Developing a communication plan can help reduce costs. The Program can save on printing and postage by using existing communication tools. For example, Clean Water Services includes an insert every two months to a 58,000 person distribution list. It also sends an annual mailing to 135,000 people in the Metro area. Comparatively, Metro's GreenScene mailing list has only 15,000 people. Clean Water Services and other partners said that they would be willing to include information from the Program in their mailings.

This will require planning in advance to meet partners' publication deadlines. Another way to save cost and time is through planning communication campaigns in advance and collecting information continuously.

Metro should evaluate public involvement

Public involvement is integral to Metro's operations. While there seems to be general agreement that citizen involvement in the Program is beneficial and required, the Program should review the extent of public involvement to determine whether it is sufficient.

The Program has engaged in a public outreach campaign to solicit input in setting land acquisition priorities. In June 2006, more than 500 people attended eight community open houses hosted by Metro Councilors. Participants reviewed maps of each of the target areas, talked with staff, scientists and other experts and provided their input about target area priorities through surveys and discussions. The Program also posted information on the Metro website and allowed citizens to provide input through an online survey. The Program received over 900 survey responses through its community and online open houses. Survey results were summarized and presented to Metro Council.

Currently, it is only during this refinement process that the general public has a meaningful opportunity to influence the Program. Members of the Metro Committee for Citizen Involvement commented that the short time between public open houses and Council approval of refinement plans indicates there might be limited opportunity for the public to affect plans. The Program should work with the Metro Committee for Citizen Involvement to evaluate public involvement processes.

Communication can be improved to “partners”

The Program’s success increasingly depends on partnerships with other governments and organizations. Metro relies on these partners to help purchase, restore and maintain land. Bond funds allocated directly to partners through local share and local grants have more than doubled, from \$25 million for the 1995 measure to \$59 million for the 2006 measure.

Metro can improve its website to make it a resource for partners. By doing this, it can make partnering easier and the website can be a tool for steering the Program. Partners suggested including the following information: grant application and selection processes; opportunities for joint projects; forms to use; and information for people who manage land owned by Metro, such as who to contact in case of emergency and roles and responsibilities in the partnering relationship. Providing clear and detailed information for potential grantees on the website could be a tool for outreach and support equal access to information.

Communication does not correspond to goals or priorities

Polling of Metro voters in 2005 found that citizens believe protecting water quality is important. News articles about the Program, however, do not frequently talk about the impact it has on water quality. As a result, the public may not see the Program as meeting their expectations.

The 2005 poll found that 78% of voters rated maintaining or improving local water quality as important; 67% rated protecting fish/wildlife habitat as important; and only 45% rated creating trails for walking and hiking as important. In response, the title of the 2006 bond measure specifically refers to preserving clean water.

Water quality is an important priority of the Program. However, Metro communicates less about the Program’s impact on water quality than it does about its impact on other goals. A content analysis of 96 articles and press releases from 2001 to 2007 found references to public access (61%) and habitat (44%) occurred twice as often as references to water quality (25%).

Public affairs staff has standard information to put in a press release about a new purchase. This includes information about acreage, natural resource information, future public access, Council member and President's statements, and standard text about Metro and the Program. Staff should consider adding "impact on water quality" to this list.

Better use of signage would communicate results

Property is not consistently signed to identify that it was purchased through the Program. As a result, citizens may not be aware of the Program's accomplishments – that these are "their tax dollars at work."

Signage standards are applied differently for land purchased by local governments than for land purchased by Metro. Local governments are required to post a sign stating that land was purchased with bond funds. Local governments can either use a sign provided by Metro or develop their own sign. Land purchased by Metro using regional funds are not required to and frequently do not have signs.

There are many challenges to signing property. Signs can invite trespassing if they imply land is a public park. Signs might create a negative impression of the Program if sites do not appear to be well maintained, for example due to restoration activities. Without designated access points, it can be difficult to know where and how to sign large tracts of land that border on many other properties.

However, we don't believe this is an adequate reason for the lack of signs and the different signage standards for Metro and local governments. We found several examples of signs that might be models for the Program.



EXHIBIT 6

Signs can identify natural areas without encouraging public use. The Port of Portland clearly signs the Vanport Wetlands Wildlife Habitat Area (at left), even though public access to it is restricted.

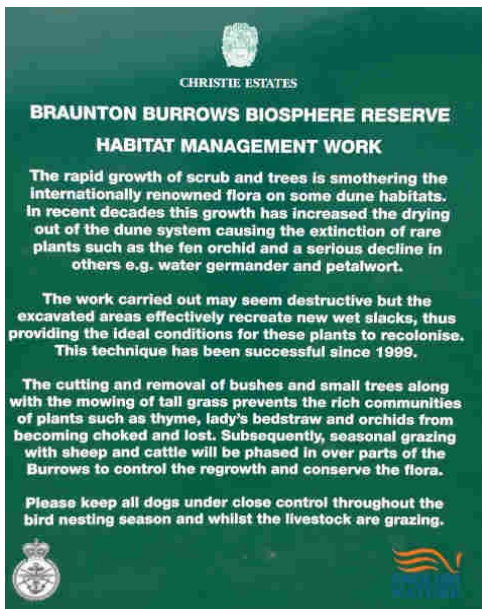


EXHIBIT 7

Signage can give the public information about restoration underway and how to safely use the land. This sign at left for a reserve in the United Kingdom explains restoration activities that may appear damaging or neglectful to the public. It states “the work carried out may seem destructive but the excavated areas effectively recreate new wet slacks, thus providing the ideal conditions for these plants to recolonise. . . The cutting and removal of bushes and small trees . . . prevents the rich communities of plants . . . from becoming choked and lost.”



EXHIBIT 8

A sign for land owned by Clean Water Services explains that public use may destroy this habitat.

Program can increase accountability through communicating about ethics

Metro should create standards and instructions, for example a manual, on signing land. A consistent set of signs can help Metro tell the public why this land is special and under what circumstances it can be used. Signage may create a common identity for the Program, so people know what the Program is and what it is doing.

Inherent within the Program are conflicting pressures to acquire land while being conservative with public money. The Program has put additional controls in place and can further strengthen accountability by including communication about ethics in its communication plan.

Management states that it communicates about ethics with employees of the Program regularly. The Program should consider how it might expand ethics communication to others involved in the Program including contractors, partner organizations, and sellers.

The Program should repeat ethics messages regularly, as many people do not remember a message unless they hear it more than once a year. By including ethics as part of a broader Program communication plan, it will ensure that messages are reaching the right people with sufficient frequency.

Program needs to preserve lessons learned

The Natural Areas Program is in the real estate business. Its primary function is to buy land. Real estate is a complicated field requiring a great deal of experience and expertise.

Because the Program is funded by a bond, staffing is cyclical. The Program “ramped up” at the beginning of the 1995 bond measure Program, making most of its acquisitions between 1996 and 1999. During that period it had its largest complement of negotiators. As bond funds were spent the negotiator staff was reduced. We can expect the 2006 Program to go through a similar cycle.

The real estate negotiators perform extensive research to decide what to offer for a property. They have to be able to understand and use information from 25 different city zoning departments and three different county zoning offices, each with their own unique procedures. They have to work with biological contractors, landscape architects and other specialized professionals to make defensible decisions. They also need considerable skill and experience building relationships with potential sellers.

Because staff turnover is inevitable, as staff members leave the Program many of the things they learned will leave with them. The Program could possibly improve staff training by establishing methods for retaining and imparting this information. Currently, there is an informal process of weekly meetings to share information. The Program needs a more formal method for capturing and documenting lessons learned.

Preserving the organization’s knowledge about real estate transactions will also present challenges. Property acquisition happens in a dynamic environment. Techniques that worked well last year may not apply this year. New land use legislation, changes in court rulings and the economy create an ever-changing set of factors for valuing property. The forms of information needed for success in real estate are difficult to capture and institutionalize. We understand the need to avoid rigid rules and procedures, but we urge the Program to collect and maintain relevant information more methodically.

Recommendations

In order to create a more complete performance measurement system, the Natural Areas Program should:

- 1) develop a set of performance measures in each Program goal area (conservation, water quality and public access) and accountability measures, and collect data on these measures on a regular basis.
- 2) include as accountability measures the future costs of operations and maintenance, monitoring easements and staffing subsidized by the general fund.
- 3) expand the property acquisition database to include consistent measures of the quality of acquired properties.
- 4) develop a process to capture consistent information in closing memos and the Acquisition Summary Form.
- 5) prioritize Program goals and link reports to these goals.
- 6) evaluate public involvement in the Program with input from the Metro Committee for Citizen Involvement.
- 7) The Program should develop a communication strategy that considers:
 - periodic, such as annual, accountability and progress reporting;
 - opportunities to use partner communication vehicles for efficiencies;
 - ways to improve the Program website to make it a better resource for partners;
 - alignment between key messages and Program goals;
 - standards and instructions for signing property;
 - communication to internal and external audiences about ethics;
 - estimated resources required to carry out the communication strategy;
 - periodic evaluation of whether the strategy is reaching its target audiences and meeting its communication goals.
- 8) The Program should develop a more formal knowledge management strategy to capture and document information held by key staff members, including lessons learned from the 1995 Program.

Response to Audit



METRO

MEMORANDUM

Date: October 5, 2007

To: Suzanne Flynn, Metro Auditor

From: Michael Jordan, Chief Operating Officer *mf*
Jim Desmond, Director, Regional Parks and Greenspaces *jd*

Re: Natural Areas Bond Program Audit dated October 2007

This memorandum is staff's response to the final audit report transmitted by your office on September 25, 2007. This audit report followed months of interviews, document delivery and various discussions with your staff. We appreciate the diligence shown by your staff in preparing the report. More importantly, we appreciate the opportunity to receive thoughtful input from you now as we continue to set up the program established by the passage in November 2006 of the \$227.4 million natural areas bond measure.

Clearly there is much value added to the program from this type of detailed research by an independent office. As we strive to make this program even more successful and responsive to the public than the 1995 open spaces bond program on which the recent measure was based, this type of early input delivered in a helpful, cooperative spirit is highly valuable to Metro staff and the general public.

The report makes seven recommendations, and we agree that all will improve the program. The first five recommendations (see p. 19 of the report) concern the development of performance measures and collection of acquisition and related data. We are committed to developing a set of meaningful performance measures and are in the process of developing them at this time. Those measures will be shared with your staff, and our staff will continue to seek additional input from your office as those measures are developed. As you know, the entire agency is in the process of developing performance measures for all Metro programs and the measures for this program will be part of that overall effort. Those measures will ultimately be reviewed and approved by Metro Council. For that reason, it is a bit early to say with certainty that the final measures will look exactly like the specific measures you suggest in this report, but we clearly agree with your general discussion on the importance of developing, using and communicating about meaningful performance measures.

The performance measures for this program will also be shared and reviewed in some detail by the Natural Areas Program Citizen Oversight Committee (referenced on p. 6 of the audit report). As a general comment in response to your audit report, we wish to emphasize that the Oversight Committee was specifically created in the new bond measure that was referred to the voters in order (in whole or in part) to provide an additional level of ongoing citizen input regarding the program. This was an effort on the part of Metro Council to ensure that the program stays focused on its goals and to receive advice regarding any necessary mid-program course corrections that are needed. Although it is not established as a general citizen outreach program, it does provide the Council and the general public with a set of highly skilled citizens' eyes monitoring program progress and helping to ensure that the program is effective, accountable and appropriately focused. The establishment and work of this committee, in our view, will greatly compliment all of the recommendations in your report.

Recommendation No. 6 concerns future public involvement. As with all Metro public outreach efforts, such activities will be discussed with the Metro Committee for Citizen Involvement, as you recommend. The primary public involvement phase of the regional acquisition piece of the bond program has just been completed. This is what is referred to as the regional target area "refinement process" on p. 15 of the report. Please note that thousands of citizens actively participated in this process over a period of nine months. More than 500 citizens attended one of eight open houses around the region and nearly 1,000 citizens filled out surveys ranking their acquisition priorities and sharing their ideas with staff and the Metro Council. Natural Areas bond program negotiators could not commence with landowner contact or significant acquisition activity until this public process was completed. Completing this process in a timely manner was critical if the program was going to meet the public's expectations that the important sites in the target areas be protected and not lost to development while Metro conducted a longer and even more extensive outreach program.

Recommendation No. 7 suggests the development of a communication strategy and a much more extensive and ongoing effort to communicate to the public about the program than was utilized during the implementation of the 1995 measure. Staff is appreciative of the specific suggestions here and will develop such a strategy and begin to implement it over the next 12 months.

We appreciate the opportunity to respond to the audit report. We agree that the implementation of your recommendations will improve the program.

Appendix

**Potential performance
measures**

Goal area: Conservation

- Number of properties purchased
- Number of acres purchased
- Presence of threatened or endangered plant and wildlife species
- Description of unique environmental features of property acquired
- Proportion of highest priority properties purchased (as identified by Metro Council)
- Percent of target area goal met
- Percent of acres needing restoration that were restored
- Target area goal matrix (based on target area goals)
- Description of stewardship activities

Goal area: Water quality

- Number of miles of stream frontage purchased
- Description of efforts to improve water quality
- Number of miles of riparian areas (land on the banks of rivers and streams) needing restoration that were restored
- Discrete measure of water quality improvement

Goal area: Public access

- Number of miles of trails acquired
- Description of increased public access to natural areas (including areas acquired under 1995 bond measure)
- Number of volunteer hours contributed to the Program
- Number of people participating in field trips and visits
- Percent of Metro residents living within five miles of a natural area

Goal area: Accountability

- Total dollars spent on acquisitions above or below appraisal price
- Number and percent of properties purchased over and under appraisal price
- Distribution of appraisal work
- Costs above appraised value due to use of 10% rule
- Total number of non-Metro dollars used in Natural Areas acquisitions and restoration
- Description of staff costs paid through the bond measure and through other sources
- Projected costs of ongoing operations and maintenance
- Easement monitoring report

Source: Office of the Metro Auditor



Office of the Auditor
600 NE Grand Avenue
Portland, OR 97232
(503) 797-1892

Agenda Item Number 4.0

**2006-07 MINORITY WOMEN AND
EMERGING SMALL BUSINESS ANNUAL REPORT**

Procurement Manager Report

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

ANNUAL REPORT
Fiscal Year 2006-2007

**UTILIZATION OF MINORITY, WOMEN AND
EMERGING SMALL BUSINESSES (MWESB)**



METRO

**Finance and Administrative Services
PROCUREMENT SERVICES**

MWESB Utilization Report, Fiscal Year 2006-2007

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1626 | FAX 503 797 1796



METRO

DATE: October 31, 2007

TO: David Bragdon, Council President
Rod Park, Deputy Council President
Carl Hosticka, Councilor
Kathryn Harrington, Councilor
Rex Burkholder, Councilor
Robert Liberty, Councilor

FROM: Angela Watkins,
MWESB Coordinator
Darin Matthews, CPPO, C.P.M.,
——— Procurement Officer

SUBJECT: MWESB REPORT FOR FISCAL YEAR 2006-2007

This report summarizes the utilization of minority, women, and emerging small businesses (MWESB) in Metro's contracting process. Covering the period from July 1, 2006 through June 30, 2007 (Fiscal Year 2006-2007), we have attempted to chart our progress as well as identify areas for improvement in the future. The following information is contained in this report:

- Program Overview
- Summary of Results
- Departmental Utilization
- Utilization Trends
- Program Improvements

In accordance with Metro Code 2.04.170, this annual report is being provided to the Council.

Please feel free to contact me at 797-~~1626-1816~~ if I can provide additional information. ~~Also, I would welcome any suggestions you might have for our MWESB Program.~~

PROGRAM OVERVIEW

History

Metro's MWESB program is a result of the Oregon Regional Consortium Disparity Study of 1996. Along with other public agencies in the area, Metro established contracting programs that provide opportunities to minority, women and emerging small businesses (MWESB). These programs sought to "level the playing field" for these businesses, as well as boost the local business economy.

The Metro Council determined that:

- Full participation in our free enterprise system by MWESB's is essential;
- Greater economic opportunity for MWESB's is essential;
- Historical patterns of exclusion have resulted in inequities for MWESB's;
- Promoting the use of MWESB's provides for a stronger local economy.

Metro's Program

~~Like other local programs,~~ Metro's MWESB policies are race and gender neutral. All contractors are welcome to compete in our contracting processes regardless of race or gender, as long as they are certified by the State of Oregon as an MBE, WBE or ESB. Metro does not certify contractors, but rather relies on the State certifications below:

- MBE – Minority-owned business enterprise (51% minority-owned, operated)
- WBE – Women-owned business enterprise (51% women-owned, operated)
- ESB – Emerging small business (\$3 million gross receipts for construction, \$1 million for non-construction, 30 or fewer employees, 6 year limit on certification)

The program activities that promote the use of MWESB's at Metro include:

- Focusing on **outreach** to local MWESB's to ensure their participation.
- Providing **technical assistance** on bidding, bonding, insurance, etc.
- Structuring **contract size** to allow the use of MWESB's.
- Provide ongoing **education** to Metro staff.
- Ensure MWESB **plan centers** receive Metro bids and RFP's.
- **Advertise** in minority business publications.

Additionally, Metro policies establish the following requirements in the purchasing and contracting process to ensure opportunities are provided to MWESB contractors.

Informal Purchasing Opportunities – Purchases under \$25,000 are open to all bidders, but do require that at least one MBE, one WBE, **and** one ESB are given the opportunity to bid. This requirement can be waived **by Procurement** only when no MWESB's are available.

Informal Sheltered Market – Construction opportunities under \$25,000 are bid **only** among qualified MWESB contractors. Competitive bidding requirements still apply, but it is within the sheltered market of MWESB's. This requirement may be waived **by Procurement** only when no qualified MWESB bidders respond.

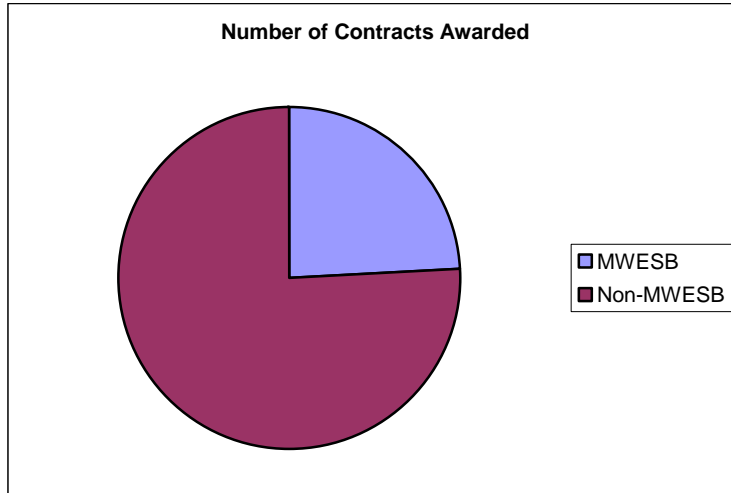
Good Faith Effort – On all major construction projects, prime bidders are required to demonstrate a good faith effort in inviting MWESB's to bid on sub-contracts. The intent is to promote communication with local MWESB's, so that they can compete for work within their area of expertise.

The MWESB program is administered by Procurement Services on behalf of the Chief Operating Officer.

SUMMARY OF RESULTS

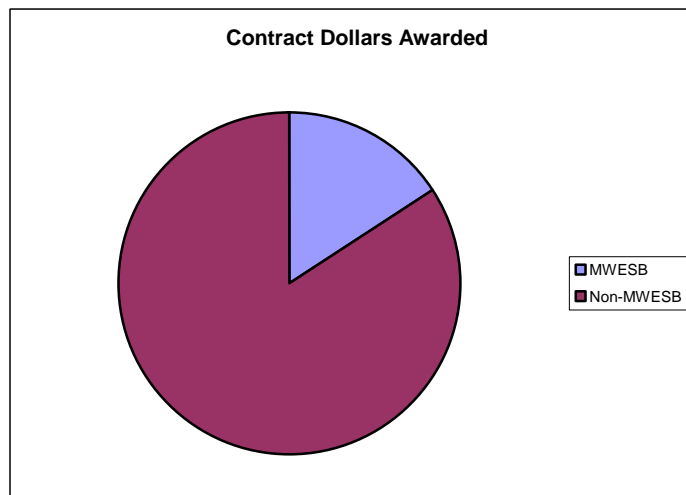
Number of Contracts During Fiscal Year 2006-2007

During Fiscal Year 2006-2007 a total of 478 contracts were awarded through the competitive bidding process. Of the total contracts awarded, 115 went to minority, women, or emerging small businesses (MWESB). This represents **24 percent of the total contracts** available.



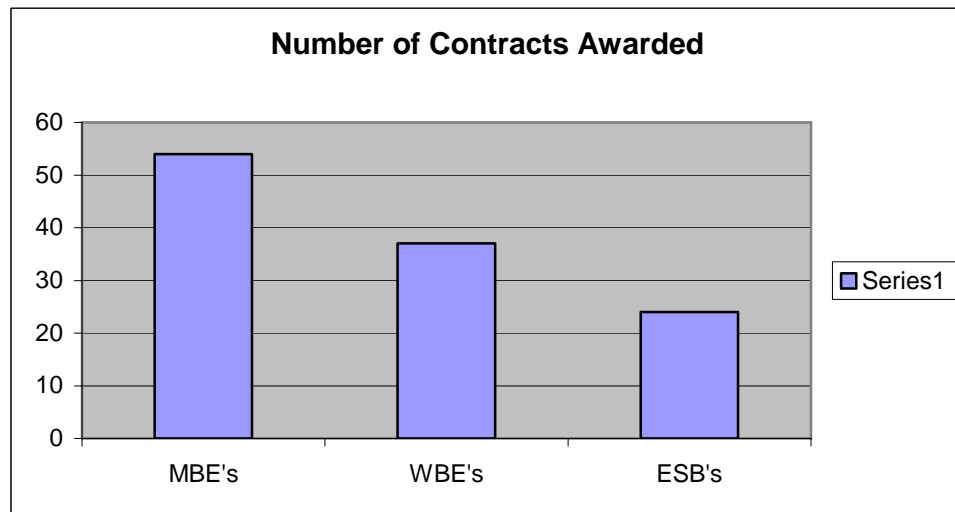
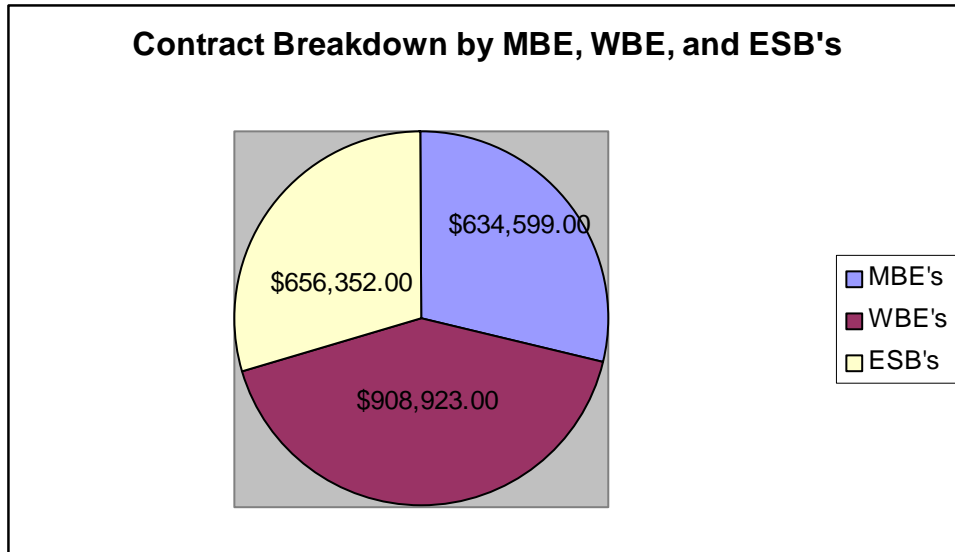
Contract Dollars Awarded During Fiscal Year 2006-2007

Measured in dollar value, a total of \$13,882,171 in contracts was awarded. MWESB contractors received contracts totaling \$2,199,874, which represents **19 percent utilization**.



Contract Breakdown by MBE, WBE and ESB

A total of \$2,199,874 in contracts was awarded to certified MWESB's. The breakdown of contract dollars to MBE, WBE and ESB firms is as follows.



Observations

When comparing the ratio of dollars per contract between MBE's and ESB's there is a significant disparity. While ESB's averaged a \$27,348 per contract, MBE's averaged only \$11,751, less than half the contract value than that of ESB's. ~~per contract and~~ MBE's were awarded more contracts than either WBE's or ESB's. ~~twice the amount of contracts that ESB's were awarded. MBE contract value is less than half than that of ESB's.~~

A breakdown of contracts awarded by each Metro department is listed in the following table.

**MINORITY, WOMEN, AND EMERGING SMALL BUSINESS PROGRAM
DEPARTMENTAL UTILIZATION DURING FY 2006-07**

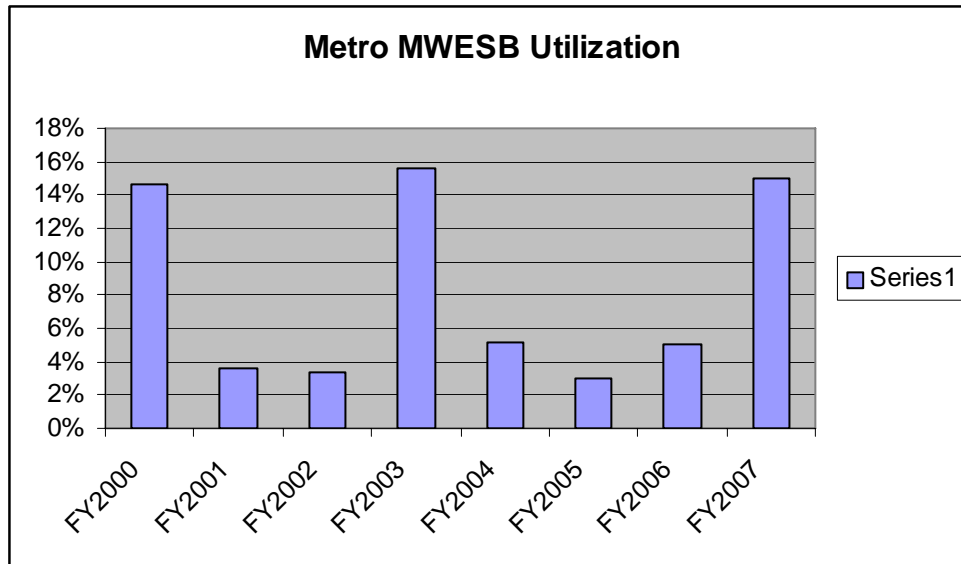
CONTRACTS AWARDED

DEPARTMENT	TOTAL # of Contracts	Total # of M/W/ESB Contracts	M/W/ESB Percentage of Contracts	Total Contract Dollars	Non-M/W/ESB	M/W/ESB	M/W/ESB Percentage of Contract Dollars
Finance & Administrative Services	31	15	48%	\$674,517	\$524,248	\$150,269	29%
Human Resources	3	0	0%	\$48,815	\$48,815	\$0	0%
Council Office	6	1	17%	\$46,954	\$36,954	\$10,000	27%
Office of Metro Attorney	14	2	14%	\$42,498	\$32,750	\$9,748	30%
Auditor's Office	5	0	0%	\$62,866	\$62,866	\$0	0%
Public Affairs & Government Relations	10	0	0%	\$101,436	\$101,436	\$0	0%
Oregon Zoo	85	10	12%	\$2,115,648	\$1,982,778	\$132,870	7%
Regional Parks & Greenspaces	200	71	36%	\$7,641,736	\$6,026,574	\$1,615,162	27%
Planning	26	1	4%	\$1,349,179	\$1,341,179	\$8,000	1%
Solid Waste & Recycling	98	15	15%	\$1,798,522	\$1,524,697	\$273,825	18%
Total	478	115	24%	\$13,882,171	\$11,682,297	\$2,199,874	19%

UTILIZATION TRENDS

Utilization History at Metro

The following data represents Metro's MWESB utilization during the past 8 years. During 1999-2000 and 2002-2003, Metro experienced significant utilization numbers, while 2004-2005 represented an all-time low 2.9 percent. Fiscal Year 2006-2007 showed a significant increase in utilization from the 3 prior years.



~~Other Local Agency Activities~~

Disparity Studies – ODOT has just finished ~~doing~~ conducting a Disparity Study. The results of this study will be released in November of 2007. The Port of Portland is preparing to do a Disparity Study and piggybacking off of ODOT's contract. These studies will review agency contracting activities to determine whether disparities exist for MWESB contractors.

Regional Forum – In July 2007, local agencies came together to re-establish a consortium and discuss Best Practices for MWESB Coordinators. This group will meet quarterly with representatives from Metro, City of Portland, Tri-Met, Multnomah County, Housing Authority of Portland, Clackamas County, and the Port of Portland.

Sheltered Market Program for Professional Services - The City of Portland will launch in 2008 a Professional Services and Outreach program designed to increase opportunities for minority, women, and emerging small businesses in obtaining ~~consulting~~ contracts with the City of Portland. The parameters for this program will be contracts between \$5,000 and- \$50,000 and will include professional services of all types.

~~Current Outlook~~

Program Benchmarks

Within Procurement Services, a number of performance benchmarks have been established as part of the annual budget process. MWESB Utilization is one of those benchmarks, with 16 percent being our

target in FY 2006-2007 and 17 percent in FY 2007-2008. We feel these are reasonable targets, as we were able to meet the benchmark for 2006-2007.

PROGRAM ~~IMPROVEMENTS~~ ENHANCEMENTS

For several years, Metro has made a concentrated effort to maximize the use of MWESB firms in its contracting process. ~~In some years this has resulted in favorable results, while other years have not been as successful.~~ As shown by the data included in this report, some years have produced less than favorable results, while other years have been very successful. We are pleased with the utilization numbers for FY 2006-2007, as it reached an all-time high for the agency. Based on what has worked well at Metro, as well as considering what other public agencies are doing, Procurement Services has identified the following ~~areas as potential improvements~~ as enhancements to ~~the our~~ MWESB program.

Training Program – Procurement Services has developed a training program in which we ~~will~~ educate departments and managers on our MWESB program. This presentation explains the history of MWESB, definition of MWESB, and our program requirements. ~~This training is offered periodically to all departments, as well as conducted upon request for specific Metro programs and departments.~~

Open House for Subcontractors – Due to ~~continuous~~ continuing requests from contractors, Procurement has decided to host Open Houses ~~for~~ to give opportunity to MWESB's to market their businesses and form partnerships with ~~prime~~ contractors. These ~~purpose~~ Open Houses would serve as a ~~of these~~ "meet and greet" opportunity, and would ~~help~~ MWESB's ~~to~~ broaden their business contacts and learn new how to successfully submit bids to primes.

Participate in Governor's Marketplace – With current resources, Procurement Services believes that community outreach can be increased. While we are currently involved in a number of minority business groups, Metro will also participate in the Governor's Marketplace. Governor's Marketplace was designed to educate women, minorities and small business owners on how to expand business opportunities and how to gain access to the contract and bid process with ~~state and~~ local government. ~~This statewide event is held annually and we feel it would be beneficial for Metro to participate.~~

Increased Visibility – Metro's outreach is not only on a local level, ~~but is expanding nationally.~~ Metro is partnering with other local agencies to host ~~the national convention of the American Contract Compliance Association (ACCA)~~ a ~~National Convention~~ in Portland ~~next year~~ ~~Oregon in 2008~~. This convention is expected to bring about 300 people to Portland and is considered by public agencies and chambers of commerce to be the premier event of its kind ~~Oregon~~. This conference will educate other Contract Administrators, MWESB Coordinators, and DBE Program Administrators from around the world, ~~who and they~~ will receive Continuing Education Credits from an accredited ~~University~~ ~~Morgan State~~ university. Metro will play a key role in the strategic planning of this conference.

MWESB Directories – Procurement Services is working on developing directories of certified MWESB's for use by Metro departments. ~~Currently, the State's database of MWESB firms is used, but we feel that a printed list of firms by category of work could be valuable. Depending on resources available,~~

Metro may utilize existing lists from other public agencies, or create our own that could be periodically updated.

Agenda Item Number 5.1

Consideration of Minutes of the November 8, 2007 Metro
Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

Agenda Item Number 5.2

Resolution No. 07-3880, For the Purpose of Amending the 2004 Regional Transportation Plan (RTP) and 2006-2009 Metropolitan Transportation Improvement Program (MTIP) and the 2008-11 MTIP to Include the Interstate 5: Wilsonville Road Interchange Project.

Consent Agenda

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2004) RESOLUTION NO. 07- 3880
REGIONAL TRANSPORTATION PLAN (RTP),)
2006-09 METROPOLITAN TRANSPORTATION) Introduced by Rex Burkholder
IMPROVEMENT PROGRAM (MTIP) AND THE)
2008-11 MTIP TO INCLUDE THE INTERSTATE)
5: WILSONVILLE ROAD INTERCHANGE)
PROJECT)
)

WHEREAS, the Regional Transportation Plan (RTP), adopted by Metro by Resolution No. 03-3380A, "For the Purpose of the 2004 Designation of the 2004 Regional Transportation Plan as the Federal Metropolitan Transportation Plan to Meet Federal Planning Requirements" on December 11, 2003, is a 20-year blueprint for the Portland metropolitan region's transportation system; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council must approve amendments to the plan; and

WHEREAS, the City of Wilsonville has requested the Oregon Department of Transportation (ODOT) program the construction phase of the Interstate 5: Wilsonville Road Interchange project in the 2008-2011 Statewide Transportation Improvement Program (STIP); and

WHEREAS, federal regulations require modernization projects within Metropolitan Planning Areas to be included in the RTP before they may be programmed in STIP documents; and

WHEREAS, the preliminary engineering (PE) and right-of-way (ROW) phases of the Interstate 5: Wilsonville Road Interchange project are currently included in the financially constrained component of the 2004 Metro RTP; and

WHEREAS, Resolution No. 07-3824, "For the Purpose of Approving an Air Quality Conformity Determination for the 2008-11 Metropolitan Transportation Program," adopted by the Metro Council on August 10, 2007, the construction phase of the Interstate 5: Wilsonville Road Interchange project has been modeled and conformed for air quality; and

WHEREAS, the project is consistent with the 2002 Wilsonville Freeway Access Study and has been amended into the City of Wilsonville's Transportation System Plan; and

WHEREAS, the project, to construct ramp improvements at the location of Town Center Loop to Boones Ferry Road ramps along Interstate 5, addresses concerns set forth in the Implementation Section of the 2004 RTP (Chapter 6 page 6-34); and

WHEREAS, the proposed project meets the required policy elements of the RTP as follows:

- Policies 6.0, 11.0, 16.0, 16.1, 17.0, 17.1 and 17.2 - Enhance pedestrian environment in and around the interchange.
- Policy 15.0 and 15.1 - Enhance freight mobility.
- Policy 20.0 - Have land use and transportation benefits
- Policy 6.0 - Improve safety
- Policy 11.0 - Be consistent with the function and character of surrounding land uses.

- Policy 13.0 - Meet demand identified in the RTP; now therefore,

BE IT RESOLVED that the Metro Council:

1. Approves the amendment of the 2004 Metro Regional Transportation Plan to include the construction phase of the Interstate 5: Wilsonville Road Interchange Road project.
2. Approves the addition of the Preliminary Engineering and Right-of-way phases of the Interstate 5: Wilsonville Road Interchange Road project in the 2006-09 MTIP.
3. Approves the addition of the construction phase of the Interstate 5: Wilsonville Road Interchange Road project in the 2008-11 MTIP.
4. Approves the transfer of funding from RTP Project #1163, 1164 & 1165 (I-205/Powell Boulevard/Division Interchange) in the amount of \$15,000,000 to Interstate 5: Wilsonville Road Interchange Road project to balance the federally constrained system project total.

ADOPTED by the Metro Council this 15th day of November 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3880, FOR THE PURPOSE OF AMENDING THE 2004 REGIONAL TRANSPORTATION PLAN (RTP), 2006-2009 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP), AND THE 2008-11 MTIP TO INCLUDE THE INTERSTATE 5: WILSONVILLE ROAD INTERCHANGE PROJECT

Date: October 18, 2007

Prepared by: Andy Cotugno, Metro

BACKGROUND

The Interstate 5: Wilsonville Road Interchange project is critical to improve safety and enhance freight mobility along this segment of the interstate. The safety related issues are tied to the layout of the ramps and heavy use of the interchange by trucks. Freight mobility in the area is impacted also by the short and steep configuration of the ramps. While this area is home to corporate and/or core distribution facilities of businesses that include: Coca Cola, GI Joes, Orepac, Rite Aid, Wilsonville Concrete, and Marten Trucking, it is also the linchpin to an additional 170 acres of buildable industrial-commercial land. Wilsonville abides by a strict concurrency policy in order to maintain freeway capacity. However, the interchange is now operating at capacity and no new development can move forward until additional capacity is realized. This project will create additional capacity and improve safety at the interchange.

In 2003, the City of Wilsonville approved and funded a \$3.5 million Phase 1 project for improvements to the interchange, which allowed some development to move forward. However, the City of Wilsonville and the Oregon Department of Transportation (ODOT) agreed that completing both Phase 1 and 2 of the project together would be more cost-effective and provide greater safety in the project area. If the full project is not amended into the current STIP by November 2007, the City may be in legal jeopardy.

The Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council voted to support this project as a high priority in the 2008-11 STIP. The preliminary engineering (PE) and right-of-way (ROW) acquisition phases of the project are included in the current 2004 RTP Financially Constrained system for \$6,500,000. At the time the 2004 RTP was developed, funding for the construction phase of this project was not included in the federally-required financially constrained revenue forecast. Because the PE and ROW phases for the project were included in the 2004 RTP financially constrained revenue forecast, the project was included in the Air Quality Conformity Determination for the 2004 RTP and 2006-09 Metropolitan Transportation Improvement Program, as required by state and federal law. The project has since been conformed in the 2008-11 Metropolitan Transportation Improvement Program (MTIP) that has been forwarded to the Oregon Transportation Commission (OTC) for approval in the 2008-11 STIP.

On June 25, 2007, the City and ODOT both signed a Memorandum of Understanding for the project and each has committed funding for Phase 1 and Phase 2 as shown in Attachment 1 to this staff report. The project is ready to move forward to design and construction. Amending the current 2004 RTP and 2008-11 MTIP to add the construction phase of the project and amending the 2006-09 MTIP to add the Preliminary Engineering and Right-of-way phases would allow the project to move forward and allow the City and ODOT to complete an Intergovernmental Agreement.

Metro staff reviewed the request, and concluded that there was no air quality emission difference between the previously proposed project and the current request. However, in order to ensure consistency with Federal air quality statutes, that the various Federal and State agencies were consulted and that they had the opportunity to assess this request, an email was sent on October 3, 2007 to the air quality representatives of following agencies: U.S. Environmental Protection Agency, Oregon Department of Environmental Quality, Federal Highway Administration, Federal Transit Administration, Oregon Department of Transportation and TriMet. The email provided information about the proposed RTP amendment, and requested comments by October 10 should agencies disagree with the proposed conclusion. No adverse comments were received.

Oregon statutes also provide for interagency consultation on air quality issues. The Transportation Policy Advisory Committee (TPAC) is specifically called out in the regulations for this task. Accordingly, TPAC considered the air quality results of this proposed Wilsonville Interchange RTP amendment on November 2, 2007.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.

2. **Legal Antecedents:**

Federal regulations include:

- Clean Air Act, as amended [42 U.S. C. 7401, especially section 176(c)];
- Federal statutes concerning air quality conformity [23 U.S.C. 109(j)]; and
- U.S. Environmental Protection Agency transportation conformity rules (40 CFR, parts 51 and 93).

State regulations include:

- Oregon Administrative Rules for Transportation Conformity, (OAR Chapter 340, Division 252); and
- Portland Area Carbon Monoxide Maintenance Plan and Portland Area Ozone Maintenance Plan.

Metro legislation includes:

- Resolution No. 03-3380A (For the purpose of Adopting the 2004 Regional Transportation Plan as the federal metropolitan transportation plan to meet federal planning requirements), approved on December 11, 2003.
- Resolution No. 03-3382A (For the purpose of Adopting the Portland Area air quality Conformity Determination for the 2004 Regional Transportation Plan and 2004-07 Metropolitan Transportation Improvement Program), approved on January 15, 2004.
- Resolution No. 07-3824, (For the Purpose of Approving an Air Quality Conformity Determination for the 2008-11 Metropolitan Transportation Improvement Program), approved on August 10, 2007.
- Resolution 05-3606, (For the Purpose of Approving the 2006-09 Metropolitan Transportation Improvement Program), approved on August 18, 2005.

3. **Anticipated Effects:** Design and construction of the Wilsonville Road/I-5 Interchange project can move forward and the City of Wilsonville can avoid legal jeopardy under their concurrency rules.

4. **Budget Impacts:** No budget impacts are anticipated.

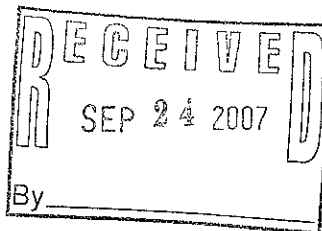
RECOMMENDED ACTION

Approve this resolution.



Oregon

Theodore R. Kulongoski, Governor



Department of Transportation

Region 1
123 NW Flanders
Portland, OR 97209-4019
(503) 731-8200
FAX: (503) 731-8259

DATE: September 20, 2007

TO: Ted Leybold – Metro
Transportation Improvement Program Manager

FROM: Akin Owosekun – ODOT Region 1 ^{A.O.}
Program and Funding Services Manager

SUBJECT: Request to Amend the Metro Regional Transportation Plan to include
Construction Phase of I-5: Wilsonville Interchange Project

File Code:

As we have discussed over the past few days, the City of Wilsonville has requested ODOT program the construction phase of the I-5: Wilsonville interchange project in the 2008-2011 Statewide Transportation Improvement Program (STIP). ODOT cannot reflect the construction phase, until Metro processes a Regional Transportation Plan (RTP) amendment. The preliminary engineering (PE) and right-of-way (ROW) phases of the project are included in the financially constrained component of the RTP. The construction phase has already been modeled for conformity. The PE and ROW phases are identified in ODOT's draft STIP, which is scheduled to be approved by the Oregon Transportation Commission (OTC) shortly.

As you are aware, the purpose of the project is to improve the Wilsonville Road Interchange, which currently is operating at near capacity. Specifically, the proposed improvements include:

- Widening of Wilsonville Road to add a third approach lane into the interchange area
- Creation of dual left turn lanes onto both directions of I-5
- Address vertical curve on Wilsonville Road
- Set back abutment wall
- Improve ramps to meet standards

This project is consistent with the 2002 Wilsonville Freeway Access Study, which was amended into the city's Transportation System Plan. It should be noted that the Implementation Section of the 2004 RTP (Chapter 6 page 6-34), contains discussion concerning I-5 South and the need for a corridor plan to address specific factors. The RTP notes:

"...the need to analyze the effects to freight mobility and local circulation due to diminished freeway access capacity in the I-5/Wilsonville corridor."

This section of the plan also notes:

"...design elements to be included as part of the proposed corridor studies and consideration to:

- *Provide additional freeway access improvements in the I-5/Wilsonville corridor to improve freight mobility and local circulation*



- *Provision of auxiliary lanes between all I-5 freeway on-ramps and off-ramps in Wilsonville.”*

This project aims to address those concerns set forth in the aforementioned language. It also addresses some additional needs within the corridor.

Several elements are particularly important relative to the I-5/Wilsonville Road project because the project is expected to:

- Enhance pedestrian environment in and around the interchange (**RTP Policy - 6.0, 11.0, 16.0, 16.1, 17.0, 17.1 and 17.2**)
- Enhance freight mobility (**RTP Policy - 15.0 and 15.1**)
- Have land use and transportation benefits (**RTP Policy 20.0**)
- Improve safety (**RTP Policy - 6.0**)
- Be consistent with the function and character of surrounding land uses (**RTP Policy 11.0**)
- Meet demand identified in the RTP (**RTP Policy - 13.0**).

The Oregon Department of Transportation believes that this proposed project meets the required elements for completing an RTP amendment. Please let me know of any additional information you need in order to work through this amendment.

I may be reached by phone at (503) 731-3397 or email at: akin.o.owosekun@odot.state.or.us.

Copies to

Kim Ellis, Metro
Danielle Cowan, City of Wilsonville
Rian Windsheimer, ODOT - Region 1
Fred Eberle, ODOT – Region 1
Andrew Johnson, ODOT – Region 1

Agenda Item Number 5.3

Resolution No. 07-3884, For the Purpose of
Confirming the Appointment of Michelle K. Poyourow as
Multnomah County Citizen member to the Metro Policy
Advisory Committee (MPAC).

Consent Agenda

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

Agenda Item Number 5.4

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE)	RESOLUTION NO. 07-3884
APPOINTMENT OF MICHELLE K. POYOUROW AS)	
MULTNOMAH COUNTY CITIZEN MEMBER TO THE)	Introduced by David Bragdon,
METRO POLICY ADVISORY COMMITTEE (MPAC).)	Council President.
)	
)	
)	
)	

WHEREAS, The Metro charter provides that three citizen members of the Metro Policy Advisory Committee (MPAC) shall be appointed by the Council President and confirmed by the Metro Council, and;

WHEREAS, The MPAC by-laws, Section 2 (e), provides that members and alternates representing citizens will be appointed by the Council President and confirmed by the Metro Council, and;

WHEREAS, The Council President has appointed Michelle K. Poyourow as citizen member for Multnomah County subject to confirmation by the Metro Council, and;

BE IT RESOLVED that the Metro Council confirms the appointment of Michelle K. Poyourow as a member of the Metro Policy Advisory Committee (MPAC).

ADOPTED by the Metro Council this _____ day of _____, 2007

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

CONSIDERATION OF RESOLUTION 07-3884 FOR THE PURPOSE OF CONFIRMING APPOINTMENT OF MICHELLE K. POYOUROW AS MULTNOMAH COUNTY CITIZEN MEMBER TO THE METRO POLICY ADVISORY COMMITTEE (MPAC).

November 15, 2007

Kim Bardes (x1537)

PROPOSED ACTION

To adopt a resolution naming Michelle K. Poyourow as a citizen member on the Metro Policy Advisory Committee (MPAC) representing Metro.

BACKGROUND

Michelle Poyourow is currently the events and outreach manager for the Bicycle Transportation Alliance and thus knows about transportation issues; in the past two years she has served on the Metro Solid Waste Rate Review Policy Committee (as an economist-public utility representative) and thus knows solid waste; and five years ago she was an intern at Metro who helped to start what became the Get Centered effort by organizing the first centers tours and thus she has some familiarity with land use.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Council approval constitutes confirmation as required by the Metro Charter and Metro Code Section 6.01.030. MPAC's bylaws specify that citizen appointments are to be for a term of not less than two years. Taking this into account, I recommend that this appointment to MPAC be for an unspecified term, subject to later review.

3. Anticipated Effects

That a new member will be appointed to MPAC.

4. Budget Impacts

None.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 07-3884.

MICHELLE POYOUROW

3035 SE 9th Ave.
Portland, OR 97202

Tel: 503.232.0782
email: poy@alumni.reed.edu

WORK

EXPERIENCE

Outreach Director, Bicycle Transportation Alliance, 2006 – present

Plan and implement major fundraising, educational and recreational events; direct the nation's largest bike-to-work competition, with more than 9,000 participants; direct the Portland's organization's adult education and behavior change programs year-round; and write and edit print and electronic materials, including a bi-weekly e-newsletter, a bi-monthly print newsletter, an annual report, program-specific literature, grant applications, and website content.

Associate Economist, Public Power Council, Portland, Oregon, 2004 – 2006

Duties include economic analysis of energy costs and investment, public power advocacy at the regional and federal level, drafting and editing documents for wide distribution, managing contact lists and databases, and filing written documents with federal agencies on deadline; working as part of a team and directly supporting the Executive Director; planning and staffing special events; writing print and website materials; and monthly presentations to the Board of Directors.

Assistant to City Commissioner Sten, Portland, Oregon, 2004

Acted as representative and investigator on behalf of the Commissioner on diverse issues including housing and development, municipal finance, public utilities, environmental health and the media. Performed policy research; drafted letters and policy papers; maintained tax, resident and contacts databases; and provided general staffing and policy support to the Commissioner.

Policy Intern, Metro Council, Portland, Oregon, 2004

Designed, proposed and then filled the first Metro Council Internship for the Metro President. Researched and drafted speeches and correspondence for the President; researched international transportation and planning policies; designed, planned and executed the first Get Centered! tours, coordinating transportation, meals, speakers and walking routes for up to 30 citizens, homebuilders, planners and elected officials. The Internship and Get Centered! tours are now ongoing, staffed Metro programs.

Research Assistant, Cruzan Lab, PSU, Toulouse, France, 2003

In conjunction with the Centre National de la Recherche Scientifique, investigated hybrid zone structure between two populations of *Antirrhinum* (snapdragon) in the East Pyrenees. Performed field and laboratory research, data collection and processing; designed and implemented a tagging and record keeping system for samples; performed statistical analyses.

**RELEVANT
SKILLS**

Microsoft Office Pro Basic finance and accounting Public speaking
Natural sciences research Spanish and French languages Special events coordination

EDUCATION

- Reed College, Portland, Oregon, BA Biology, 2003
- University of Southern California, Los Angeles, California, 1998-9

HONORS

- Rate Expert, Metro Solid Waste Rate and Policy Committees, 2005-6
- Reed College Faculty Award for Excellence in Scholarship, 2003
- Delegate to the National Conference on Ethics in America, West Point, NY, 2001
- Captain, Reed College Women's Rugby Team, 2003

Resolution No. 07-3881, For the Purpose of Approving a
Sole Source Contract for the Collection and Analysis of
Financial Trend Data.

Consent Agenda

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING)
AS THE METRO CONTRACT REVIEW BOARD,)
FOR THE PURPOSE OF APPROVING A SOLE)
SOURCE CONTRACT FOR THE COLLECTION)
AND ANALYSIS OF FINANCIAL TREND)
DATA)

RESOLUTION NO. 07- 3881

Introduced by Metro Auditor Suzanne Flynn,
with the concurrence of Council President
David Bragdon.

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.010 the Metro Council is designated as the Public Contract Review Board for the agency; and

WHEREAS, Metro Code 2.04.062 requires Council approval for contracts awarded without competitive bidding when it has been determined that the goods or services are available from only one source; and

WHEREAS, The Metro Auditor has determined that hiring an outside expert consultant to collect and analyze financial trend data for the past ten years is in the best interests of Metro; and

WHEREAS, under the direction of the Metro Auditor, the consultant will provide for the collection and analysis of financial trend data, and providing a report of recommendations and suggested best practices, with all work papers and documentation becoming the property of the Metro Auditor; and

WHEREAS, the Metro Procurement Officer believes that the specialized knowledge, experience and expertise of Judith DeVilliers warrants the use of a sole source contract, and that such action is in accordance with the Oregon Public Contracting Code dealing with sole source procurements (ORS 279B.075); and

WHEREAS, Ms. DeVilliers possesses over twenty years of relevant experience, including extensive experience analyzing data based on standards established by the International City/County Management Association (ICMA). Working with other public agencies throughout the region, Ms. DeVilliers has developed a high level of expertise that would make it impractical to compete this contract.

BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Metro Auditor to negotiate and execute a sole source contract with Judith DeVilliers for the purpose of collecting and analyzing financial trend data for Metro.

ADOPTED by the Metro Council Contract Review Board this ____ day of November, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3881, FOR THE PURPOSE OF APPROVING A SOLE SOURCE CONTRACT FOR THE COLLECTION AND ANALYSIS OF FINANCIAL TREND DATA

Date: November 15, 2007

Prepared by: Darin Matthews

BACKGROUND

An outside consultant is needed to collect and analyze financial trend data for Metro under the direction of the Metro Auditor, with all work materials and deliverables becoming the property of Metro. Work will be performed based on recommendations issued by the International City/County Management Association (ICMA) and Generally Accepted Accounting Principles (GAAP). Consultant will provide recommendations to the Metro Auditor, including performance indicators based on best industry practices.

Judith DeVilliers has the required knowledge and expertise to perform this work, and Metro Auditor and Procurement Officer feel that she is uniquely qualified for this contract. Therefore, it is recommended that a sole source contract be awarded without a competitive RFP process.

The scope of services to be performed is included as Attachment 1.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Metro Code 2.04.062, 2.04.010, ORS 279A.060, ORS 279B.075.
3. **Anticipated Effects** Procurement process will be expedited, allowing for a contract to be executed promptly and consultant can begin working with the Metro Auditor.
4. **Budget Impacts** The cost of these services is not anticipated to exceed \$6,000.

RECOMMENDED ACTION

Metro Council, acting as Public Contract Review Board, approves the use of a sole source contract with Judith DeVilliers.

Ordinance No. 07-1168, For the Purpose of Amending Metro Code Chapter 2.21 (Claims under ORS 197.352) to Implement Ballot Measure 49 and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE) Ordinance No. 07-1168
CHAPTER 2.21 (CLAIMS UNDER ORS 197.352) TO)
IMPLEMENT BALLOT MEASURE 49, AND) Introduced by Chief Operating Officer
DECLARING AN EMERGENCY) Michael Jordan with the Concurrence of
) Council President David Bragdon

WHEREAS, the voters of Oregon enacted Ballot Measure 49 on November 6, 2007, which amends ORS 197.352 (Ballot Measure 37) and requires Metro to provide relief to owners of property under circumstances set forth in the measure; and

WHEREAS, the Metro Council enacted Metro Code Chapter 2.21 by Ordinance No. 05-1087A (For the Purpose of Adopting a Process for Treatment of Claims Against Metro Under Ballot Measure 37 by Adding Chapter 2.21 to Title II of the Metro Code), effective December 21, 2005, to implement Ballot Measure 37; and

WHEREAS, the Council wishes to revise Chapter 2.21 to conform to the requirements of Ballot Measure 49; and

WHEREAS, the Council held a public hearing on the proposed amendments on November 29, 2007; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Chapter 2.21 of the Metro Code is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, in order to implement Ballot Measure 49.
2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how these amendments comply with the Regional Framework Plan and statewide planning laws.
3. This ordinance is necessary for the immediate preservation of public health, safety and welfare because the effective date of Ballot Measure 49 is December 6, 2007, after which date property owners may file claims under the measure. An emergency is, therefore, declared to exist, and this ordinance shall take effect on December 6, 2007, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 29th day of November, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1168
Amendments to Metro Code Chapter 2.21;

~~CLAIMS UNDER ORS 197.352 (BALLOT MEASURE 37)~~

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

~~2.21.010 Purpose~~

~~This chapter establishes a process for treatment of claims for compensation submitted to Metro under ORS 197.352 (Ballot Measure 37). Metro adopts this chapter in order to afford property owners the relief guaranteed them by ORS 197.352 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement the statute faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.~~

~~2.21.020 Definitions~~

~~— (a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.~~

~~— (b) "Family member" means the wife, husband, son, daughter, father, brother, brother in law, sister, sister in law, mother in law, father in law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.~~

~~— (c) "Land use regulation" means a provision of a Metro functional plan or a land use regulation adopted by a city or county to comply with a Metro functional plan.~~

~~(d) "Owner" means the owner of the property, or any interest therein. "Owner" includes all persons or entities who share ownership of a property.~~

~~(e) "Reduction in value" means a reduction in the fair market value of real property, or any interest therein, resulting from enactment or enforcement of a land use regulation.~~

~~(f) "Waiver" means action by the Metro Council to modify, remove or not apply the land use regulation found to have caused a reduction in fair market value.~~

~~2.21.030 Filing a Claim~~

~~(a) A person may file a claim with Metro for compensation under ORS 197.352 without following the process set forth in this chapter. Metro may give priority to a claim filed under this chapter over claims filed without compliance with this chapter.~~

~~(b) A person filing a claim under this chapter must be the owner of the property that is the subject of the claim at the time the claim is submitted to Metro. The person must simultaneously file with Metro all claims against Metro under ORS 197.352 that involve the property. The person shall submit the claim or claims to the Chief Operating Officer (COO) and shall include, at a minimum, the following information:~~

~~(1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;~~

~~(2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;~~

~~(3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;~~

~~(4) A reference to any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;~~

~~(5) A copy of the city or county land use regulations that applied to the property at the time the challenged land use regulations became applicable to, or were enforced against, the property;~~

~~(6) The claimant's purchase price for the property;~~

~~(7) Evidence of the fair market value of the property prior to the application or enforcement of the challenged land use regulations to the property and the fair market value after application or enforcement of the regulations;~~

~~(8) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and~~

~~(9) A statement whether the claimant is filing claims with other public entities involving the same property and a copy of any decision made by the entity on the claim.~~

~~(c) In addition to the information required by subsection (b) of this section, a person filing a claim under this chapter after December 4, 2006, shall also submit the following information with the claim:~~

~~(1) A copy of the land use application the claimant has filed with the city or county in which the property lies; and~~

~~(2) A copy of the final decision made by the city or county on the claimant's land use application indicating that the city or county applied the challenged land use regulation as a criterion as part of its final decision.~~

~~(d) A claim shall not be considered complete for purposes of subsections (4) and (6) of ORS 197.352 until the claimant has submitted the information required by this section.~~

~~2.21.040 Review of Claim by Chief Operating Officer and Recommendation~~

~~(a) The COO shall review the claim to ensure that it provides the information required by Section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner~~

~~that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.~~

~~(b) The COO shall conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:~~

~~(1) The property lies within Metro's jurisdictional boundary;~~

~~(2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and~~

~~(3) The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.~~

~~(c) If the claim fails to satisfy one or more of the prerequisites in subsection (b) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim as provided in Section 2.21.060(a)(1).~~

~~(d) If the claim satisfies each of the prerequisites in subsection (b) of this section, the COO shall complete the review of the claim to determine whether:~~

~~(1) The claimant owns an interest in the property and has owned an interest in the property without interruption since the effective date of the land use regulation that is the basis for the claim;~~

~~(2) City, county, regional and state land use regulations that applied to the property at the time the challenged land use regulation became applicable to, or were enforced against, the property allowed the claimant's proposed use and, if so, what criteria or conditions applied to the proposed use under the regulations;~~

~~(3) The specific, existing land use regulation that allegedly reduced the value of the property allows the proposed use and, if so, what criteria or conditions apply to the proposed use under the regulation;~~

~~(4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from claims under ORS 197.352(3); and~~

~~(5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt under ORS 197.352(3), the regulation restricts the proposed use and the restriction has reduced the fair market value of the property. In making this determination, the COO will compare the value of the property before application or enforcement of the challenged land use regulation to the property with the value after the application or enforcement.~~

~~(c) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.352, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.~~

~~(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsections (b) and (d) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.~~

~~(g) The COO shall provide the report to the Council, the claimant, the city or county with land use responsibility for the property, and other persons who request a copy. If the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.~~

~~2.21.050 Hearing on Claim before Metro Council~~

~~(a) The Metro Council shall hold a public hearing on a claim that satisfies the prerequisites of Section 2.21.040(b) before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under Section 2.21.030.~~

~~(b) The COO shall provide notification of the date, time and location of the public hearing at least 20 days before the hearing to the claimant, owners and occupants of property within 500 feet of the subject property, the local government with land use planning responsibility for the property and any person who requests notification. The notification shall indicate that a copy of the COO's recommendation under Section 2.21.040 is available upon request.~~

~~2.21.060 Action on Claim by Metro Council~~

~~(a) After the public hearing, but not later than 180 days after the filing of a claim under Section 2.21.030, the Metro Council shall consider the COO's recommendation and:~~

~~(1) Determine that the claim does not qualify for compensation;~~

~~(2) Determine that the claim qualifies for compensation and provide relief in the form of compensation or enhancement of the value of the property or decide not to apply the land use regulation; or~~

~~(3) Determine that the claim qualifies for compensation and resolve to modify or remove the land use regulation.~~

~~(b) The Council shall take the action that is most consistent with the purpose of this chapter and the Regional Framework Plan.~~

~~(c) The Council shall issue an order with its decision and direct the COO to send the order to the claimant, the city or county with land use responsibility for the property, persons who participated at the hearing held under Section 2.21.050, other persons who request a copy, and the Oregon Department of Administrative Services if the Council adopted the land use regulation to comply with state law.~~

~~2.21.070 Conditions on Compensation or Waiver~~

~~(a) The Metro Council may place any conditions on its action under Section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition on a decision under Section 2.21.060(a)(2) or (3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.~~

~~(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under Section under Section 2.21.060(a)(2) or (3).~~

~~2.21.080 Fee for Processing Claim~~

~~(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.~~

~~(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.~~

CHAPTER 2.21

CLAIMS UNDER ORS 197.352 (BALLOT MEASURE 49)

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing an Amended Claim
2.21.040	Review of Amended Claim by Chief Operating Officer
2.21.050	Filing a New Claim
2.21.060	Review of New Claim by Chief Operating Officer
2.21.070	Hearing before Metro Council
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 49. Metro adopts this chapter in order to afford property owners the relief guaranteed them by ORS 197.352 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement the statute faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989.

(b) "Department" means the Oregon Department of Land Conservation and Development.

(c) "Land use regulation" means a provision of a Metro functional plan that restricts the residential use of private real property.

(d) "Owner" means:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
- (3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

(e) "Reduction in value" means a decrease in fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after enactment, plus interest, adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703.

(f) "Waiver" means action by the Metro Council to modify, remove or not apply one or more land use regulations found to have caused a reduction in value.

2.21.030 Filing an Amended Claim

(a) A person may amend a claim that was filed with Metro on or before June 28, 2007.

(b) To qualify for compensation or waiver, a person filing an amended claim under this section must establish that:

- (1) The claimant is an owner of the property;
- (2) All owners of the property have consented in writing to the filing of the claim;
- (3) The property is located, in whole or in part, within the regional UGB;
- (4) On the claimant's acquisition date, the claimant lawfully was permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49;
- (5) The property is zoned for residential use;

- (6) A land use regulation prohibits the establishment of a single-family dwelling;
- (7) The establishment of a single-family dwelling is not prohibited by a land use regulation described in ORS 197.352(3);
- (8) The land use regulation described in paragraph (6) of this section was enacted after the date the property, or any portion of it, was brought into the UGB;
- (9) The land use regulation described in paragraph (6) of this section was enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro;
- (10) The enactment of the land use regulation caused a reduction in the fair market value of the property; and
- (11) The highest and best use of the property was residential use at the time the land use regulation was enacted.

(c) A person filing an amended claim under this section must submit the following information:

- (1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest;
- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A reference to any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the city or county land use regulations that applied to the property at the time the challenged

land use regulations became applicable to, or were enforced against, the property;

- (6) An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation;
- (8) If the property is or has been enrolled in one or more of the special assessment programs listed in 2.21.020(e), information regarding taxes not paid as a result of the program or programs; and
- (9) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.

(d) The Chief Operating Officer shall notify all claimants who filed claims on or before June 28, 2007, and whose claims were not decided by the Metro Council prior to January 1, 2008, that they may amend their claims under this section and shall provide a form for amended claims. A claimant must submit an amended claim under this section to the Chief Operating Officer within 120 days after the date of notice under this paragraph or the claimant is not entitled to compensation or waiver.

2.21.040 Review of Amended Claim by Chief Operating Officer

(a) The Chief Operating Officer (COO) shall review a claim filed under 2.21.030 to ensure that it provides the information required by Section 2.21.030(c). If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) The COO shall review the claim for compliance with the requirements of 2.21.030(b) and prepare a tentative determination of compliance not later than 120 days after the filing of a complete claim. The COO shall provide written notice to the claimant, the department, the city or county with land use authority over the claim property and owners of property within 100 feet of the claim property

of the tentative determination as to whether the claimant qualifies for compensation or waiver and, if qualified for waiver, the specific number of single-family dwellings Metro proposes to authorize. The written notice shall inform recipients they have 15 days to submit evidence or argument to the COO in response to the tentative determination.

2.21.050 Filing a New Claim

(a) A person may file a claim after June 28, 2007, and will qualify for compensation or waiver, if:

- (1) The claimant is an owner of the property and all owners of the property have consented in writing to filing of the claim;
- (2) The claimant's desired use of the property is a residential use;
- (3) The claimant's desired use of the property is restricted by a land use regulation enacted after January 1, 2007;
- (4) The enactment of the land use regulation has reduced the fair market value of the property; and
- (5) The highest and best use of the property was residential use at the time the land use regulation was enacted.

(b) A person filing a claim under this section must submit the fee for processing the claim prescribed by the Chief Operating Officer and the following information:

- (1) The name, street address and telephone number of the claimant and all other owners of the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property; the deed registry of the instrument by which the claimant acquired the property; the location and street address and township, range, section and tax lot number(s) of the property; the date on which the owner acquired the property interest; and any exceptions and encumbrances to title;
- (3) A written statement signed by all owners of the property consenting to the filing of the claim;

- (4) A citation to the land use regulation the claimant believes is restricting the claimant's desired use that is adequate to allow Metro to identify the specific land use regulation that is the basis for the claim;
- (5) A description of the specific use of the property that the claimant desires to carry out, but cannot because of the land use regulations;
- (6) An appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted;
- (7) If the property is or has been enrolled in one or more of the special assessment programs listed in 2.21.020(e), information regarding taxes not paid as a result of the program or programs; and
- (8) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim.

(c) A person filing a claim under this section must file the claim within five years after the land use regulation was enacted.

2.21.060 Review of New Claim by Chief Operating Officer

(a) The Chief Operating Officer (COO) shall review the claim to ensure that it provides the information required by 2.21.050(b). If the COO determines that the claim is incomplete, the COO shall, within 60 days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner that the claim is incomplete within the prescribed 60 days, the claim shall be considered complete on the date it was filed with the COO.

(b) A claim filed under this section shall not be considered complete until the claimant has submitted the information required by this section. If the claimant fails to submit a complete claim within 60 days after the notice prescribed in subsection (a), the claim shall be deemed withdrawn.

(c) The COO shall conduct a preliminary review of a claim to determine whether it satisfies all of the following prerequisites for full evaluation of the claim:

- (1) The property lies within Metro's jurisdictional boundary;

- (2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and
- (3) The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.

(d) If the claim fails to satisfy one or more of the prerequisites in subsection (c) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim following a public hearing under 2.21.070.

(e) If the claim satisfies each of the prerequisites in subsection (c) of this section, the COO shall complete the review of the claim to determine whether it satisfied the criteria in Section 2.21.050(a).

(f) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ORS 197.352 and to assist in the development of a recommendation regarding appropriate relief for a valid claim.

(g) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (e) of this section and the reasoning to support the determination. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan. If the COO recommends waiver, the report shall recommend the specific number of single-family dwellings Metro should authorize to offset the reduction in fair market value of the property.

(g) The COO shall provide the report to the Council, the claimant, the city or county with land use responsibility for the property, and other persons who request a copy. If the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

2.21.070 Hearing before Metro Council

(a) The Metro Council shall hold a public hearing on a claim prior to its final determination. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim.

(b) The COO shall provide notice of the date, time and location of the public hearing at least 30 days before the hearing to the claimant and owners of the subject property, owners and occupants of property within 100 feet of the subject property, the local government with land use planning responsibility for the property and the department. The notice shall indicate that:

- (1) A copy of the COO's recommendation is available upon request;
- (2) Judicial review of Metro's final determination is limited to the written evidence and arguments submitted to Metro prior to or at the public hearing; and
- (3) Judicial review is available only for issues that are raised with sufficient specificity to afford Metro an opportunity to respond in its final determination.

(c) After the close of the public hearing the Metro Council shall make its final determination on the claim and enter an order with findings of fact and conclusions of law, based upon the record made before Metro, that explain the determination. The COO shall mail a copy of the final determination to the claimant, the county in which the subject property lies and any person who submitted written or oral testimony prior to the close of the public hearing.

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a new claim under 2.21.050 at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing the claim. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After the final determination by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

Exhibit B to Ordinance No. 07-1168
Findings of Fact and Conclusions of Law

Ballot Measure 49 requires Metro, under specified circumstances, to provide relief to a property owner whose property is reduced in value as the result of a Metro land use regulation. If Metro concludes that a claim brought against it entitles the claimant to relief under the measure, Metro must make a choice: compensate for the reduction in value or modify, repeal or not apply the land use regulation that caused the reduction in value.

The Metro Council adopted a claims process by Ordinance No. 05-1087A, For the Purpose of Adopting a Process for Treatment of Claims Against Metro Under Ballot Measure 37 by adding Chapter 2.21 to Title 11 of the Metro Code on December 21, 2005, to implement Ballot Measure 37. The process provides a way for Metro to determine whether a claim against Metro is valid, and whether the specific circumstances require Metro to provide relief under the measure. Metro codified its claims process in Metro Code Chapter 2.21.

Ordinance No. 07-1168 amends the claims process in Chapter 2.21 to conform it to Measure 49, which modified Measure 37.

If Metro chooses to compensate a property owner for a reduction in value, there is no “land use decision” to which the policies in Metro’s Regional Framework Plan (“RFP”) or state planning law other than Measure 48 would apply. If Metro chooses to waive a land use regulation that caused a reduction in value, Metro will have to demonstrate at the time it adopts an ordinance to modify or repeal the regulation that its action is consistent with the RFP and state planning laws. This ordinance, therefore, is not a “land use decision” as defined in ORS chapter 197 and is not subject to the statewide planning goals.

If Metro chooses not to apply the land use regulation to the claimant’s property under this amended process, Metro may be authorizing a use that does not comply with the RFP or with state planning laws. Measure 49, however, expressly authorizes Metro to take that action, RFP and state planning laws notwithstanding. In short, if there are no funds for compensation, Metro must take action to allow a use that may violate the RFP and state planning laws if Metro is presented with a valid claim that meets the requirements of the measure.

In conclusion, Ordinance No. 07-1168 is consistent with the RFP and state planning laws.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1168, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.21 (CLAIMS UNDER ORS 197.352) TO IMPLEMENT BALLOT MEASURE 49, AND DECLARING AN EMERGENCY

Date: October 30, 2007

Prepared by: Richard Benner

BACKGROUND

Voters of Oregon enacted Ballot Measure 49 on November 6, 2007. Measure 49 amended Ballot Measure 37 in significant ways. Much of Metro's claims process (Code Chapter 2.21) does not conform to the amendments. This ordinance is intended to bring Metro's claims process into conformance with Measure 49.

Measure 49 becomes effective 30 days after the election, or December 6, 2007. On or after this date, people can file claims with Metro under Measure 49. This ordinance would contain an emergency clause making it effective on December 6, 2007, the first date a person could file a claim under the measure.

ANALYSIS/INFORMATION

1. **Known Opposition:** at the time this staff report was written, there was no known opposition.
2. **Legal Antecedents :** ORS 197.352 (Ballot Measure 37); Metro Code Chapter 2.21; and Ballot Measure 49, amending ORS 197.352.
3. **Anticipated Effects:** the amendments will bring Metro's claims process into line with newly-enacted Ballot Measure 49 and prepare Metro to deal with expected claims under the new measure, most likely amended claims originally filed with Metro under Ballot Measure 37.
4. **Budget Impacts:** the revised claims process will not have fiscal impacts that are different in nature or magnitude from those of Measure 37. Measure 49 itself narrowed the scope of Measure 37. It is reasonable to expect fewer claims as a result.

RECOMMENDED ACTION

The Metro Council should adopt Ordinance No. 07-1168 in order to prepare Metro for claims under Measure 49.

Agenda Item Number 7.1

Resolution No. 07-3831, For the Purpose of Approving the
Federal Component of the 2035 Regional Transportation Plan.

Public Hearing – no final action

Metro Council Meeting
Thursday, November 15, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE) RESOLUTION NO. 07-3831
FEDERAL COMPONENT OF THE 2035)
REGIONAL TRANSPORTATION PLAN (RTP)) Introduced by Councilors Rex Burkholder and
UPDATE) Rod Park

WHEREAS, the Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT) approved Resolution No. 06-3661 (For the Purpose of Approving A Work Program For the 2035 Regional Transportation Plan (RTP) Update and Authorizing the Chief Operating Officer to Amend Contract No. 926975), on June 15, 2006; and

WHEREAS, Metro was awarded a Transportation & Growth Management Grant for the 2005 – 2007 Biennium to prepare a regional plan for freight and goods movement and recommendations from this planning effort will be forwarded for consideration as part of the 2035 RTP update; and

WHEREAS, the RTP is the federally recognized metropolitan transportation plan for the Portland metropolitan region that must be updated every four years and serves as the threshold for all federal transportation funding in the region; and

WHEREAS, the RTP fulfills statewide planning requirements to implement Goal 12 Transportation, as implemented through the Oregon Transportation Planning Rule (TPR); and

WHEREAS, the RTP is a central tool for implementing the Region 2040 Growth Concept, and constitutes a policy component of the Regional Framework Plan; and

WHEREAS, it is Metro's intent to integrate this update to the RTP with the New Look regional planning process and consolidate periodic updates to the RTP to meet applicable federal, state and regional planning purposes; and

WHEREAS, the most recent update to the RTP was completed in March 2004 and the next federal update must be approved by the United States Department of Transportation in consultation with the Environmental Protection Agency by March 2008 to provide continued compliance with federal planning regulations and ensure continued funding eligibility of projects and programs using federal transportation funds; and

WHEREAS, the 2035 RTP update timeline and process was expanded by the Metro Council, at the recommendation of JPACT, to allow for completion of the federal component of the 2035 RTP before the current plan expires on March 5, 2008 and provide for additional technical analysis and policy development to address state and regional planning requirements by Fall 2008; and

WHEREAS, the Metro Council approved Resolution No. 07-3793 (For the Purpose of Accepting the Chapter 1 Regional Transportation Policy Framework as the Provisional Draft For the Purpose Of Completing Phase 3 of the 2035 Regional Transportation Plan (RTP) Update), on March 15, 2007; and

WHEREAS, the federal update requires the development of a "financially constrained" system of investments that address regional travel demand, yet are constrained to reasonably anticipated funding levels during the plan period; and

WHEREAS, the Collaborative Environmental Transportation Agreement for Streamlining (CETAS) work group, consisting of the Oregon Department of Transportation and ten state and federal transportation, natural resource, cultural resource and land-use planning agencies, was consulted on

potential environmental impacts and mitigation strategies on October 16, 2007, and were provided an opportunity to comment on the federal component of the 2035 RTP; and

WHEREAS, the state component of the 2035 RTP will continue in 2008 to address outstanding issues identified during the federal component of the 2035 RTP, including amendments to both the Oregon TPR and Oregon Transportation Plan, and development of a transportation finance strategy to funded needed investments that exceed revenues anticipated to be available during the plan period; and

WHEREAS, the federal component of the 2035 RTP is set forth in "Exhibit A," attached hereto, and will be updated to reflect key findings and recommendations from additional technical and policy analysis to be conducted during the state component of the RTP update in 2008; and

WHEREAS, a 30-day public comment period was held on the federal component of the 2035 RTP from October 15 to November 15, 2007; and

WHEREAS, the Metro Council, JPACT, the Metro Policy Advisory Committee (MPAC), Metro Technical Advisory Committee (MTAC), Transportation Policy Advisory Committee (TPAC), the Regional Travel Options (RTO) Subcommittee of TPAC, the Regional Freight and Goods Movement Technical Advisory Committee, the Bi-State Transportation Committee, the Regional Freight and Goods Movement Task Force and other elected officials, city and county staff, and representatives from the business, environmental, and transportation organizations from the Portland-Vancouver metropolitan region assisted in the development of and were provided an opportunity to comment on the federal component of the 2035 RTP; and

WHEREAS, JPACT and MPAC have recommended that the federal component be approved by the Metro Council; now, therefore

BE IT RESOLVED BY THE METRO COUNCIL THAT:

1. The Metro Council approves the federal component of the 2035 Regional Transportation Plan update, attached and incorporated into this resolution as Exhibit "A."
2. Staff shall conduct the federally-required air quality conformity analysis, hold a 30-day public comment period on the results of the analysis and develop findings demonstrating compliance with federal planning requirements.

ADOPTED by the Metro Council this ____ day of December 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



EXHIBIT A to Resolution No. 07-3831
Full document available to download from Metro's
website at www.metro-region.org/rtp



Public
Review Draft

*2035 Regional
Transportation Plan
Federal Component*

October 15, 2007



METRO

PEOPLE PLACES
OPEN SPACES

Metro

People places • open spaces

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy and good transportation choices for people and businesses in our region. Voters have asked Metro to help with the challenges that cross those lines and affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to protecting open space, caring for parks, planning for the best use of land, managing garbage disposal and increasing recycling. Metro oversees world-class facilities such as the Oregon Zoo, which contributes to conservation and education, and the Oregon Convention Center, which benefits the region's economy.

Your Metro representatives

Metro Council President – David Bragdon

Metro Councilors – Rod Park, District 1; Brian Newman, District 2; Carl Hosticka, District 3; Kathryn Harrington, District 4; Rex Burkholder, District 5; Robert Liberty, District 6.

Auditor – Suzanne Flynn

Metro's web site: www.metro-region.org

Project web site: www.metro-region.org/rtp

The preparation of this report was financed in part by the U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration. The opinions, findings and conclusions expressed in this report are not necessarily those of the U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration.

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2035 Regional Transportation Plan

Thank you for taking the time to review the federal component of the 2035 Regional Transportation Plan (RTP).

Metro is required to complete an update to the federal component of the RTP by December 2007 in order to maintain continued compliance with the federal Clean Air Act and address new federal (SAFETEA-LU) planning requirements. The current plan expires on March 5, 2008, under federal planning regulations.

The new federal transportation law—SAFETEA-LU—made changes to requirements for transportation planning, including amending the formal update cycle to four years and making specific changes to requirements affecting planning for special needs, security, safety, system management and operations and environmental mitigation. The changes are addressed in the 2007 update to the plan.

In addition, the federal component of the update focused on:

1. updating regional policies that guide planning and investments in the regional transportation system to respond to key trends and issues facing the region and meet federal planning requirements;
2. incorporating projects and programs that have been adopted in local and regional plans, and corridor studies through a public process since the last RTP update in 2004;
3. updating the transportation revenue forecast and regional investment priorities to match current funding sources and historic funding trends;
4. identifying additional issues to be addressed during the state component of the RTP update in 2008.

After the federal component of the 2035 RTP is submitted to federal agencies for review, the focus will shift to the state component of the RTP update. Additional opportunities for public comment on the state component will be provided in Fall 2008.

Timeline and Process for Development of Federal Component of 2035 RTP

The following section describes the RTP timeline and process for developing the federal component of the 2035 RTP.

June 2006-January 2007 – Research and Policy Development – Metro staff conducted background research on trends and issues affecting travel in the region, convened five stakeholder workshops on desired outcomes and needs for the region's transportation system and conducted scientific public opinion research on transportation needs and priorities. This information is available to download on Metro's website at www.metro-region.org/rtp.

January-March 2007 - Provisional Policy Framework Development – The background research in the previous phase guided development of a provisional draft policy framework that established goals and objectives for the regional transportation system. At the recommendation of the Metro Policy Advisory Committee (MPAC) and the Joint Policy Advisory Committee on Transportation (JPACT), the provisional draft policy framework (Chapter 1) was accepted by the Metro Council to guide identification of transportation needs and investment priorities.

April 2007 – Identification of Regional Mobility Corridor Priorities – In March and April 2007, the Regional Freight and Goods Movement Task Force, MPAC and JPACT participated in separate workshops to identify mobility issues and priorities for investments in the RTP. In April, Metro, TriMet and the Oregon Department of Transportation (ODOT) convened a technical workshop to build on the direction provided in the previous policy-level discussions. Nearly 60 participants attended this workshop, including Transportation Policy Alternatives Committee (TPAC) and Metro Technical Advisory Committee (MTAC) members and other local government staff.

Summer 2007 - RTP Project Solicitation and System Analysis - In June 2007, agencies submitted projects and programs that came from local and regional plans or studies that had been previously adopted through a public process. The investments submitted responded to the provisional policy framework. ODOT and TriMet collaborated with Metro and local agencies to identify investments that respond to mobility corridor priorities identified by the Freight Task Force, JPACT and MPAC in April. In addition, local agency TPAC representatives for each of the three counties worked with the cities within their respective county to identify other community-building investments to complement the regional mobility corridor investments. The result of this effort was the development of the 2035 RTP Investment Pool. Proposed investments were submitted in one of two complementary investment strategy tracks:

- Track 1: State and Regional Mobility Corridor Investment Strategy focuses on regional mobility corridor investments that leverage the 2040 Growth Concept and improve interstate, intrastate and cross-regional people and goods movement.
- Track 2: Community-Building Investment Strategy focuses on community-building investments that leverage 2040 Growth Concept through street and transit system improvements that provide for community access and mobility.

Metro conducted a technical analysis of the performance of the system projects and programs submitted. The results of the analysis are included in the draft document.

August – October 2007 – Development of RTP Financially Constrained System and Draft 2035 - Metro staff worked with local governments, ODOT, SMART and TriMet to narrow the 2035 RTP Investment Pool to match expected revenue that can “reasonably be expected to be available” during the plan period. This set of investments is also called the financially constrained system. In addition, staff further refined the policy framework to respond to key findings of the technical analysis, policy discussions at the Freight Regional and Goods Movement Task Force, MPAC, JPACT and the Metro Council and informal comments provided by local governments and interested stakeholders over the summer.

Public Comment Opportunities

The public comment period is scheduled to begin on October 15 and end on November 15, 2007 at the close of the final Metro Council public hearing. The public comment period will focus on a discussion draft “2035 Regional Transportation Plan Federal Component” that will serve as the public review document.

The public review document will be available for review on Metro's web site (<http://www.metro-region.org/rtp>), and as a printed document during the 30-day public comment period.

You may submit comments in the following ways:

- on-line from Metro's website: www.metro-region.org/rtp
- e-mail to rtp@metro-region.org
- mail to Metro Planning, 600 NE Grand Avenue, Portland, Oregon 97232 (attention: Pat Emmerson)
- fax to (503) 797-1911
- testify at a Metro Council public hearing.

During the comment period, a series of four open houses and public hearings will be held around the region in conjunction with Metro Council meetings:

Open house and public hearing	Date/Time	Location
#1	Thursday, October 25 <ul style="list-style-type: none"> • Open house begins at 4 p.m. • Public hearing begins at 5 p.m. 	Clackamas County Public Services Building 2051 Kaen Road Oregon City, OR 97045
#2	Thursday, November 1 <ul style="list-style-type: none"> • Open house begins at 1 p.m. • Public hearing begins at 2 p.m. 	Metro Regional Center Council Chambers 600 NE Grand Avenue Portland, OR 97232
#3	Thursday, November 8 <ul style="list-style-type: none"> • Open house begins at 4 p.m. • Public hearing begins at 5 p.m. 	Hillsboro Civic Center Auditorium 150 E. Main Street Hillsboro, OR 97123
#4	Thursday, November 15 <ul style="list-style-type: none"> • Open house begins at 1 p.m. • Public hearing begins at 2 p.m. 	Metro Regional Center Council Chambers 600 NE Grand Avenue Portland, OR 97232

Comments received will be entered into the public record and will be provided to staff and elected officials prior to final consideration and action on the federal component of the 2035 RTP. Final consideration by JPACT and the Metro Council is scheduled for December 13, 2007. This action is pending completion of the federally-required air quality conformity analysis.

For more information

For more information, call Regional Transportation Planning at (503) 797-1839, or send e-mail to rtp@metro-region.org. The hearing impaired can call (503) 797-1804.

Overview

Transportation shapes our communities and daily lives in profound and lasting ways. Transportation enables residents of the region to reach jobs and recreation, access goods and services, and meet daily needs. What we plan for and invest in today will affect the health of our economy, residents, communities and environment for generations to come.

Over the past 15 years growth has brought significant opportunity and prosperity to the Portland-Vancouver region. Growth, however, has also brought growing pains. Like many other metropolitan areas across the U.S., the region faces powerful trends that require new ways of thinking about our future. Globalization of the economy, limited funding, increasing transportation costs, aging baby boomers, climate change and other powerful trends must be addressed as we work to keep this region a great place to live and work for everyone.

By 2035, the region will grow by more than 1 million people and add more than 500,000 jobs, doubling trips on the transportation system each day. By 2035, freight transportation needs are expected to more than double the freight, goods and services that will travel to this region by air and over bridges, roads, water and rails.

To address current transportation needs and prepare for future growth, the region must invest in expanding the transportation system, improving safety and completing key missing links. The Regional Transportation Plan (RTP) must be bolder, smarter and more strategic with transportation investments, and better integrate the region's land use, economic, environmental and transportation objectives in its decision-making process.

This document represents the first major update to the RTP since 2000. The updated plan provides a blueprint for building a sustainable transportation future that allows the region to compete in the global economy and preserve the unique qualities and natural beauty that define our region. An overarching aim of the RTP is to move the region closer to the vision of the 2040 Growth Concept.

The plan expands personal choices for travel, providing safer and more reliable travel between home and school, work, shopping and recreation destinations. The updated RTP emphasizes reliability of the system, particularly for commuting and moving freight. Reliability and other performance measures will be evaluated and monitored through an integrated multi-modal corridor strategy and performance monitoring system. The performance monitoring system will be finalized during the state component of the RTP update in 2008.

Implementation of the plan will be both challenging and exciting, demanding new levels of collaboration among the Metro Council, public and private sector leaders, community groups, businesses and the residents of the region. Our success in addressing the challenges will be measured in many ways and by many people, including future generations who will live and work in the region.



The 2035 Regional Transportation Plan (RTP) provides an updated blueprint to guide transportation planning and investments in the tri-county Portland metropolitan region. This discussion draft document extends the planning horizon of the current plan through the year 2035 and was developed to meet new federal (SAFETEA-LU) planning requirements by the end of 2007.

The focus of this update is on Federal compliance elements, not the Oregon Transportation Planning Rule (TPR) or other regional requirements. The TPR and regional requirements will be the focus of the state component of the update in 2008. Additional opportunities for public comment on the state component will be provided in 2008.

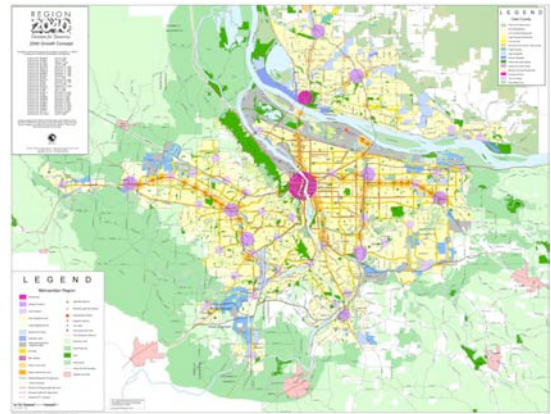
Executive Summary

Linking Transportation to Land Use, the Economy and the Environment

2040 Growth Concept

In the 1990s, the residents of the Portland metropolitan region developed Metro's 2040 Growth Concept through an extensive public process. Adopted in 1995, the concept represents a vision of shared community values and desired outcomes that continue to resonate throughout the region:

- Safe and stable neighborhoods for families
- Compact development that uses land, transportation infrastructure and money more efficiently
- A healthy economy that generates jobs and business opportunities
- Protection of farms, forests, rivers, streams and natural areas
- A balanced transportation system to move people and goods
- Housing for people of all incomes in every community



The Regional Transportation Plan

Metro's transportation planning activities are guided by a federally mandated decision-making framework, called the metropolitan transportation planning process. The Regional Transportation Plan (RTP), first adopted by the Metro Council in 1983, is a long-range blueprint for transportation in the Portland metropolitan region. The RTP is updated every four years to reflect changing conditions in the Portland metropolitan region. The purpose of the RTP is to:

- implement the Region 2040 vision ;
- identify transportation-related actions that respond most effectively to the trends and challenges facing the metropolitan region; and
- comply with federal, state and regional planning requirements.

As the federally designated Metropolitan Planning Organization (MPO), Metro is responsible for coordinating development of the RTP with the region's transportation providers—the 25 cities and three counties in the Metro boundary, the Oregon Department of Transportation, Oregon Department of Environmental Quality, Port of Portland, TriMet, South Metro Area Rapid Transit (SMART), Washington Regional Transportation Council, Washington Department of Transportation and other Clark County governments. Metro facilitates this consultation, coordination and decision-making through four advisory committee bodies—the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Policy Advisory Committee (MPAC), the Transportation Policy Alternatives Committee (TPAC) and the Metro Technical Advisory Committee (MTAC). In addition, the Metro Committee for Citizen Involvement (MCCI) provides advice to the Metro Council on how to best engage residents in regional planning activities.

State law establishes a hierarchy of consistency of plans at the state, regional and local levels. The RTP must be consistent with the Oregon Transportation Plan and the Transportation Planning Rule (TPR). Local plans must be consistent with the RTP. The RTP also serves as the threshold for all federal

transportation funding in the Portland metropolitan region. Projects and programs must be included in the RTP financially constrained system to be eligible for federal and state funding.

Challenges and Opportunities Ahead – Five Things You Should Know

The Portland metropolitan region is at an important crossroads.

- **About a million more people are expected to live here in the next 25.** They will all need to get to work, school and stores on the region’s transportation system. Growing congestion is expected to accompany this growth, affecting the economic competitiveness of our region and the State of Oregon, our environment and our quality of life.
- **The Portland-Vancouver metropolitan region is a global transportation gateway and West Coast domestic hub for commerce and tourism.** An international airport, river ports, rail connections and an interstate highway system make this region both a global transportation gateway and West Coast domestic hub for freight and goods movement and tourism-related activities. The 2005 study, *Cost of Congestion to the Economy of the Portland Region*, estimated potential losses in the region of \$844 million annually in 2025 from increased freight costs and lost worker productivity due to increases in travel time if our investments do not keep pace with growth. Freight transportation needs are expected to more than double the amount of freight, goods and services that will travel to this region by air and over bridges, roads, water and rails. The economy of our region and state depends on our ability to support the transportation needs of these industries and provide reliable access to gateway facilities. The economic health of the region also depends on industries that are attracted to the region by our well-trained labor pool, relatively low cost of living and high quality of life.
- **Geopolitical instability and other trends will continue to drive up transportation costs, affecting project costs and household expenditures.** Rising prices for all petroleum products—not just fuel—are here to stay. For example, the price of liquid asphalt jumped 61 percent in Oregon during the first seven months of 2006—from \$207 a ton to \$333 a ton—doubling project costs in some cases. Due to the rising cost of gas and greater driving distances between destinations, transportation costs per household in the region are also increasing. Transportation is the second highest household expense after housing, with lower-income households spending a higher percentage of their income on transportation costs.
- **Federal and state transportation sources are not keeping up with growing needs.** At current spending levels and without new sources of funding, the federal highway trust fund will expend all available revenues projected to be collected by 2009. State and local government purchasing power is steadily declining because the gas tax has not increased since 1993. Reduced purchasing power of current revenues leads to increasing competition for transportation funds, and less capability to expand, improve and maintain the transportation infrastructure we currently have. Meanwhile, the region’s transportation infrastructure continues to age, requiring increasing maintenance. Over the next two decades, the gap will grow between the revenues we have and the investments we need to make just to keep our throughway, street and transit systems in their current condition.
- **Climate change poses a serious and growing threat to Oregon’s economy, natural resources, forests, rivers, agricultural lands, and coastline.** Transportation activities are the second largest source of greenhouse gas emissions in Oregon. Transportation accounts for and estimated 38 percent of the state’s carbon dioxide emissions, and vehicle emissions are predicted to increase by 33 percent by 2025 because of increased driving. New regulations to reduce emissions associated with climate change are likely in the RTP’s planning horizon, which would put more emphasis on less polluting transportation modes.

A Proposed Blueprint to Guide the Region’s Response

The draft plan RTP updates the region's transportation blueprint through the year 2035, responding to the challenges and opportunities ahead. The plan includes:

1. **A renewed focus on protecting livability.** The RTP has a responsibility to serve the needs of residents in the region, protect our unique setting and landscape and leave a better place for future generations. The goals and objectives in Chapter 3 establish a vision of what we want the regional transportation system to look like and achieve in the future, shaping the actions the region will take to achieve that vision. The RTP emphasizes linking transportation planning to the region’s long-range vision for vibrant communities, a healthy economy and environmental protection.
2. **A systems approach that emphasizes completing gaps in the regional transportation network and protecting regional mobility corridors to address safety and congestion deficiencies.** The plan views the transportation system as an integrated and interconnected whole that supports land use and all modes of travel for people and goods movement. This approach relies on a broader, multi-modal definition of transportation need, recognizing that the region’s ability to physically expand right-of-way to increase capacity is limited by fiscal, environmental and land use constraints. This approach responds in part to recent policy direction from the federal and state levels to better link system management with planning for the region’s transportation system and direction from the residents of the region to provide a balanced transportation system that expands transportation choices for everyone. Reliability of the system, particularly for commuting and freight, is emphasized and will be evaluated and monitored through an integrated multi-modal mobility corridor strategy. Completing gaps in pedestrian, bicycle and transit systems is also a critical part of this strategy.

This approach requires more aggressive management of the transportation system and consideration of strategies such as value pricing to better manage capacity and peak use on the throughways in the region. To date, this tool has not been applied in the Portland metropolitan region despite successful application of this tool in other parts of the U.S. and internationally. Value pricing may generate revenues to help with needed transportation investments, however, more work is needed to gain public support for this tool.

3. **A new focus on stewardship and sustainability to preserve our existing transportation assets and achieve the best return on public investments.** Government must be a responsible steward of public

Regional Transportation System Goals

- **Goal 1: Foster Vibrant Communities and Efficient Urban Form**
- **Goal 2: Sustain Economic Competitiveness and Prosperity**
- **Goal 3: Expand Transportation Choices**
- **Goal 4: Emphasize Effective and Efficient Management of the Transportation System**
- **Goal 5: Enhance Safety and Security**
- **Goal 6: Promote Environmental Stewardship**
- **Goal 7: Enhance Human Health**
- **Goal 8: Ensure Equity**
- **Goal 9: Ensure Sustainability**
- **Goal 10: Deliver Accountability**

Regional Transportation System Components

Regional multi-modal transportation facilities and services include the following eight components:

1. Regional Throughway and Street System, which includes the National Highway System (NHS) and State highways
2. Regional Transit System
3. Regional Bicycle System
4. Regional Pedestrian System
5. Regional Freight System
6. Regional Systems Design
7. System Management Strategies
8. Demand Management Strategies

investment and the social, built and natural environments that shape our communities. Planning and investment decisions must consider the land use, economic, environmental and public impacts and benefits of actions as well as dollar costs. We must also prioritize maintaining and optimizing the infrastructure we have, because dollars are too limited to do everything we want. To maximize return on public dollars, the plan places the highest priority on cost-effective transportation investments that achieve multiple goals. The plan also directs future actions to stabilize transportation funding in this region. This includes raising new revenue for needed infrastructure, a crucial step to achieving the Region 2040 vision and specific goals described in Chapter 3.

The RTP recognizes the diversity of transportation needs throughout the Portland-Vancouver metropolitan region, and attempts to balance needs that often compete. While advocating for a transportation system that adequately serves all modes of travel, the plan recognizes that the automobile will likely continue to be chosen by people for most trips over the life of the plan. However, the RTP also recognizes the need for expanded transportation options for traveling to everyday destinations, and to provide access and mobility for those unable to travel by automobile. Even the occasional use of transit, walking, bicycling or sharing a ride can help the region maintain its clean air, conserve energy and efficiently accommodate more people within a compact urban form.

Finally, the RTP recognizes that the transportation system plays a crucial role in sustaining the economic health of the region and the state of Oregon. Many sectors of the regional economy heavily depend on the safe and efficient movement of goods and services by truck, rail, air and water. Additionally, the economic health of the region also depends on industries that have been attracted to the region because of our well-trained labor pool, relatively low cost of living and high quality of life.

Plan Organization

- **Chapter 1 – Regional Decision-Making and Regulatory Context:** This chapter describes Metro’s role in transportation planning, the regional transportation decision-making process and the federal, state and regional regulatory context of the RTP.
- **Chapter 2 – Challenges and Opportunities:** This chapter describes key trends and issues affecting travel in the region and expected growth in population, the economy and travel for the year 2035.
- **Chapter 3 – Regional Policy:** This chapter presents the policy framework of goals, objectives and actions for the regional transportation system that best support the Region 2040 vision.
- **Chapter 4 – Investment Pool:** This chapter describes the projects and programs submitted by local, state and regional agencies responsible for providing transportation infrastructure and services.
- **Chapter 5 – Financial Plan:** This chapter documents a financial analysis of current funding sources and historic funding trends that serve as the basis for the financially constrained system of investments
- **Chapter 6 – Investment Priorities:** This chapter presents the proposed Financially Constrained System, which represents a statement of the highest priority need, given current transportation funding constraints.
- **Chapter 7 – Implementation:** This chapter describes the processes of plan implementation and issues that remain unresolved at the time the federal component of the RTP is adopted.
- **Glossary:** Definitions of transportation-related planning and engineering terms used throughout the document.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3831, FOR THE PURPOSE OF APPROVING THE FEDERAL COMPONENT OF THE 2035 REGIONAL TRANSPORTATION PLAN (RTP) UPDATE

Date: October 9, 2007

Prepared by: Kim Ellis

BACKGROUND

Metro is the regional government responsible for regional land use and transportation planning under state law and the federally designated metropolitan planning organization (MPO) for the Portland metropolitan region. As the federally designated MPO, Metro is responsible for updating the metropolitan transportation plan, also referred to as the Regional Transportation Plan (RTP), every four years in coordination with the agencies that own and operate the region's transportation system. Metro is also responsible for developing a regional transportation system plan (TSP), consistent with Oregon Transportation Planning Rule (TPR) requirements.

Metro's jurisdictional boundary encompasses the urban portions of Multnomah, Washington and Clackamas counties. Metro's planning partners include the 25 cities, three counties and affected special districts of the region, ODOT, Oregon Department of Environmental Quality (DEQ), Port of Portland, South Metro Area Rapid Transit (SMART), TriMet and other interested community, business and advocacy groups as well as state and federal regulatory agencies such as the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). Metro also coordinates with the City of Vancouver, Clark County Washington, the Port of Vancouver, the Southwest Washington Regional Transportation Council (RTC), C-Tran, the Washington Department of Transportation, the Southwest Washington Air Pollution Control Authority and other Clark County governments on bi-state issues. The Southwest Washington Regional Transportation Council is the federally designated MPO for the Clark County portion of the Portland-Vancouver metropolitan region.

2035 REGIONAL TRANSPORTATION PLAN UPDATE

The 2035 RTP update represents the first significant update to the plan since 2000. The region is experiencing unprecedented growth and increasing competition for limited funds. The current RTP includes projects that would cost more than twice the anticipated funding. This update involved a new approach to address these issues and federal requirements. The Metro Council initiated the 2035 RTP Update on September 22, 2005 with approval of Resolution #05-3610A (for the Purpose of Issuing a Request for Proposals to Develop a Work Scope for an Expanded 2005-08 Regional Transportation Plan Update that Incorporates the "Budgeting for Outcomes" Approach to Establishing Regional Transportation Priorities).

The new approach (1) included a strong education component to increase community and stakeholder awareness of the issues, (2) used an outcomes-based approach to assess 2040 implementation and to evaluate and prioritize the most critical transportation investments, (3) emphasized collaboration with regional partners and key stakeholders to resolve the complex issues inherent in realizing the region's 2040 Growth Concept, and (4) integrated land use, economic, environmental and transportation objectives that are part of the 2040 Growth Concept. The process considered information learned from the 2005 *Cost of Congestion Study*, 2006 New Look public opinion research and the *Regional Freight and Goods Movement Plan*.

In January 2007, the 2035 RTP update timeline and process was expanded by the Metro Council, at the recommendation of JPACT, to allow for completion of the federal component of the 2035 RTP before the

current plan expires on March 5, 2008 and provide for additional technical analysis and policy development to address state and regional planning requirements by Fall 2008.

The federal component of the update is anticipated to be complete by December 2007 to allow adequate time to complete air quality conformity analysis and federal consultation before the current plan expires on March 8, 2008.

SUMMARY OF DECISION-MAKING FRAMEWORK

Metro's transportation planning activities are guided by a federally mandated decision-making framework, called the metropolitan transportation planning process. Metro leads this process in consultation and coordination with federal, state, regional and local governments, and engagement of other stakeholders with an interest in or who are affected by this planning effort. Metro facilitates this consultation and coordination through four advisory committee bodies—the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Policy Advisory Committee (MPAC), the Transportation Policy Alternatives Committee (TPAC) and the Metro Technical Advisory Committee (MTAC).

The 2035 RTP update process relied on this existing decision-making structure for development, review and adoption of the plan. MPAC, JPACT and the Metro Council made recommendations at key decision points based on input from TPAC, MTAC, the Council-appointed Regional Freight Plan Task Force and the public participation process. SAFETEA-LU provisions for additional consultation with state and federal resource agencies, and tribal groups not represented on Metro's existing committee structure were met through a consultation meeting with the Collaborative Environmental Transportation Agreement for Streamlining (CETAS) work group, consisting of the Oregon Department of Transportation and ten state and federal transportation, natural resource, cultural resource and land-use planning agencies, on October 16.

Finally, the *Regional Freight and Goods Movement Plan* element of the RTP update was guided by a Council-appointed 33-member Task Force and a Technical Advisory Committee (TAC).¹ Recommendations from the Regional Freight TAC were forwarded to the Regional Freight and Goods Movement Plan Task Force. The Task Force recommendations to date have been forwarded to the 2035 Regional Transportation Plan process for adoption into the region's long-range transportation system plan.

APPROACH AND TIMELINE DEVELOPMENT OF FEDERAL COMPONENT OF 2035 RTP

The process addressed new federal planning requirements, including SAFETEA-LU legislation. The new federal transportation law—SAFETEA-LU—made changes to requirements for transportation planning, including amending the formal update cycle to four years and making specific changes to requirements affecting planning for special needs, security, safety, system management and operations and environmental mitigation. The changes are addressed in this update to the plan.

Consistent with SAFETEA-LU, the federal component of the update focused on:

1. updating regional policies that guide planning and investments in the regional transportation system to respond to key trends and issues facing the region and meet federal planning requirements;

¹ The Regional Freight and Goods Movement Task Force was comprised of 33 members from the community, private and public sectors, representing the many elements of the multimodal freight transportation system and community perspectives on freight. The Freight Technical Advisory Committee (TAC) was comprised of public sector staff from the local, regional, and state agencies operating within Metro's jurisdictional boundaries. The TAC will provide input and review of technical work products.

2. incorporating projects and programs that have been adopted in local and regional plans, and corridor studies through a public process since the last RTP update in 2004;
3. updating the transportation revenue forecast and regional investment priorities to match current funding sources and historic funding trends that are “reasonably anticipated to be available;”
4. identifying additional issues to be addressed during the state component of the RTP update in 2008.

The following section describes the RTP timeline and process for developing the federal component of the 2035 RTP.

June 2006-January 2007 – Research and Policy Development – Metro staff conducted background research on trends and issues affecting travel in the region, convened five stakeholder workshops on desired outcomes and needs for the region’s transportation system and conducted scientific public opinion research on transportation needs and priorities. This information is available to download on Metro’s website at www.metro-region.org/rtp.

January-March 2007 - Provisional Policy Framework Development – The background research in the previous phase guided development of a provisional draft policy framework that established goals and objectives for the regional transportation system. At the recommendation of the Metro Policy Advisory Committee (MPAC) and the Joint Policy Advisory Committee on Transportation (JPACT), the provisional draft policy framework (Chapter 1) was accepted by the Metro Council to guide identification of transportation needs and investment priorities.

April 2007 – Identification of Regional Mobility Corridor Priorities – In March and April 2007, the Regional Freight and Goods Movement Task Force, MPAC and JPACT participated in separate workshops to identify mobility issues and priorities for investments in the RTP. In April, Metro, TriMet and the Oregon Department of Transportation (ODOT) convened a technical workshop to build on the direction provided in the previous policy-level discussions. Nearly 60 participants attended this workshop, including Transportation Policy Alternatives Committee (TPAC) and Metro Technical Advisory Committee (MTAC) members and other local government staff.

Summer 2007 - RTP Project Solicitation and System Analysis - In June 2007, agencies submitted projects and programs that came from local and regional plans or studies that had been previously adopted through a public process. The investments submitted responded to the provisional policy framework. ODOT and TriMet collaborated with Metro and local agencies to identify investments that respond to mobility corridor priorities identified by the Freight Task Force, JPACT and MPAC in April. In addition, local agency TPAC representatives for each of the three counties worked with the cities within their respective county to identify other community-building investments to complement the regional mobility corridor investments. The result of this effort was the development of the 2035 RTP Investment Pool. Proposed investments were submitted in one of two complementary investment strategy tracks:

- **Track 1: State and Regional Mobility Corridor Investment Strategy** focuses on regional mobility corridor investments that leverage the 2040 Growth Concept and improve interstate, intrastate and cross-regional people and goods movement.
- **Track 2: Community-Building Investment Strategy** focuses on community-building investments that leverage 2040 Growth Concept through street and transit system improvements that provide for community access and mobility.

Metro conducted a technical analysis of the performance of the system projects and programs submitted. The results of the analysis are included in the federal component of the 2035 RTP.

August – October 2007 – Development of RTP Financially Constrained System and Draft 2035 - Metro staff worked with local governments, ODOT, SMART and TriMet to narrow the 2035 RTP Investment Pool to match expected revenue that can “reasonably be expected to be available” during the

plan period. This set of investments is also called the financially constrained system. In addition, staff further refined the policy framework to respond to key findings of the technical analysis, policy discussions at the Freight Regional and Goods Movement Task Force, MPAC, JPACT and the Metro Council and informal comments provided by local governments and interested stakeholders over the summer.

SUMMARY OF STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION PLAN FOR THE FEDERAL COMPONENT OF THE 2035 RTP UPDATE

The public participation plan was designed to meet regional and federal requirements for public participation and respond to the key issues raised during the scoping phase in 2006. This section describes the *stakeholder engagement and outreach* components that will inform development of an updated 2035 RTP plan, and support the decision-making role of the Metro Council, JPACT and MPAC and the participatory role of public agencies, targeted stakeholder groups and the general public.

Metro's targeted stakeholders and planning partners include the 25 cities, three counties and affected special districts of the region, Oregon Department of Transportation (ODOT), Oregon Department of Environmental Quality, Port of Portland, SMART, TriMet and other interested community, business and advocacy groups as well as state and federal regulatory officials and resource agencies. Metro also coordinates with the City of Vancouver, Clark County Washington, the Port of Vancouver, the Southwest Washington Regional Transportation Council (RTC), C-Tran, the Washington Department of Transportation, the Southwest Washington Air Pollution Control Authority and other Clark County governments on bi-state issues.

This broad spectrum of stakeholders was the primary focus of the public participation plan. A variety of methods for engaging public agencies and targeted public and private sector stakeholder groups were used, including focused discussions at Regional Forums, Mayors'/Chair's Forums, stakeholder workshops, Metro Advisory Committees and established County Coordinating Committee's meetings, technical workshops and other methods of communication and engagement as described below. In September and October of 2006, Metro staff also met with several groups of citizens and planners to solicit input on the bicycle and pedestrian needs and issues background reports. The groups included local citizen bicycle and/ pedestrian citizen advisory groups, local bicycle and pedestrian planners/advocates and the Regional Trails working group. Metro held a separate bike and pedestrian workshop with local pedestrian and bike planners from local and state government, advocacy groups and the private sector. The participants provided information about trends and current research underway, barriers to developing the pedestrian and bicycle systems, and policy gaps at the regional level.

A second priority for outreach is the general public. The general public was engaged and provided opportunities to give input throughout the planning process. A significant element of this portion of the work program was a scientific public opinion survey that was conducted to solicit a statistically valid measure of public values and needs. In addition, Metro's website hosted an interactive project website that included an on-line survey during the research phase of the update. The project website was also to provide information about the update process, timeline with key decision points identified, fact sheets, newsletters and other pertinent information about the process. The transportation hotline included a 2035 RTP update message program that includes timely information about key decision points and provided an option for requesting additional information. In addition, feedback was solicited on a discussion draft 2035 RTP during the public comment period that was held from October 15 to November 15, 2007, through four Metro Council public hearings, Metro's website and four open houses held during the comment period.

Media outreach was also a significant element of the participation plan with the intent of using earned mass media to provide information to the general public and key stakeholders throughout the process. This included briefings of reporters and editorial boards, press releases, media packets and civic journalism. Several electronic-newsletters and fact sheets were developed throughout the process and at

key decisions points. The newsletters and fact sheets were distributed through Metro's website, at events and upon request. Summary reports documenting the results and findings of major tasks were also developed and made available on Metro's website and through presentations at Metro's advisory committees.

Notices of key decisions were distributed through community newspapers, electronic newsletters, the transportation hotline and the Metro website. A formal 30-day public comment period was held to coincide with release of a discussion draft RTP in September 2007. Comments were collected through Metro's website, US mail, fax, email and testimony provided at four Metro Council public hearings during this period. Comments received were entered into the public record and provided to staff and elected officials prior to final consideration and action on the federal component of the 2035 RTP. Finally, the RTP and its attendant Air Quality Conformity Analysis will be made available for a formal 30-day public review period before final adoption in February 2008.

OUTSTANDING ISSUES TO BE ADDRESSED DURING STATE COMPONENT OF THE 2035 RTP UPDATE

The system the region can afford with "expected revenue" is not expected to be sufficient to achieve the region's vision for the future. The state component of the RTP update will, as a result, focus on identifying those investments that the region truly needs to achieve the 2040 Growth Concept and RTP goals, and developing a funding strategy that supports implementation of those investments over time.

After the federal component of the 2035 RTP is submitted to federal agencies for review, the focus will shift to the state component of the RTP update. The state component of the 2035 RTP will continue in 2008 to address outstanding issues identified during the federal component of the 2035 RTP, including amendments to both the Oregon TPR and Oregon Transportation Plan, and development of a transportation finance strategy to funded needed investments that exceed revenues anticipated to be available during the plan period.

Staff recommends these areas to be the focus of policy discussion and additional technical analysis during the state component of the RTP update in 2008:

1. Performance measures and evaluation framework

Background: The first round of technical analysis (which included the RTP investment pool of projects) demonstrated that system-level measures are no longer sufficient to determine whether investments lead to a safe, efficient and reliable transportation system or meet other RTP goals for land use, the economy and the environment.

What does an outcomes-based evaluation and monitoring framework look like? What measures and benchmarks are most important?

2. Congestion management and regional mobility corridors

Background: How to address increasing demand on our multimodal transportation system is a critical issue for the region, particularly the *Regional Mobility Corridors* – transportation corridors centered on the region's network of interstate and state highways that include parallel networks of arterial roadways, high capacity and regional transit routes and multi-purpose paths. The network of corridors is intended to move people and freight between different parts of the region and connect the region with the rest of the state and beyond. Despite significant investments assumed in the region's transit and roadway systems, the region appears to lose ground on congestion and system reliability. When the pool of investments is narrowed to match available revenue to develop the Financially Constrained RTP, additional congestion and reductions in system reliability are expected.

How should the region measure success for these corridors and what is the mix of strategies and investments that will help us get there?

3. **Oregon Transportation Planning Rule (TPR) implications for land use**

Background: Recent amendments to the TPR may affect the region's ability to manage growth consistent with the 2040 Growth Concept.

What are the implications of recent TPR amendments on the ability of the RTP and local TSPs to comply with OAR 660-012-0060, which requires land use and transportation plans to be balanced?

4. **Transportation finance**

Background: The region's funding gap is so significant, the region must use every tool at our disposal to address current and future transportation needs in support of the Region 2040 Growth Concept. The region needs a strategy that effectively links land use and transportation investment decisions. Community building investments are tied primarily to locally generated growth-related revenues. In addition, new growth areas need seed money before system development charges can begin to be collected. Both short-term and long-term strategies are needed to raise new revenues to fund needed investments.

How do we know what level of investment we need to achieve Region 2040? Who should have primary responsibility for addressing needs on ODOT's state and district highways? Who should have primary responsibility for addressing operations, maintenance and other needs of regional bridges? What funding sources should be used to address all of the different regional mobility and community building needs?

Additional opportunities for public comment on the state component will be provided in Fall 2008.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** There are a wide variety of past Federal, State and regional legal actions that apply to this action.

Federal regulations include:

- Clean Air Act, as amended [42 U.S. C. 7401, especially section 176(c)];
- Federal statutes concerning air quality conformity [23 U.S.C. 109(j)];
- US EPA transportation conformity rules (40 CFR, parts 51 and 93); and
- USDOT rules that require Metro to update RTPs on a four-year cycle [23 CFR 450.322(a)].

State regulations include:

- Oregon Administrative Rules for Transportation Conformity, (OAR Chapter 340, Division 252); and
- Portland Area Carbon Monoxide Maintenance Plan and Portland Area Ozone Maintenance Plan.

Metro legislation includes:

- Resolution 05-3610A (For the Purpose of Issuing a Request for Proposals to Develop a Work Scope for an Expanded 2005-08 Regional Transportation Plan Update that Incorporates the "Budgeting for Outcomes" Approach to Establishing Regional Transportation Priorities), on September 22, 2005.

- Resolution No. 06-3661 (For the Purpose of Approving A Work Program For the 2035 Regional Transportation Plan (RTP) Update and Authorizing the Chief Operating Officer to Amend Contract No. 926975), on June 15, 2006; and
 - Resolution No. 07-3793 (For the Purpose of Accepting the Chapter 1 Regional Transportation Policy Framework as the Provisional Draft For the Purpose Of Completing Phase 3 of the 2035 Regional Transportation Plan (RTP) Update), on March 15, 2007.
3. **Anticipated Effects:** The proposed federal component of the 2035 Regional Transportation Plan meets federal requirements for metropolitan transportation planning. With approval, staff will proceed with the federally-required air quality conformity analysis and development of federal findings of compliance.
4. **Budget Impacts:** There is no financial impact to approval of this resolution.

RECOMMENDED ACTION

Approve Resolution No. 07-3831.