

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL INFORMAL MEETING
DATE: February 25, 2003
DAY: Tuesday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

- | | | | |
|-----------|----|---|----------|
| 2:00 p.m. | 1. | SALEM LEGISLATIVE REPORT | Cooper |
| 2:15 p.m. | 2. | DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, FEBRUARY 27, 2003. | |
| 2:30 p.m. | 3. | SOLID WASTE BOND COVENANT BRIEFING | Hoglund |
| 3:10 p.m. | 4. | FISH AND WILDLIFE DISCUSSION | Hosticka |
| 3:50 p.m. | 5. | COUNCILOR COMMUNICATION | |

ADJOURN

2003 – 72nd Oregon Legislative Assembly—Regular Session

METRO REVIEW LOG

[PROPOSED] SENATE / HOUSE BILLS – SORTED BY METRO & OTHER CATEGORIES

As of 02/24/2003 6:52 PM

022503CR-01

#	Bill #	Category	Subject / Topic / Relating To	Sponsor of Bill	Title / Description	Note	Priority	Position	Current Status
1.		M	Revenue Task Force	METRO	<p>[2/21/03 Carl Hosticka: I discussed the Revenue Sharing Task Force with the Mayors of Beaverton, Tigard, Tualatin, Sherwood, and Kings City along with Commissioner Rogers at our regular elected officials meeting this morning.</p> <p>They thought it was a good idea to proceed with the Task Force and had a number of suggestions about the limits and application of the concept of revenue sharing.</p> <p>We all thought it would be a good idea if Mayor Cottle of Sherwood could meet with Sen Deckert and myself to discuss the idea.</p> <p>Doug, can we set up a meeting like this soon?</p> <p>What do the rest of you think?</p> <p>2/21/03 Brian Newman: Sounds good to me. I would be happy to convene a similar meeting with the Mayors of my district. Would that be helpful?</p> <p>2/21/03 Rod Park: The four cities meeting held once a quarter would be the right place. In Clackamas County they have their own meeting which I think we are already doing something at.</p> <p>2/24/03 Carl Hosticka: Glad that the search for more ways to discuss this issue is underway. I am ready to meet with anybody who might want to know what I am thinking about or to share information about what is happening in other areas.</p> <p>Please keep me informed of any discussions and how people are thinking about the issue.]</p>				
2.	HB 2036	M	Waste Tires	House Interim Committee on Transportation for Interim Task Force on Tire Recycling	Establishes Waste Tire Recycling Board. Specifies membership and duties. Directs Governor to appoint five members to board. Establishes waste tire recycling goals.	METRO	1	Support	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Environment and Land Use with subsequent referral to

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									Ways and Means
3.	HB 2037	M	Waste Tires; Creating New Provisions; amending ORS 459.775 and 459A.115; and Appropriating Money	House Interim Committee on Transportation for Interim Task Force on Tire Recycling	Establishes statewide recycling and recovery goal for waste tires. Modifies purposes for which Waste Tire Recycling Account may be used. Directs Environmental Quality Commission to increase per-ton fee if statewide goal for waste tires is not met.	METRO	1	Support	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Environment and Land Use with subsequent referral to Ways and Means
4.	HB 2038	M	Waste Tire Recycling Account; amending ORS 459.775	House Interim Committee on Transportation for Interim Task Force on Tire Recycling	Directs Department of Environmental Quality to use moneys in Waste Tire Recycling Account for waste tire market development and education and outreach.	METRO	1	Support	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Transportation with subsequent referral to Ways and Means 2-10 Public Hearing and Work Session held. Public Hearing and Work Session held. 2-11 Recommendation: Do pass with amendments, be printed engrossed and be referred to Ways and Means by prior reference. Referred to Ways and Means by prior reference.
5.	HB 2097	G	Public Contracts; Creating New Provisions; and amending ORS 279.312, et al.	Attorney General Hardy Myers for Department of Justice	Requires certain conditions in public improvement contracts and bid documents. Eliminates certain conditions in other public contracts. Modifies public contract conditions relating to hours of labor.				1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to General Government with subsequent referral to Ways and Means

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6.	HB 2131	G	Governmental Finance; Creating New Provisions; and amending ORS 190.080, 221.410, 223.230, 271.390, 286.061, 287.006, 287.012, 288.165, 288.815, 288.845, 294.326, 294.483, 295.005, 305.410, 305.580, 305.583, 305.587, 305.589, 310.140 and 328.205	State Treasurer Randall Edwards for Oregon Municipal Debt Advisory Commission	Authorizes state and local government issuers of bonds to enter into agreement for exchange of interest rates. Declares obligation of governmental unit, backed by full faith and credit and taxing power, to be enforceable contract and commits governmental unit to raise sufficient revenue to repay obligation. Grants exclusive jurisdiction to tax court to determine whether use of proceeds of bonded indebtedness is authorized. Authorizes expenditure of revenue raised by local option tax beyond period of years during which local option tax may be levied. Modifies authority of state and local governments to issue and administer bonds.	N/A	N	N/A	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to General Government. 1-28 Public Hearing held.
7.	HB 2136	G	Investment Maturity; amending ORS 294.135	State Treasurer Randall Edwards	Clarifies maturity date restrictions of certain investments made by local governments.				1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Revenue. 2-11 Public Hearing and Work Session held. 2-13 Recommendation: Do pass. 2-14 Second reading. 2-17 Third Reading. Carried by Verger. Passed. Ayes, 56; Excused, 4-- Garrard, Hopson, Miller, Wirth. 2-18(S) First reading. Referred to President's desk. 2-21 Referred to Revenue.

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8.	HB 2172	G	Self-Insurance Programs Managed By Public Employees' Benefit Board; amending ORS 243.105, 243.145, 243.167, 243.285 and 292.051	Governor Kulongoski for Oregon Dept. of Administrative Services	Grants Public Employees' Benefit Board explicit authority to provide self-insurance programs. Permits deductions from state employees' wages to pay for self-insurance benefits under rules, procedures and directions of board.				1-14(H) First Reading. Referred to Speaker's desk. 1-15 Referred to Business, Labor and Consumer Affairs with subsequent referral to Ways and Means (SB 906 from 2001 71 st Oregon Leg. Assembly and SB 140 from 1999 70 th Oregon Leg. Assembly Regular Session)
9.	HB 2187	G	Urban Renewal; Creating New Provisions; amending ORS 310.150; and Prescribing An Effective Date	Governor Kulongoski for Oregon Dept. of Revenue	Requires urban renewal revenues raised through special levy or through division of tax to be categorized as general government property taxes for purposes of constitutional limitation on property taxes. Applies to property tax years beginning on or after July 1, 2002. Takes effect on 91st day following adjournment sine die.	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Revenue. 2/21/03 Doug Riggs: 2/27/03, 8:30 am House Revenue public hearing, Room HR A
10.	HB 2250	G	Emergency Services; Creating New Provisions; and amending ORS 195.260, 401.025, et al., 453.307, 453.342, et al., 465.505, 466.635, 469.533, 824.088 and 837.035 and Sections 12, 13, 14, 15, 16, 17 and 18, Chapter 533, Oregon Laws 1981, and Sections 1, 3, 4, 5, 6 and 9, Chapter 740, Oregon Laws 2001	Governor Kulongoski for Dept. of State Police	Creates Department of Emergency Management. Transfers duties, functions and powers from Office of Emergency Management of Department of State Police to Department of Emergency Management. Abolishes Office of Emergency Management of Department of State Police.	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk. 1-22 Referred to General Government with subsequent referral to Ways and Means 1-30 Public Hearing held.

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11.	HB 2267	G	Tourism; Creating New Provisions; amending ORS 285A.255, et al. and 305.824; Repealing ORS 285A.270, 285A.273, 285A.276 and 285A.285; Appropriating Money; Prescribing An Effective Date; and Providing For Revenue Raising That Requires Approval By A Three-Fifths Majority	Governor Kulongoski for Economic and Community Development Dept.	Establishes state transient lodging tax. Continuously appropriates moneys for tourism marketing programs. Prohibits new or increased local transient lodging taxes. Excepts new or increased local transient lodging taxes used for tourism promotion or tourism-related facilities. Converts Oregon Tourism Commission to semi-independent state agency status. Revises duties and purposes of commission. Modifies composition of commission. Transfers state transient lodging tax revenues from State Treasury to account managed by commission. Takes effect on 91st day following adjournment sine die.				1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Trade and Economic Development with subsequent referral to Revenue
12.	HB 2310	G	Security Measures; amending ORS 192.660	Rep. Williams for League of Oregon Cities	Authorizes governing body of public body to discuss security measures in executive session.				1-15(H) First Reading. Referred to Speaker's desk. 1-23 Referred to Judiciary. 2/18/03 Doug Riggs: 3/03/03 public hearing, 1:00 pm, Room 357
13.	HB 2425	G	Disclosure of Information about security; creating new provisions; amending ORS 1.760, 9.568, 161.390, 192.501, 192.502, 192.690, 418.747, 469.030, 469.080, 469.410 and 757.720; and declaring an emergency	Judiciary Committee	Exempts from disclosure under public records law public body's plan in connection with threat against individual or public safety. Exempts from disclosure under public records law records or information that would identify measures pertaining to security of individual or property and about review or approval of security programs for sources of energy, communications and dangerous substances. Excepts from public meetings law portions of meetings that discuss information about review or approval of security programs for sources of energy, communications and dangerous substances. Declares emergency, effective on passage.	N/A	N	N/A	1-22(H) First Reading. Referred to Speaker's desk. 1-29 Referred to Judiciary. 2/21/03 Doug Riggs: 3/03/03, 1:00 pm House Judiciary public hearing and possible work session, Room 357

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14.	HB 2595	G	Taxation; repealing ORS 306.815; and prescribing an effective date	Rep. Kafoury (at the request of Oregon HOME)	Repeals prohibition on real estate transfer taxes. Takes effect on 91 st day following adjournment sine die.				2-10(H) First Reading. Referred to Speaker's desk. 2-13 Referred to Business, Labor and Consumer Affairs with subsequent referral to Revenue
15.	HB 2651	G	Special election; appropriating money; and declaring an emergency	Revenue Committee	Sets procedure for statewide special election on ___ Joint Resolution ___ (2003) (LC 2374). Appropriates moneys from General Fund to Secretary of State for expenses of submitting measure to people at special election to be held on May 20, 2003. Declares emergency, effective on passage.				2-17(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Revenue with subsequent referral to Ways and Means
16.	HB 2653	G	Tourism; creating new provisions; amending ORS 285A.255, 285A.261, 285A.264, 285A.267, 285A.279, 285A.282, 285A.288 and 305.824; repealing ORS 285A.270, 285A.273, 285A.276 and 285A.285; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority	Revenue Committee (at the request of League of Oregon Cities)	Establishes state transient lodging tax. Continuously appropriates moneys for tourism marketing programs. Permits transient lodging providers to retain collection reimbursement charges for state or local transient lodging taxes. Converts Oregon Tourism Commission to semi-independent state agency status. Revises duties and purposes of commission. Modifies composition of commission. Transfers state transient lodging tax revenues from State Treasury to account managed by commission. Takes effect on 91 st day following adjournment sine die.				2-14(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Trade and Economic Development with subsequent referral to Revenue
17.	HB 2658	G	Disclosure of Social Security numbers; amending ORS 192.502		Exempts public employee and volunteer Social Security numbers from disclosure under public records law.				2-17(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Judiciary.
18.	HJR 9	G	Proposed initiative amendments	Rep. Shelterly, Williams	Proposes amendment to Oregon Constitution relating to proposed initiative amendments to Constitution. Directs ballot for initiative amendments to Constitution to allow voters to				1-20(H) First Reading. Referred to Speaker's desk. 1-27 Referred to Rules and Public Affairs.

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					approve, reject or direct proposed initiative amendment to Legislative Assembly. Allows Legislative Assembly to refer, reject or take no action on proposed initiative amendment, or to refer alternative proposed law or constitutional amendment to people. Directs Secretary of State to place proposed initiative amendment to Constitution on ballot if Legislative Assembly rejects or takes no action on proposed initiative amendment or refers alternative law or alternative constitutional amendment to people. Specifies that if both proposed initiative amendment to Constitution and referred alternative law or referred alternative constitutional amendment appear on ballot in same election, measures must be identified as alternatives to each other. Further specifies that if both measures are approved by vote of people, only measure receiving highest number of affirmative votes is enacted. Provides for modification of certain effective date provisions contained in proposed initiative amendments to Constitution. Refers proposed amendment to people for their approval or rejection at next regular general election.				2-13 Public Hearing held.
19.	SB 017	G	Rights Of Persons With Disabilities To Public Services	Joint Interim Committee on Judiciary for Oregon Advocacy Center	Makes public bodies and officers, employees and agents of public bodies subject to action under Title II of Americans with Disabilities Act.				1-14(S) Introduction and first reading. Referred to President's desk. 1-16 Referred to Judiciary.
20.	SB 061	G	Taxation By Units Of Local Government; and Prescribing An Effective Date	Sen. Beyer for Oregon Restaurant Assoc.	Prohibits unit of local government from imposing industry-specific sales tax. Permits collection of otherwise prohibited tax if ordinance or other law imposing tax took effect or became operative before January 1, 2003. Takes effect on 91st day following adjournment sine die.				1-14(S) Introduction and first reading. Referred to President's desk. 1-16 Referred to Revenue.
21.	SB 062	G	Taxation By Units Of	Sen. Beyer for	Prohibits unit of local government from imposing				1-14(S) Introduction and first

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			Local Government; and Prescribing An Effective Date	Oregon Restaurant Assoc.	sales tax on meals prepared and sold inside boundaries of unit of local government. Permits collection of otherwise prohibited tax if ordinance or other law imposing tax took effect or became operative before January 1, 2003. Takes effect on 91st day following adjournment sine die.				reading. Referred to President's desk. 1-16 Referred to Revenue.
22.	SB 096	G	Public Agencies [contracts from competitive bid and proposal req.; Creating New Provisions; and amending ORS 279.015, 279.027, 279.322, 279.323 and 279.722	Sen. Beyer	Exempts contracts between certain public agencies from competitive bid and proposal requirements. Requires bid submitted to public contracting agency by state agency to include all costs associated with bid.	N/A	N	N/A	1-21(S) Introduction and first reading. Referred to President's desk. 1-24 Referred to General Government. 2-3 Public Hearing held.
23.	SB 161	G	Vending Facilities On Public Property; Creating New Provisions; and amending ORS 346.520	Gov. Kulongoski for the Commission for the Blind	Prohibits state agencies from charging Commission for the Blind for costs of rent or utilities for vending facilities operated by commission.				1-15(S) Introduction and first reading. Referred to President's desk. 1-20 Referred to Human Resources. 2-3 Public Hearing held. 2-19 Public Hearing and Work Session held. Reported Out of Committee.
24.	SB 243	G	Discontinuance Of Cemeteries; amending ORS 97.440 and 97.450	Gov. Kulongoski for State Parks & Recreation Dept.	Modifies notification requirement for discontinuance of certain cemeteries. Requires prior approval of Oregon Pioneer Cemetery Commission for discontinuance of pioneer cemeteries.	N/A	N	N/A	1-16(S) Introduction and first reading. Referred to President's desk. 1-21 Referred to Business and Labor.
25.	SB 259	G	Notice to public body about request to inspect public record	Sen. Burdick (at the request of City of Portland)	Requires person requesting inspection of public record that person knows relates to claim against public body to notify attorney for public body of	N/A	N	N/A	2/21/03 Doug Riggs: 2/26/03 8:00 am Senate Judiciary public hearing and possible

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			that relates to claim against public body; creating new provisions; and amending ORS 192.420		request.				work session, Room HR 343
26.	SB 359	G	Development of Oregon's workforce; creating new provisions; amending ORS 660.324; appropriating money; and declaring an emergency	Sen. Deckert, Rep. Butler (at the request of Oregon Council on Knowledge and Economic Development)	Directs Department of Community Colleges and Workforce Development to develop and implement integrated statewide workforce strategy. Appropriates moneys from General Fund to Department of Community Colleges and Workforce Development for purpose of developing and implementing integrated statewide workforce strategy. Requires State Workforce Investment Board to ensure federal and state grants and programs are adequately used for workforce development. Declares emergency, effective July 1, 2003.				2-7(S) Introduction and first reading. Referred to President's desk. 2-10 Referred to Transportation and Economic Development, then Ways and Means. 2-12 Public Hearing and Work Session held. Reported Out of Committee. 2-18 Recommendation: Do pass and be referred to Ways and Means by prior reference. Referred to <<CName>> by prior reference.
27.	SB 411	G	Prevailing rates of wages; creating new provisions; and amending ORS 279.352 and 279.354	Business and Labor Committee (at the request of Bureau of Labor and Industries)	Requires specifications for subcontracts for public works to contain provisions on prevailing rates of wage. Prohibits public contracting agency from paying contractor on public works until contractor files certified payroll statements with agency. Prohibits contractor from paying subcontractor on public works until subcontractor files certified payroll statements with agency.				2-12(S) Introduction and first reading. Referred to President's desk. 2-17 Referred to Business and Labor, then Ways and Means.
28.	SJR 8	G	Proposing amendment to Oregon Constitution relating to charter	Sen. Morrisette	Proposes amendment to Oregon Constitution to prohibit Legislative Assembly from preempting or restricting, by general civil law, local legislation that relates to matters of predominantly city or				2-17(S) Introduction and first reading. Referred to President's desk.

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			authority of political subdivisions		county concern and that are within scope of powers granted by city or county charter. Refers proposed amendment to people for their approval or rejection at next regular general election.				2-21 Referred to Rules.
29.		INF	Conservation Incentives						1/24/03: Washington County has indicated that they were pursuing a similar effort. Thus, we will join forces to work on the legislation.
30.	HB 2100	LU	Land Use Planning For High Technology Industry	House Special Task Force on Jobs and the Economy	Requires local governments to adopt 20-year forecast of land and public facility needs for high technology industry. Requires corresponding amendments to local comprehensive plans, functional plans and land use regulations to accommodate needs identified in forecast.	N/A	1	N/A	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Environment and Land Use.
31.	HB 2137	LU	Compensation For Loss Of Property Value Resulting From Land Use Regulation	Joint Interim Committee on Natural Resources	Allows owner of private real property to claim compensation for land use restriction or reinterpretation that limits or prohibits use of property and decreases fair market value of property by more than 10 percent. Creates exception to right to compensation for certain land use restrictions. Authorizes owner of lawfully created lot or parcel to build single-family dwelling or divide lot or parcel if owner could have built dwelling or divided lot or parcel when owner acquired lot or parcel but is prevented by land use restriction or reinterpretation enacted, adopted or applied before November 7, 2000.	N/A	1	N/A	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Environment and Land Use. 1-21 Public Hearing held. 1-23 Public Hearing held. 2/20/03 Doug Riggs: Per Dan, Doug to attend non-official hearing 2/24/03, 3:00 pm, Room 470 Son of Measure 7 Committee Chair Bill Garrard has appointed Dan Cooper to be a member.
32.	HB 2253	LU	Division Of State Lands Fees; amending ORS 196.810, 196.815	Governor Kulongoski for Division of State	Modifies and restructures schedule of fees for Division of State Lands removal and fill program. Exempts habitat restoration projects from	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk.

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			and 196.850	Lands	removal and fill permit fees. Subjects emergency authorizations for removal and fill to permit fee structure. Allows 45 days to submit payment after emergency authorization. Establishes fee for action taken under general authorization. Declares emergency, effective July 1, 2003.				1-20 Referred to Water with subsequent referral to Ways and Means 2-18 Public Hearing held.
33.	HB 2293	LU	Wetlands; Creating New Provisions; and amending ORS 196.620	Former Rep. Al King	Allows local governments and riparian landowners to create and use mitigation banks. Authorizes local governments to compensate riparian landowners.				1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Water.
34.	HB 2431	LU	Wetlands; creating new provisions; and amending ORS 196.615, et al.	Rep. Kropf	Allows person seeking permit to remove material from or fill waters of state to pay money into Oregon Wetlands Mitigation Bank Revolving Fund Account instead of obtaining permit. Specifies replacement ratio for mitigating wetland loss. Specifies that Director of Division of State Lands has burden to prove that wetlands exist on property for which permit is sought. Allows person to seek writ of mandamus to force Division of State Lands to make final decision on permit application after 90 days.	N/A	N	N/A	1-23(H) First Reading. Referred to Speaker's desk. 1-30 Referred to Environment and Land Use. 2-25 Public Hearing scheduled. 2/24/03 Doug Riggs: 2/25/03 8:30 am House Environment & Land Use public hearing, Room HR E
35.	HB 2456	LU	Allocation of conserved water; creating new provisions; amending ORS 537.460, et al. and declaring an emergency	Rep. Jenson	Modifies provisions relating to voluntary program for allocation of conserved water. Allows person or group of persons implementing measures prior to application for allocation of conserved water to apply for allocation if measure was implemented within five years of application. Declares emergency, effective on passage.	N/A	N	N/A	1-28(H) First Reading. Referred to Speaker's desk. 1-31 Referred to Water. 2-25 Public Hearing scheduled. 2/21/03 Doug Riggs: 2/25/03 8:30 am House Water public hearing, Room HR B
36.	HB 2515	LU	Soil and water conservation districts; creating new	Sen. Kruse	Directs Oregon Watershed Enhancement Board to provide funding from Watershed Improvement Operating Fund for positions in soil and water				1-31(H) First Reading. Referred to Speaker's desk.

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			provisions; and amending ORS 541.379		conservation districts. Specifies that persons employed in positions funded by board perform functions relating to restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality				2-5 Referred to Water.
37.	HB 2549	LU	Vertical housing zones	Rep. Zauner	Prohibits Director of Economic and Community Development Department from designating vertical housing development zone or Economic and Community Development Department from certifying zone for property tax exemption.				2-4(H) First Reading. Referred to Speaker's desk. 2-7 Referred to Trade and Economic Development.
38.	HB 2610	LU	Appeal of Local Land Use Decision; creating new provisions; and amending ORS 197.829	Rep. Kruse	Places burden on local government on appeal of local land use decision to demonstrate that its decision is in compliance with applicable legal requirements.	N/A	N	N/A	2-10(H) First Reading. Referred to Speaker's desk. 2-13 Referred to Environment and Land Use. 2-25 Public Hearing scheduled. 2/24/03 Doug Riggs: Let me know if you would like to testify, or have me testify; 2/25/03 8:30 am, House Environment & Land Use public hearing, Room HR E
39.	HB 2611	LU	Nonagricultural resources in exclusive farm use zones	Rep. Kruse	Requires counties to identify proposed nonagricultural land uses and resources in exclusive farm use zone that conflict with agricultural uses and mitigate effects of those nonagricultural uses and resources.	N/A	N	N/A	2-10(H) First Reading. Referred to Speaker's desk. 2-13 Referred to Environment and Land Use. 2-25 Public Hearing scheduled. 2/24/03 Doug Riggs: 2/25/03 8:30 am House Environment and Land Use public hearing, Room HR E

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 [PROPOSED] SENATE / HOUSE BILLS -- SORTED BY METRO & OTHER CATEGORIES
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#	Bill #	Category	Subject / Topic / Relating To	Sponsor of Bill	Title / Description	Note	Priority	Position	Current Status
40.	HB 2614	LU	Buildable land supply; creating new provisions; and amending ORS 197.296 and 197.299	Rep. Kruse	Changes planning period for buildable land supply inside urban growth boundary.	N/A	N	N/A	2-10(H) First Reading. Referred to Speaker's desk. 2-13 Referred to Environment and Land Use. 3-4 Public Hearing scheduled. 2/24/03 Doug Riggs: 3/04/03 8:30 am House Environment and Land Use public hearing, Room HR. Let me know if you would like to testify, or have me testify.
41.	HB 2617	LU	Buildable land supply with urban growth boundary; and declaring an emergency	Committee on General Government (at the request of Oregon Association of Realtors)	Requires local governments to adopt regionally coordinated five-year and 20-year forecasts of retail services, office employment and major sectors of industrial employment. Requires necessary adjustments to comprehensive or functional plan or land use regulations. Declares emergency, effective on passage.				2-11(H) First Reading. Referred to Speaker's desk. 2-18 Referred to Environment and Land Use.
42.	HB 2643	LU	Housing in urban growth area; amending ORS 197.307	Rep. Hansen; Rep. Kafoury and Carter (at the request of City of Portland)	Allows city with population greater than 400,000 to regulate appearance or aesthetics of needed housing through discretionary approval criteria if housing has residential density of 30 or more dwellings units per acre.				2-13(H) First Reading. Referred to Speaker's desk. 2-19 Referred to Environment and Land Use.
43.	HJR 17	LU	Joint Interim Task Force	Rep. G. Smith, Flores	Creates Joint Interim Land Use Planning Regionalization Task Force consisting of 15 members				

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#	Bill #	Category	Subject / Topic / Relating To	Sponsor of Bill	Title / Description	Note	Priority	Position	Current Status
44.	SB 082	LU	Use Of State-Owned Lands; Creating New Provisions; and amending ORS 274.040	Sen. Messerte, Rep. Verger	Requires Division of State Lands to grant easement or license over submersible lands to person with permit from Water Resources Director if proposed use in permit is for irrigation or domestic use.				1-14(S) Introduction and first reading. Referred to President's desk. 1-16 Referred to Water and Land Use
45.	SB 094	LU	Applications for action by city; amending ORS 227.178 and 227.179	Sen. Ferrioli	Adds criteria for determining when application to city for discretionary permits and zone changes is deemed complete for purposes of time limit for action by city.				1-21(S) Introduction and first reading. Referred to President's desk. 1-24 Referred to Water and Land Use.
46.	SB 239	LU	System development charges [SDCs]; creating new provisions; and amending ORS 223.299	Sen. Schrader	Adds schools and classrooms providing primary and secondary education to definition of capital improvement for which system development charges may be imposed. Allows system development charges collected as school improvement fee to be used to acquire land and construct school buildings and classrooms for development from which fee is collected. Allows exemption for affordable housing.				1-22(S) Introduction and first reading. Referred to President's desk. 1-28 Referred to Water and Land Use.
47.	SB 251	LU	Applicability Of Needed Housing Requirements Based On Population Of City; amending ORS 197.296	Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the req. of Governor Theodore R. Kulongoski for DLCD)	Applies provisions related to needed housing within urban growth boundary to cities outside metropolitan service district with population of fewer than 25,000.	N/A	N	N/A	2/18/03: A-Engrossed; ordered by the Senate 2/17/03 including Senate Amendments dated 2/17/03 2-19 Third reading. Carried by Ferrioli. Passed. Ayes, 29; Excused, 1--George. 2-20(H) First Reading. Referred to Speaker's desk.

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48.	SB 254	LU	School facility planning; amending ORS 195.110	Sen. Schrader	Removes provision providing that school capacity cannot be sole basis for approval or denial of residential development application.				1-22(S) Introduction and first reading. Referred to President's desk. 1-28 Referred to Water and Land Use.
49.	SB 257	LU	Expedited land divisions; amending ORS 197.360 and 197.380	Sen. Schrader	Limits requirements for expedited land divisions to qualified land divisions within metropolitan service districts.				1-22(S) Introduction and first reading. Referred to President's desk. 1-28 Referred to Water and Land Use.
50.	SB 293	LU	State waterways; creating new provisions; and amending ORS 274.404 and 274.406	Sen. Ferrioli	Establishes process for development of recreational management plans with goal of reducing or eliminating conflict between recreational users of waterways and riparian landowners. Directs Division of State Lands to gather information on conflicts between recreational users and riparian landowners. Directs Division of State Lands to establish local working group to develop draft plan if pattern of conflict exists. Specifies membership of working groups. Prohibits State Land Board from directing Division of State Lands to make determination of navigability if division is developing or implementing recreational management plan.				1-30(S) Introduction and first reading. Referred to President's desk. 2-3 Referred to Water and Land Use.
51.	SB 294	LU	Wetlands; amending ORS 196.810	Sen. Ferrioli	Modifies provisions relating to permit requirements for removal and fill activities conducted within essential indigenous anadromous salmonid habitat.				1-30(S) Introduction and first reading. Referred to President's desk. 2-3 Referred to Agriculture and Natural Resources.

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52.	SB 295	LU	Recreational use of waterways; creating new provisions; and amending ORS 105.672	Judiciary Committee	Specifies public right to recreational use of waterways. Establishes categories of waters. Delineates extent of right of use for each category. Allows State Land Board to adopt rules governing recreational use of waterways.				1-30(S) Introduction and first reading. Referred to President's desk. 2-3 Referred to Water and Land Use.
53.	SB 317	LU	Water rights; amending ORS 537.170 and 540.510	Sen. Beyer	Prohibits transfer of water rights for agricultural use to nonagricultural use. Requires Water Resources Commission or Water Resources Director to determine whether water is available for appropriation by determining whether water is available for demands 50 percent of time				2-3(S) Introduction and first reading. Referred to President's desk. 2-6 Referred to Water and Land Use.
54.	SB 378	LU	Recovery of fees paid for local appeal of land use decision; creating new provisions; and amending ORS 215.422, 215.431 and 227.180	Judiciary Committee	Requires local government to refund or reimburse appeal fee and transcript costs incurred by person who successfully appeals local land use decision.				2-11(S) Introduction and first reading. Referred to President's desk. 2-13 Referred to Water and Land Use, then Ways and Means. 2-17 Public Hearing held.
55.	SB 399	LU	Wetlands; creating new provisions; amending ORS 215.213 & 215.283	Sen. Messerle, Rep. Krieger, Sen. Beyer (at the request of Coos County)	Removes creation, restoration or enhancement of wetlands from outright permitted uses of land in exclusive farm use zone. Authorizes creation, restoration or enhancement of wetlands in exclusive farm use zone subject to adoption of exception to statewide planning goal preserving agricultural lands. Authorizes compensatory wetlands mitigation as outright permitted use in exclusive farm use zone.				2-12(S) Introduction and first reading. Referred to President's desk. 2-17 Referred to Water and Land Use
56.	HB 2001	P	Crediting Of Accounts Of Certain Members Of PERS; Creating New Provisions; and amending ORS	PERS	Prohibits Public Employees Retirement Board from crediting accounts of Tier One members with earnings in excess of assumed interest rate.	N/A	N	N/A	1/26/03: Do pass with amendments and be printed A-Engrossed 1/24/03. 1-28 Second reading.

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			238.255						<p>1-29 Third Reading. Carried by Knopp. Passed. Ayes, 60.</p> <p>1-30(S) First reading. Referred to President's desk.</p> <p>2-3 Referred to General Government.</p> <p>2-5 Public Hearing and Work Session held. Reported Out of Committee.</p> <p>2-10 Recommendation: Do Pass the A-Eng bill. Second Reading.</p> <p>2-11 Third reading. Carried by Corcoran, Minnis. Passed. Ayes, 28; Excused, 1-- Atkinson; Attending Legislative Business, 1-- George.</p> <p>2-12(H) Speaker signed.</p> <p>2-12(S) President Signed.</p> <p>2-18(H) Governor signed.</p>
57.	HB 2008	P	PERS plan; creating new provisions; amending ORS 1.290, 169.810, 192.502, 196.165, 238.035, et al., 243.105, et al., 268.240, 338.135, 341.290, 353.117, 353.250, 377.836, 396.330, 576.306, 656.725 and 777.775; appropriating money; and declaring an emergency	PERS	Establishes Public Employee Successor Retirement Plan for persons hired on or after January 1, 2004, who have not established membership in Public Employees Retirement System before January 1, 2004. Provides that successor plan be defined benefit plan. Declares emergency, effective on passage.	N/A	N	N/A	<p>1-31(H) First Reading. Referred to Speaker's desk.</p> <p>Referred to Public Employees Retirement System.</p> <p>2-13 Public Hearing held.</p> <p>2-18 Public Hearing held.</p> <p>2-20 Public Hearing held.</p>

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									2/24/03 Doug Riggs: 2/25/03, 3:00 pm, House Public Employees Retirement System public hearing, Room HR E
58.	HB 2020	P	PERS plan; creating new provisions; amending ORS 1.290, 192.502, 196.165, 238.035, et al., 243.105, et al., 268.240, 338.135, 341.290, 353.117, 353.250, 377.836, 396.330, 576.306, 656.725 and 777.775; appropriating money; and declaring an emergency	PERS	Establishes Public Employee Successor Retirement Plan for persons hired on or after January 1, 2004, who have not established membership in Public Employees Retirement System before January 1, 2004. Provides that successor plan be defined contribution plan. Declares emergency, effective on passage.	N/A	N	N/A	1-31(H) First Reading. Referred to Speaker's desk. Referred to Public Employees Retirement System. 2-13 Public Hearing held. 2-18 Public Hearing held. 2-20 Public Hearing held. 2/24/03 Doug Riggs: 2/25/03 3:00 pm House Public Employees Retirement System, Room HR E
59.	HB 2130	P	Health Insurance For Retirees Of Local Government; Creating New Provisions; amending ORS 243.303	Rep. Backlund	Eliminates requirement that retired local government employees be charged health insurance premium according to certain categories				1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Business, Labor and Consumer Affairs.
60.	HB 2375	P	PERS and Declaring An Emergency	Rep. Kruse	Provides that person who establishes membership in Public Employees Retirement System on or after effective date of Act has no contract rights in system. Declares emergency, effective on passage.				1-20(H) First Reading. Referred to Speaker's desk. 1-27 Referred to Public Employees Retirement System.
61.	HB 2400	P	Benefits Payable To Members Of PERS	PERS Committee	Allows active or inactive member of Public Employees Retirement System to transfer amounts credited to member in Public Employees Retirement Fund to any new defined contribution plan established by Legislative				1-16(H) First Reading. Referred to Speaker's desk. Referred to Public Employee Retirement System.

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					Assembly after January 1, 2003. Provides that upon transfer by member, Public Employees Retirement Board transfers to credit of member under new plan additional amount equal to ___ percent of account, to be paid from employer contributions. Specifies that member making transfer is entitled only to benefits provided under new defined contribution plan.				
62.	HB 2421	P	PERS	Rep. Backlund; Brown, Doyle, T Smith, Williams, Zauner	Allows public employer participating in Public Employees Retirement System to employ retired member of system for period not to exceed five years without limitation on number of hours worked by retired member in calendar year. Requires that retired member contribute six percent of salary for deposit to employer reserves. Prohibits employer contributions for retired members so employed. Limits number of retired members that may be employed to 10 percent of all employees of public employer.				1-22(H) First Reading. Referred to Speaker's desk. 1-29 Referred to Public Employees Retirement System.
63.	HB 2633	P	PERS; relating to crediting of accounts of certain members of PERS; and declaring an emergency	Rep. Kropf	Prohibits Public Employees Retirement Board from crediting account of new members with earnings in excess of four percent. Declares emergency, effective on passage.				2-12(H) First Reading. Referred to Speaker's desk. 2-17 Referred to Public Employees Retirement System.

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64.	HB 2635	P	PERS	Rep. Kropf	Allows active member of Public Employees Retirement System to withdraw all amounts credited to member in Public Employees Retirement Fund. Allows withdrawal only if amounts withdrawn are paid directly into qualified retirement plan that is able to accept amounts as pretax rollover. Provides that person making withdrawal ceases to be member of system, forfeits all membership rights and may not thereafter become member of system. Authorizes public employer that employs withdrawing member to enter into agreement that provides for payment of contributions by public employer to alternate retirement plan.				2-12(H) First Reading. Referred to Speaker's desk. 2-17 Referred to Public Employees Retirement System.
65.	SB 258	P	PERS	Sen. Ferrioli and Knopp	Allows member of Public Employees Retirement System who is vested but inactive to receive 150 percent of member account balance if member withdraws account on or after _____, _____ and before _____, _____.				1-22(S) Introduction and first reading. Referred to President's desk. 1-28 Referred to General Government. 2-3 Public Hearing held.
66.	HB 2158	SW	State Government Recycling Programs; amending ORS 182.375, 279.573, 279.621, 279.630 and 279.635; and Repealing ORS 279.640 and 279.645	Governor Kulongoski for Oregon Dept. of Administrative Services	Revises intent of Legislative Assembly regarding state recycling programs. Authorizes Oregon Department of Administrative Services to contract as necessary for recycling of products collected for recycling by state government. Deletes requirement for separate recycling plan for Legislative Assembly. Deletes provisions concerning use of revenues or savings realized from recycling programs.	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk. 1-15 Referred to Environment and Land Use with subsequent referral to Ways and Means 2-18 Public Hearing held. 2-20 Work Session held.
67.	HB 2336	SW	Hazardous Substances; amending ORS 453.402, 453.414, 465.381, 466.357,	Rep. Butler	Repeals Toxics Use Reduction and Hazardous Waste Reduction Act.	N/A	1	N/A	1-15(H) First Reading. Referred to Speaker's desk. 1-24 Referred to Environment and Land Use.

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			468.220 and 468.501; and Repealing ORS 465.003, et al.						
68.	HB 2533	SW	Hazardous substances; creating new provisions; and amending ORS 453.402	Rep. BUTLER (at the request of Northwest Propane Gas Association, Pacific Northwest Paint Council)	Exempts persons not required to file toxics use reduction and hazardous waste reduction plan from payment of fee for possession of hazardous substances.				1-31(H) First Reading. Referred to Speaker's desk. 2-5 Referred to Environment and Land Use. 2-13 Public Hearing held. 2-18 Public Hearing held.
69.	SB 095	SW	Infectious Waste Disposal; amending ORS 459.386	Sen. Beyer	Exempts reusable syringes used in animal husbandry from infectious waste disposal requirements.				1-21(S) Introduction and first reading. Referred to President's desk. 1-24 Referred to Agriculture and Natural Resources. 2-3 Public Hearing held.
70.	SB 196	SW	Hazardous Waste; Creating New Provisions; amending ORS 466.068, 466.165 and 466.990; Appropriating Money	Gov. Kulongoski for Dept. of Environmental Quality	Establishes Hazardous Waste Technical Assistance Fund. Specifies that certain penalties collected by Department of Environmental Quality be deposited into fund. Directs fund to be used for technical assistance and information program. Requires generators of hazardous waste to pay one-time processing fee for obtaining United States Environmental Protection Agency identification number. Directs Department of Environmental Quality to enter into negotiations with United States Environmental Protection Agency for purpose of gaining acceptance of technical assistance services as part of authorized program. Sets annual fee for hazardous waste generators based on metric tons of waste generated. Declares emergency, effective on passage.	N/A	N	N/A	1-15(S) Introduction and first reading. Referred to President's desk. 1-20 Referred to Agriculture and Natural Resources, then Ways and Means.

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71.	HB 2041	T	Transportation; amending ORS 803.420; and Providing For Revenue Raising That Requires Approval By A Three-Fifths Majority	House Interim Committee on Transportation	Increases registration fees for certain vehicles.				1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Transportation with subsequent referral to Revenue
72.	HB 2139	T	Studded Tire Permits; and Prescribing An Effective Date	Road User Fee Task Force	Requires permit for use of studded tires. Establishes fees for permit based on county in which vehicle is registered. Punishes use of studded tires without permit by maximum fine of \$75. Dedicates revenue from permit fees to highway preservation. Takes effect on 91st day following adjournment sine die.	N/A	N	N/A	1-13(H) First Reading. Referred to Speaker's desk. 1-14 Referred to Transportation with subsequent referral to Revenue
73.	HB 2213	T	Highway Bonds; Creating New Provisions; amending ORS 286.051, 286.061, 366.542, 367.010, et al.; Repealing ORS 367.226, et al.; Appropriating Money; and Declaring An Emergency	Governor Kulongoski for Dept. of Transportation	Authorizes State Treasurer to issue grant anticipation revenue bonds backed by anticipated annual apportionment of federal transportation moneys. Authorizes use of bond proceeds and federal transportation moneys. Changes or repeals provisions related to issuing and selling bonds for building and maintaining highways. Declares emergency, effective on passage.				1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Transportation with subsequent referral to Revenue 2-5 Public Hearing and Work Session held. 2-7 Recommendation: Do pass and be referred to Revenue by prior reference. Referred to Revenue by prior reference.

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74.	HB 2218	T	Flat Fees [vs. weight-mile tax; transportation]; amending ORS 319.690, 366.507, et al., 376.390, 825.020, et al. and Repealing ORS 825.480 and 825.482	Governor Kulongoski for Dept. of Transportation	Repeals option for certain persons to pay flat fees instead of weight-mile tax.	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Transportation.
75.	HB 2220	T	Transportation Facility Planning By Department Of Transportation; Creating New Provisions; and amending ORS 197.015 and 197.825	Governor Kulongoski for Dept. of Transportation	Excepts certain transportation facility planning by Department of Transportation from definition of land use decision.	N/A	N	N/A	1-14(H) First Reading. Referred to Speaker's desk. 1-20 Referred to Transportation.
76.	HB 2367	T	Highway Funding; Creating New Provisions; amending ORS 319.020, 319.530, 366.524, 818.225, 825.476 and 825.480; and Providing For Revenue Raising That Requires Approval By A Three-Fifths Majority	AAA of Oregon, Associated Oregon Industries, Oregon Concrete and Aggregate Producers Association	Increases certain vehicle related taxes. Dedicates part of proceeds to payment of highway user bonds for bridge and highway modernization work and rest of proceeds to be split among cities, counties and state.	N/A	N	N/A	1-17(H) First Reading. Referred to Speaker's desk. 1-24 Referred to Transportation with subsequent referral to Revenue
77.	HB 2464	T	Fees for vehicle title; creating new provisions; and amending ORS 803.090	Rep. Hansen	Imposes additional fee for issuance of first Oregon title for certain vehicles. Requires moneys to be deposited in State Highway Fund				1-28(H) First Reading. Referred to Speaker's desk. 1-31 Referred to Transportation with subsequent referral to Revenue

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78.	SB 083	T	Fees For Pilot Programs Of Department Of Transportation; amending Section 3, Chapter 862, Oregon Laws 2001; & Prescribing An Effective Date	Sen.-Elect Starr for Road User Fee Task Force	Authorizes Department of Transportation to structure fees for certain pilot programs to take account of highway congestion. Takes effect on 91st day following adjournment sine die.	N/A	N	N/A	<p>2/19/03: A-Engrossed ordered by Senate Including Senate amendments.</p> <p>2-19 Recommendation: Do pass with amendments and subsequent referral to Revenue be rescinded. Subsequent referral rescinded by order of the President.(Printed A-Eng.)</p> <p>2-20 Second Reading.</p> <p>2-21 Carried over to 02-24-2003 by unanimous consent.</p>
79.	SB 188	T	Fees For Vehicle Title Transactions; amending ORS 803.090	Gov. Kulongoski for Dept. of Transportation	Changes title fees for certain vehicles.	N/A	N	N/A	<p>2-13 Public Hearing and Work Session held. Reported Out of Committee.</p> <p>2-19 Recommendation: Do pass. Second Reading.</p> <p>2-20 Third reading. Carried by Metsger. Passed. Ayes, 26; Excused, 2-- Burdick, Ringo; Attending Legislative Business, 2-- Morse, Starr B..</p> <p>2-21(H) First Reading. Referred to Speaker's desk.</p>

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Summary of Bills by Category:

G	General Government	24
Inf	Infrastructure	1
LU	Land Use	26
M	Metro	4
P	PERS	10
SW	Solid Waste	5
T	Transportation	9
	Total	79

Summary Of Bills of Interest for The Week of 2/19-2/24/2003; see separate document attached:

G	General Government	12
Inf	Infrastructure	0
LU	Land Use	8
M	Metro	1
P	PERS	2
SW	Solid Waste	0
T	Transportation	4
	Total	27

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Doug Riggs Status:

2/21/03 Doug Riggs:

Re: Starr Caucus on Growth

FYI:

ECONOMIC GROWTH PROPOSALS

The Bipartisan Growth Caucus, organized by Senator Starr, Senator Metsger, Representative Hunt, and Representative Patti Smith, will be meeting on a regular basis to discuss possible actions to increase Oregon's economic growth. on an ongoing basis, we'll feature some of the proposals brought to them for consideration.

Oregon Council for Knowledge and Economic Development (OCKED)

Research and Technology Transfer Priority Recommendations:

GOALS AND OBJECTIVES

Dramatically increase high quality research and development efforts that will create new products, services and businesses leading to high paying jobs and sustained economic growth for Oregon:

- o Increase the capacity for high quality research and development;
- o Facilitate the translation of research into commercial applications;
- o Increase the value and economic benefit of research and technology transfer.

DESIRED OUTCOMES

By 2010, Oregon will have established at least three fully funded and operational Signature Research Centers that will significantly increase our research capacity and competitiveness while directly contributing to the economic growth of Oregon industries. In doing so, Oregon will:

- o Double federal, state, and industry research and development dollars;
- o Double the number of Small Business Innovation Research (SBIR) and Small Business Technology Transfer Research (STTR) awards;

- o Double the number of university-based spin-offs; and
- o Double license income per \$100M of sponsored research.

2/24/03 Doug Riggs:

2/24/03 8:00 AM Senate Transportation and Economic Development Industrial Lands Working Group update, Bob Rindy, DLCD, Jon Chandler, OBIA

Metro Team:

Here is our analysis of the budget cutting efforts in Salem:

Doug

State Commissions, the Oregon Historical Society, the Community Development Office, staff for various agencies, the Film & Video office, Oregon University System's offices, DEQ technical assistance, Department of Corrections management, Oregon Youth Authority, Department of Justice are just a sampling of the programs up for cuts today.

Directly after floor session this morning, all legislators retreated to their Caucus meeting rooms to review and debate the cuts lists. Word is beginning to trickle out regarding those debates; first reactions were for legislators to fight for programs they see as necessary. Those conversations were soon reduced to token protests. Many of the programs on the chopping block were acknowledged to be worthwhile, productive state expenditures. However, the fact remains that there is no money.

The following is a list of criteria legislators are using to evaluate each potential reduction:

1. Are these reduction items absolutely necessary for the health, safety and welfare of the State?
2. Do they help us avoid further critical reductions in core programs of education, human services, and public safety?
3. Are these reductions better than cutting K-12, reducing DHS services that might lead to more deaths in Oregon, and releasing more prisoners at the State and local level?

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4. Try to avoid more reductions that particularly impact low income, rural and minority Oregonians.
5. Things we could do without for 2 years.
6. Look at these reductions with an eye to them rolling up in the 03-05 biennium so we tie our 01-03 work into our 03-05 work where possible. (This means any program cut now may very well remain cut, or even eliminated for the 03-05 budget.)
7. Try to achieve at least \$50 million in reductions. (Either that or we securitize even more than has already been discussed.) Where do they go from here? The last few days of this week through the second week in March are now called "Special Session Six."

A news conference with Senate President Peter Courtney (D), Senate President Pro-Temp Lenn Hannon (R), Ways and Means Co-Chair Senator Kurt Schrader (D) and Ways & Means Human Services Sub-Committee Chair Senator Jackie Winters (R) occurred a short time ago. Senator Schrader vehemently stated, "the people have to understand we have no money. We have no money." A representative of the media asked what Senator Schrader would say to Oregonians wanting government to "tighten the belt." He responded by explaining the "tightening" the legislature has already done: 1.1 billion dollars have been cut, approximately 900 million dollars of

one time revenue sources have been utilized. Senator Schrader also clearly stated the reality of the proposed cuts rolling over into the next biennium. Programs cut now are not likely to return any time soon.

Senator Courtney gave an overview of the process from here. Below is the schedule for the next week:

February 22: Bill drafting for the disappropriations legislation begins.
February 24/25: Public hearings in both Ways & Means Committee and Joint Revenue Committees from 3:00 PM to 5:00 PM and 6:30 PM to 9:00 PM.

Amendments drafted based on hearings.

February 26/27: Necessary bills through Ways and Means and House and Senate Revenue Committees.

February 28: Revenue Forecast presented to Revenue Committees and the Full Ways & Means Committee.

We will continue to keep you updated on progress next week.

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#	Bill #	Category	Subject / Topic / Relating To	Sponsor of Bill	Title / Description	Date of Introduction
1.	HB 2667	G	Regulation of taxi services by metropolitan service district; creating new provisions; and amending ORS 268.310	General Government Committee (at the request of Alexis Casyan)	Authorizes metropolitan service districts to regulate taxi services. Requires district containing more than 500,000 residents to regulate taxi services beginning effective date of Act.	2-18(H) First Reading. Referred to Speaker's desk. 2-21 Referred to General Government.
2.	HB 2673	LU	Conflict of interest in certain land use proceedings; creating new provisions; and amending ORS 197.835	Reps. Hass, Williams, Backlund, Brown, Knopp, Patridge, Shetterly, P. Smith, Westlund, Senators Corcoran, B. Starr	Requires elected or appointed local government official to disclose actual or apparent conflict of interest in local land use decision. Makes failure to disclose actual or apparent conflict of interest grounds for remand of decision on appeal to Land Use Board of Appeals or appellate courts. Requires member of Land Conservation and Development Commission to disclose actual or apparent conflict of interest related to matters before commission. Makes failure to disclose actual or apparent conflict of interest grounds for remand of land use decision on appeal to appellate courts.	2-18(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Environment and Land Use with subsequent referral to Ways and Means
3.	HB 2691	LU	Industrial zoning of mill sites; and declaring an emergency	Rep. P. Smith, Sen. Metsger	Allows city or county to rezone abandoned or diminished wood mill sites for industrial use without taking exception to land use planning goals regarding agricultural lands and forestlands, public facilities and urbanization. Prohibits Land Conservation and Development Commission from adopting restriction on size of structures in area rezoned for industrial use. Declares emergency, effective on passage.	2-19(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Trade and Economic Development.
4.	HB 2698	P	Taxation; creating new provisions; and amending ORS 316.680	Rep. Mabrey, Kruse, P. Smith	Creates subtraction from taxable income for local government pension income from certain retirement plans not within Public Employees Retirement System. Limits subtraction to income attributable to creditable service that occurred prior to October 1, 1991. Applies to tax years beginning on or after January 1, 2004.	2-19(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Revenue.

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5.	HJR 20	G	Initiative Measures	General Government Committee	Proposes amendment to Oregon Constitution relating to initiative measures. Specifies that state initiative measure that requires expenditure of public moneys and that does not contain method for providing amount necessary to meet provisions of measure does not become operative until Legislative Assembly appropriates amount necessary to meet all or part of provisions of initiative measure. Refers proposed amendment to people for their approval or rejection at next regular general election.	2-18(H) First Reading. Referred to Speaker's desk. 2-21 Referred to Rules and Public Affairs.
6.	SB 467	G	Economic development; creating new provisions; and amending ORS 197.638 and 285A.227	Sen. Metsger, Rep. P. Smith	Directs Economic and Community Development Department to develop guidelines for use by cities and counties when conducting analysis of need for and supply of industrial and commercial land. Authorizes department to make technical assistance grants to cities and counties to conduct analysis. Directs department to establish site certification process for land available for industrial or commercial development. Directs Department of Land Conservation and Development to identify amendments to comprehensive plans and land use regulations that affect availability of land zoned for industrial or commercial use and to take action necessary to preserve availability of strategic sites.	2-19(S) Introduction and first reading. Referred to President's desk.
7.	SB 469	T	Transportation finance; creating new provisions; amending ORS 267.260 and 267.385; and prescribing an effective date [January 1, 2004]	Transportation and Economic Committee	Increases maximum payroll tax rate that mass transit district may impose in payroll tax reporting periods beginning on or after January 1, 2004. Requires district to phase in increases over 10 years. Limits amount of each incremental rate increase. Takes effect on 91st day following adjournment sine die.	2-19(S) Introduction and first reading. Referred to President's desk.
8.	SB 472	T	State highways; amending ORS 366.215	Transportation and Economic Development Committee (at the request of Oregon Trucking Association)	Prohibits Oregon Transportation Commission from reducing capacity of state highway except when safety requires reduction.	2-19(S) Introduction and first reading. Referred to President's desk.

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9.	SB 473	T	Oregon Transportation Commission	Transportation and Economic Development Committee (at the request of Oregon Trucking Association)	Increases membership on Oregon Transportation Commission from five to seven> Specifies geographic criteria for membership.	2-19(S) Introduction and first reading. Referred to President's desk.
10.	SB 482	G	Energy tax credits; creating new provisions; and amending ORS 469.185, 469.205 and 469.215	Sen. Ringo	Permits business energy tax credit to be claimed by employer when employer enters into contract with car sharing program operator for provision of car sharing automobiles to employees during working hours. Applies to contracts entered into and tax years beginning on or after January 1, 2004.	2-19(S) Introduction and first reading. Referred to President's desk.
11.	SB 483	G	Construction of public improvement by public agency; amending ORS 279.023	Sen. Nelson (at the request of Associated General Contractors Oregon-Columbia Chapter)	Prohibits public agency from constructing public improvement with its own equipment and personnel if estimated cost exceeds \$125,000.	2-19(S) Introduction and first reading. Referred to President's desk.
12.	SB 493	LU	School impact fees for school districts	Sen. Ringo, Schrader, Rep> Greenlick	Authorizes county to impose school impact fee on new residential development to pay for new school construction or capital improvements. Provides certain limitations.	2-19(S) Introduction and first reading. Referred to President's desk.
13.	SB 494	G	Union organizing	Sen. Corcoran, Rep. March	Prohibits certain recipients of state funds from using state funds to assist, promote or deter union organizing. Imposes civil penalties for violations. Allows Attorney General or taxpayer to bring civil action for violations.	2-19(S) Introduction and first reading. Referred to President's desk.
14.	SB 495	G	Arbitration in public employee collective bargaining; amending ORS 243.746	Sen. Nelson, Reps. Jenson, G. Smith (at the request of City of Pendleton)	Revises factors considered by arbitrator in public employee collective bargaining for purposes of selecting last best offer package.	2-19(S) Introduction and first reading. Referred to President's desk.

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15.	SB 496	G	Unlawful employment practices	Sen. Corcoran	Prohibits subjecting employee to abusive work environment or retaliation. Establishes employer liability and employer defenses. Creates private right of action and provides remedies.	2-19(S) Introduction and first reading. Referred to President's desk.
16.	SB 511	LU	System development charges; amending ORS 223.299	Sen. C. Starr	Adds additional public services to list of capital improvements for which governmental unit may assess and collect system development charges.	2-19(S) Introduction and first reading. Referred to President's desk.
17.	SB 516	LU	Land use planning requirements; amending ORS 197.047, 215.503< 227.186 and 268.393	Sen. Minnis (at the request of Oregon Association of Realtors and 1000 Friends of Oregon	Modifies notice requirements relating to changes in land use planning requirements.	2-19(S) Introduction and first reading. Referred to President's desk.
18.	SB 538	LU	Land use planning; creating new provisions; amending ORS 14.165, 30.947, 34.020, 490.090, 92.042 et al.,	Sen. George (at the request of Glen Stonebrink)	Repeals statewide land use planning laws. Abolishes Land Conservation and Development Commission. Abolishes Department of Land Conservation and Development. Abolishes Land Use Board of Appeals. Eliminates land use planning authority of metropolitan service districts. Requires cities and counties to adopt local comprehensive land use plans.	2-20(S) Introduction and first reading. Referred to President's desk.
19.	SB 546	G	Preference for Oregon bidders in public contracting; amending ORS 279.029	Sen. Metsger, Corcoran	Requires public contracting agency to subtract five-percent bid evaluation preference from bid of resident bidder in determining lowest responsible bidder.	2-20(S) Introduction and first reading. Referred to President's desk.

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20.	SB 547	G	Elected officials; creating new provisions; amending ORS 238.015 & 238.092; and repealing OrS 238.068 & 243.163	Sen. Winters, Atkinson, Beyer, Clamo, Fisher, George, Harper, Messerle, Minnis, Morse, Nelson	Prohibits elected officials except sheriffs and certain judges from becoming members of Public Employees Retirement System . Allows elected officials currently serving in office to remain in system as long as official continues uninterrupted service in office.	2-20(S) Introduction and first reading. Referred to President's desk.
21.	SB 570	P	Public employee retirement; creating new provisions; and amending ORS 238.300	Sen. Corcoran	Provides that for purposes of full formula calculation of Public Employees Retirement System retirement allowance, teachers and certain other employees in education-related employment receive full one-half year of membership for periods during which school or other institution is in session, without regard to when session commences or ends.	2-21(S) Introduction and first reading. Referred to President's desk.
22.	SB 585	T	Local fees for transportation facilities; and declaring an emergency	Transportation and Economic Development Committee	Authorizes city or county to adopt transportation facilities fee for repairing and maintaining transportation facilities. Requires fee to be based on actual use of affected facility. Requires city or county to adopt and periodically update schedule of repair and maintenance projects. Prohibits city or county from generating revenue in excess of scheduled expenditures. Prohibits assessing fee to owner of property as incident of ownership. Declares emergency, effective on passage.	2-21(S) Introduction and first reading. Referred to President's desk.
23.	SB 591	LU	Wetlands; creating new provisions; and amending ORS 215.213, et al., 308A.062, et al.	Sen. Messerle, Rep. Krieger (at the request of Coos County)	Changes creation, restoration or enhancement of wetlands from outright permitted uses of land in exclusive farm use zone to conditional uses. Authorizes compensatory wetlands mitigation as outright permitted use in exclusive farm use zone. Disqualifies land from farm use or open space use special assessment if wetlands are created, restored or enhanced on land on or after certain date. Applies to property tax years beginning on or after July 1, 2004.	2-21(S) Introduction and first reading. Referred to President's desk.

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24.	SB 594	LU	Land conservation programs; and declaring an emergency	Committee on Agriculture and Natural Resources	Creates Task Force on Land Conservation Programs. Specifies membership. Directs task force to study and make recommendations on framework and standards that state agencies may use to implement voluntary conservation easements and land acquisition programs. Sunsets January 2, 2005. Declares emergency, effective on passage.	2-21(S) Introduction and first reading. Referred to President's desk.
25.	SB 803	M	Metro's Self-Insurance Bill	Sen. Kate Brown, Starr	Metro's Self-Insurance Bill	2/24/2003 Doug Riggs See also HB 2172 Self-Insurance Programs Managed by PERS Board on Metro Review Log
26.	SJR 12	G	Initiative Amendments	Sen. Metsger	Proposes amendment to Oregon Constitution to limit initiative amendments to Constitution to those that relate to structure and organization of government, limitation of government powers or election of government officials. Refers proposed amendment to people for their approval or rejection at next regular general election.	2-18(S) Introduction and first reading. Referred to President's desk. 2-21 Referred to Rules.
27.	SJR 15	G		Sen. Devlin, Metsger	Proposes amendment to Oregon Constitution specifying that Legislative Assembly, or people through initiative process, may enact laws limiting certain contributions made to candidates for public office. Refers proposed amendment to people for their approval or rejection at next regular general election.	2-19(S) Introduction and first reading. Referred to President's desk.

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Summary By Category:

G	General Government	12
Inf	Infrastructure	0
LU	Land Use	8
M	Metro	1
P	PERS	2
SW	Solid Waste	0
T	Transportation	4
	Total	27

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February 20, 2003

Representative Alan Brown
District 10
900 Court St. NE, H-481
Salem, OR 97301

Representative E. Terry Beyer
District 12
900 Court St. NE, H-374
Salem, OR 97301

Senator Rick Metsger
District 26
900 Court St. NE, S-307
Salem, OR 97301

Senator Bruce Starr
District 15
900 Court St. NE, S-301
Salem, OR 97301
Rep. John Mabrey
District 59
900 Court St. NE H-285
Salem, OR 97301

Dear Chair Brown, Vice Chair Beyer, Vice Chair Mabrey, Chair Metsger, and Vice Chair Starr:

We are writing to share with you our goals for the transportation package, which is currently under discussion between each of you and the Governor's Office. We want to thank each of you for the work you have done so far to move a transportation bill forward in the 2003 Session.

The lack of adequate revenue for transportation projects – not only in the areas and jurisdictions our organizations represent, but across Oregon – is creating a particularly acute infrastructure and economic crisis in the Tri-County Metropolitan Area. While funding for transportation projects will immediately create new jobs and retain existing jobs, it also provides for the maintenance, operation and improvement of the context in which our economy functions.

The consequences of inadequate funding are many. Our current inability to keep pace with the maintenance, operation and capital improvement of existing city streets and county roads is driving up future costs and threatening our economic recovery. The lack of adequate capital to repair bridges on the state, county and cities' systems in the Portland metropolitan area will increase costs for all parts of the commercial sector – truckers, shippers, retailers, importers, exporters and manufacturers – all over Oregon. A lack of adequate funding for transit will increase congestion on the road system and put regional manufacturers at risk of additional clean air restrictions.

Therefore, we urge the Legislature to fund a balanced approach to transportation that includes:

- New revenues to the state, cities and counties for operations, maintenance, and capital;

- New revenue to address bridge repair on high priority routes;
- Support for mechanisms which allow TriMet to meet its service obligations as demands on its system grow.

We recognize and appreciate the work that has gone into setting the stage for the next phase of investments in Oregon's transportation infrastructure. While the current focus on budget and structural reforms is critical for Oregon's future economic health, we also believe that transportation investment is just as vital, and may provide precisely the economic stimulus the state needs to create quality jobs and position us for future prosperity.

Thank you for your efforts and for your attention to our comments.

Sincerely,

Portland Business Alliance
Clackamas County
Multnomah County
Washington County
City Of Portland
Metro
Tri-Met
Port of Portland

[This version is for legislative committee leaders. We will also send one to the Governor with copies to the legislative leaders.]

CC: Governor Kulongoski
Bcc: Pat Eagan
Tri-county area legislators

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

DATE: February 21, 2003
TO: Andy Cotugno
FROM: Ken Helm *KH*
RE: *Fish and Wildlife Program - Local Government Compliance Options*

Introduction

You have asked for an explanation of the interaction between Metro and local governments during Regional Framework Plan ("RFP") and Urban Growth Management Functional Plan ("UGMFP") compliance related to the Fish and Wildlife Habitat Conservation program. This memorandum covers the legal steps that occur during compliance and discusses three typical compliance scenarios from our experience with the UGMFP Title 3 Water Quality compliance. One important point that this analysis shows is that local governments, property owners and stakeholders have multiple opportunities to shape Metro's fish and wildlife program, and how it is implemented by the cities and counties for the region.

Functional Plan Compliance

Metro implementation of a fish and wildlife program will require amendments to the UGMFP and the RFP. State law requires that Metro's program be submitted to the Land Conservation and Development Commission for acknowledgement review. After acknowledgement, local governments will have two years in which to make conforming amendments to their comprehensive plans. ORS 268.390(5). The steps and timeline for making those amendments is discussed in detail in the attached May 8, 2000, memo to Dan Cooper.

The Metro Code currently provides two compliance standards, and there is considerable variation in how local governments have approached compliance. The first method is direct compliance where new local comprehensive plan language is fashioned to correspond directly to regional requirements set forth in the RFP. Jurisdictions which adopted all or portions of Metro's Model Ordinance for Title 3 exercised the direct compliance route.

The other compliance standard is "substantial compliance" which the Metro Code defines as: "city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature." This method allows local governments flexibility in how and to what extent they amend existing comprehensive plans. Often jurisdictions will use this approach by demonstrating how their existing plan provisions and code will satisfy RFP requirements. Many jurisdictions will use a combination of direct and substantial compliance.

The Metro Code requires that local government compliance packages be reviewed by staff and come before the Council for a compliance order. Metro Code 3.07.880.

Compliance With An Acknowledged Metro Fish and Wildlife Program

All the local governments in Metro's jurisdiction all have acknowledged comprehensive plans that include a Goal 5 component. However, as the local plan analysis that the Council accepted in Resolution No. 02-3218A shows, those Goal 5 programs vary in completeness, data and protection. That will likely affect the extent to which their existing plans and codes must be changed to meet future regional requirements. Metro staff and the Council have also discussed creating compliance options within the fish and wildlife program such as a safe harbor and riparian district plan.

Specific to the fish and wildlife program, the UGMFP Title 3, Section 5(c)(3) states that local governments which have completed a Goal 5 inventory after January 1, 1993 will not be required to comply with regional fish and wildlife requirements until their next periodic review. This language was part of the original UGMFP adopted by the Council in 1996, and was included to recognize that some jurisdictions have recently completed a state mandated review of their Goal 5 programs. Thus, if a local government so chooses, UGMFP compliance will be delayed for a number of years depending upon when their next periodic review is scheduled. All of the factors above will affect how local governments comply with the fish and wildlife program.

Older Programs

Some existing Goal 5 components of local comprehensive plans are fairly old and perhaps have not been updated since they were originally acknowledged in the mid 1980's. Many of these components are incomplete, *i.e.*, missing an ESEE analysis or program because LCDC allowed acknowledgement anyway for various reasons. In these cases, local governments will need to significantly amend their comprehensive plans and codes to comply with Metro's fish and wildlife program.

Programs That Exceed Metro Requirements

For jurisdictions which have programs that regulate Goal 5 resources more rigorously than the Metro fish and wildlife program, compliance is likely to be quite simple. For example, the City

of Wilsonville's new program, recently acknowledged by LCDC, may exceed Metro's and, therefore, the existing program could be submitted with minimal changes or additions.

Programs That Vary From Metro Requirements

Some jurisdictions may have newer programs or elements that approach Goal 5 protection differently than Metro's fish and wildlife program. In those cases, some of their existing plan and code provisions will need amendment while others remain unchanged. Other differences or variations could be explained sufficiently to meet the "substantial compliance" standard.

cc: Paul Ketcham
Mark Turpel

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

DATE: May 8, 2000
TO: Dan Cooper
General Counsel
FROM: Ken Helm *KH*
Assistant Counsel
RE: Compliance Timeline - Fish and Wildlife Habitat Conservation Program

Introduction

You have asked for an analysis of the Land Conservation and Development Commission's ("LCDC") administrative rules and statutory requirements that control the timeline for implementation of Metro's Fish and Wildlife Habitat Conservation program after it is adopted by the Metro Council. This memorandum explains LCDC's procedural requirements for "acknowledgment of compliance" of local plans with the Statewide Planning Goals. The memorandum also calculates an estimate of the minimum time between Metro adoption of the Fish and Wildlife Habitat Conservation program and required compliance with the program by local governments.

Functional Plan Addressing Goal 5 Must Be Acknowledged

The Goal 5 rule requires Metro functional plans addressing Goal 5 resources to be acknowledged.¹ "Upon acknowledgment of Metro's regional resources functional plan, local governments within Metro's jurisdiction shall apply the requirements of the functional plan for regional resources" rather than the requirements of the Goal 5 rule. OAR 660-023-0080(3). This sets any functional plan Metro adopts related to Goal 5 apart from other functional plans because under state law functional plans are not subject to acknowledgment.

¹ Functional plans are not the only way for Metro to protect Goal 5 "regional resources." Metro has the option of adopting a map of significant Goal 5 resources for the region for which the local governments must complete the Goal 5 process by their next periodic review. OAR 660-023-0080(2). This approach does not require LCDC acknowledgment of Metro's maps.

As a component of Metro's Regional Framework Plan, Metro's Fish and Wildlife Habitat Conservation program is subject to LCDC acknowledgment under Section 5(2)(c) of the Metro Charter.² State statute makes the RFP subject to acknowledgment compliance "in the same manner" as local comprehensive plans. ORS 197.274(1)(a). Therefore, either as a stand alone functional plan or as a component of the RFP, Metro's Fish and Wildlife Habitat Conservation program must go to LCDC for acknowledgment.

Time Necessary for Acknowledgment

The Oregon Legislature appears to have anticipated LCDC acknowledgment to occur in a relatively short amount of time. State law requires, "[a] commission order granting, denying or continuing acknowledgment shall be entered within 90 days of the date of the request by the local government unless the commission finds" that extenuating circumstances require more than 90 days. ORS 197.251(1). However, for various reasons, the acknowledgment process may take longer than the 90 days set forth in the statute.

The local government initiates acknowledgment compliance by submitting a "request" to LCDC. The request is like an application package and must include all the necessary documentation before the Department of Land Conservation and Development ("DLCD") will process the request. OAR 660-003-0010(2). Upon receiving the request, DLCD has 14 days to determine whether the acknowledgment package is complete and inform the local government if the package is incomplete. OAR 660-003-0010(6). The time taken to get the acknowledgment package complete is not counted against the statutory 90 days. OAR 660-003-0010(7).

Once DLCD finds the acknowledgment package to be complete the department mails notice to affected parties. The date on which the notice is mailed begins a 45-day comment period which is part of the 90-day statutory period. OAR 660-003-0020(1). At least 21 days prior to the date set for LCDC review of the acknowledgment package, DLCD must send copies of its staff report to the local government and all parties that filed comments or objections to the acknowledgment package. OAR 660-003-0025(1). The local government and interested parties have 10 days to file written exceptions to the staff report. OAR 660-003-0025(2). At the time set for acknowledgment review, LCDC may take one of four actions: (1) grant the local government's request for acknowledgment, (2) deny the request, (3) continue the acknowledgment review, or (4) postpone the decision for extenuating circumstances. OAR 660-003-0025(7). This process and LCDC's final order must occur within the 90-day statutory period. As a final order of the commission interpreting its own rules, the Court of Appeals will concede a high degree of deference to LCDC's decision.

² The Urban Growth Management Functional Plan ("UGMFP") is Appendix A of the RFP. Metro has submitted the UGMFP, including Title 3 - "Water Quality and Flood Management" to LCDC for acknowledgment. The RFP has been pending before LCDC since December 1997.

In the acknowledgment context, an LCDC action to “continue” or “deny” a request have special meanings. A decision to continue the acknowledgment review represents a finding that part or all of the plan does not comply with one or more of the Statewide Planning Goals. An LCDC continuance order must specify “amendments or other actions that the local government must complete within a specified period for acknowledgment to occur.” OAR 660-003-0005(7).³ An order denying acknowledgment indicates an LCDC ruling that the plan does not comply with one or more of the goals. However, a denial, unlike a continuance, does not include suggested amendments to the plan and states that LCDC concludes that improvements in the plan are likely to take a substantial period of time to complete. OAR 660-003-0005(8).⁴

The level of contention on Metro’s Fish and Wildlife Habitat Conservation program could have a substantial impact on LCDC’s decision to grant, deny or continue an acknowledgment request. LCDC has a great deal of latitude to interpret the goals and the administrative rules that implement the goals. Should LCDC decide to deny or continue Metro’s request for acknowledgment of the Fish and Wildlife Habitat Conservation program, Metro would have limited options to legally contest such a decision.

After Acknowledgment

The Goal 5 rule states that upon acknowledgment of a Metro functional plan addressing a Goal 5 resource the local governments within Metro’s jurisdiction shall apply the requirements of the functional plan. OAR 660-023-0080(3). This provision of the Goal 5 rule appears to limit implementation of a functional plan until after LCDC acknowledges the plan for compliance with the goals. Unless the Metro Council adopts interim provisions regulating Goal 5 resources, which also comply with the Goal 5 rule, Metro cannot impose the “consistency” requirement under Title 8 of the UGMFP prior to the time that the Fish and Wildlife Habitat Conservation program is acknowledged.

After acknowledgment, and because Fish and Wildlife Habitat Conservation program is a component of the RFP, its implementation schedule must be consistent with the Metro Charter and state law. Beginning one year after acknowledgment, local governments must make all “land use decisions”⁵ consistent with the RFP. ORS 268.390(5)(c). Within two years after acknowledgment, local comprehensive plans and implementing regulations must be amended to comply with the RFP. ORS 268.390(5)(a). This means that full local compliance with the RFP not including extension should occur within two years after Metro adoption.

³ After the amendments specified in the continuance order are complete, LCDC may review the modified acknowledgment package on an accelerated review schedule. OAR 660-003-0032.

⁴ “Extenuating circumstances” is not defined in the rule or statute. Apparently, there is no case law interpreting the phrase.

⁵ ORS 197.015(10) defines “land use decision” to include development approvals applying the goals, comprehensive plan or land use regulations. Approval of permits that do not require the exercise of policy or legal judgement are not land use decisions and, therefore, would not be subject to the RFP until local comprehensive plans and implementing regulations are amended to comply with the RFP pursuant to ORS 268.390(5)(a).

Earliest Time For Compliance

Based on the time considerations discussed above, Metro should anticipate a best case scenario for full implementation of the Fish and Wildlife Habitat Conservation provisions in the UGMFP and RFP of approximately 2-½ years from the time of Metro Council adoption. That calculation assumes that acknowledgment will take double the statutory 90 days set for acknowledgment. Metro's Fish and Wildlife Habitat Conservation component of the RFP would not be applicable for one year after acknowledgment. During the second year after acknowledgment, consistency with the RFP will be required for approval of all land use development applications. Thereafter, all land use decisions must adhere to comprehensive plans and implementing regulations that have been amended to comply with the RFP, including the Fish and Wildlife Habitat Conservation Program.

cc: Metro Council
Mike Burton, Executive Officer
Andy Cotugno
David Moskowitz
Paul Ketcham
Mark Turpel

**METRO**

TO: Council President David Bragdon
FROM: Councilor Carl Hosticka
DATE: February 21, 2003
SUBJECT: Regional Fish and Wildlife Protection Plan - Council Informal February 25

Following are the items I suggest that we cover at our meeting:

Program Development During ESEE

1. Should we establish outcome standards? If so, are there macro (see Vision Statement) and micro standards that should be set? If outcome standards are set, when is the best point in the process to do so?
2. Is the overall work scope as described in the ESEE Analysis Flowchart and the Work Plan Major Milestones suitable?
3. Should pre-program options be developed at the same time that the ESEE (economic, social, environmental and energy consequences of protecting or not protecting regionally significant riparian corridors and wildlife habitats) is done?
4. Should pre-program options include a range of regulations, public expenditures (for acquisition from willing sellers – either fee simply or easements; and incentives), and volunteer/voluntary actions that the Council is willing to consider?
5. Should the areas we examine for pre-program options be derived from the science based environmental scoring used to rank the riparian corridor and wildlife habitats?
6. What level of pre-program detail is preferred?

Public Involvement

1. A basic outreach package and possible additions have been described. Which approach should be taken? (see attachment)
2. Are there timing issues to be addressed?
3. Should a review panel be established for the social element. (see attached description)

Regional Partners Coordination and Implementation

1. Implementation process (see memo from Ken Helm)
2. Local government with Metro's regional approach. How does a property owner who has gone through a local Goal 5 program relate to the regional effort? (see memo from Ken Helm)
3. Coordination update (Tualatin Basin, Portland, etc.)
4. Cooperation with State – Metro compliance and State periodic review/ acknowledgement. Should efforts be made to reconcile dual review?

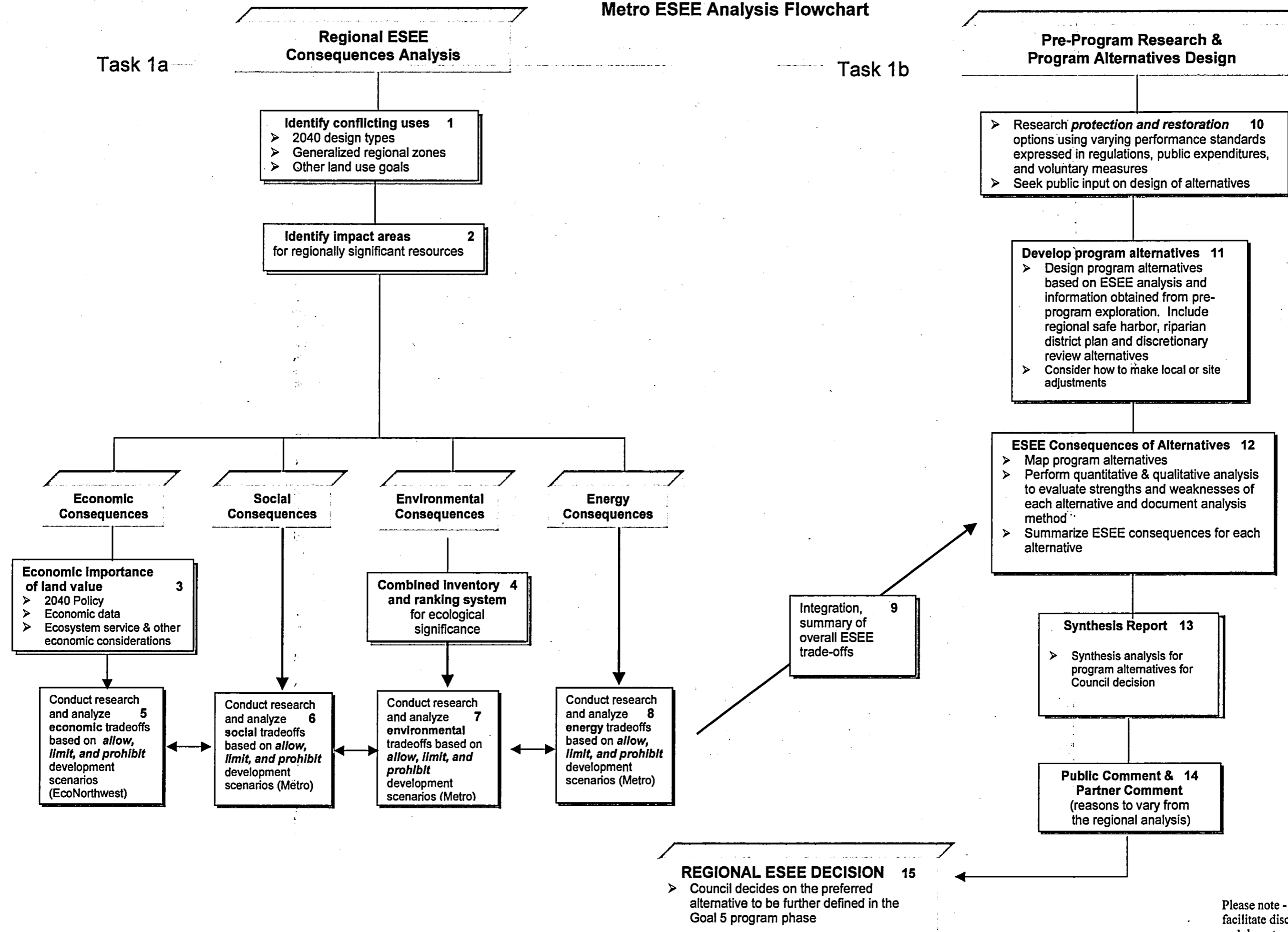
ETAC and Peer Review Panel Update**Timeline**

What is the desired timeline for completion of the ESEE step?

Metro ESEE Analysis Flowchart

Task 1a

Task 1b



Please note - numbers are provided to facilitate discussion of work elements and do not constitute discrete steps

Regional Fish and Wildlife Habitat Protection Plan

Work Plan - Major Milestones

February 21, 2003

❖ **Complete baseline ESEE** (For Council and advisory committee review and comment - box 9)

This work task will complete the requirement that Metro "...analyze the ESEE consequences that could result from decisions to allow, limit or prohibit a conflicting use." The ESEE includes consideration of economic, social, environmental and energy consequences as well as an integrated summary.

This work task will answer the question: Has Metro considered the economic, social, environmental and energy consequences of allowing, limiting or prohibiting conflicting uses. This is a requirement of State Goal 5.

❖ **Design Pre-program alternatives** (Council resolution, advisory committee review - box 11)

This work task includes alternatives for protection and restoration using regulation, public expenditures (for acquisition from willing sellers, easements, incentives, etc.) and volunteers/voluntary actions as well as exploration of how the region will provide flexibility for local governments by providing regional safe harbor, riparian district plans (performance standards based) and discretionary review. This product will provide for detailed consideration of differing program approaches. It will provide a broad range of realistic pre-program alternatives for purposes of evaluation, Council may consider other alternatives before reaching a final decision.

This work task will respond to the question: Are the pre-program alternatives a reasonable range of possible solutions? This is an additional step not required by State Goal 5, but is proposed for the public and Metro Council in order to more clearly understand possible consequences of alternative courses of action.

❖ **Complete Synthesis Report for ESEE Consequences of pre-program alternatives** (Council and advisory committee review and comment - box 13)

This work task takes what is learned from the baseline ESEE and applies it to the pre-program alternatives. This work task will respond to the question: Are the consequences describing of the pre-program alternatives described fair and complete?

❖ **Make Regional ESEE Decision** (Council resolution, advisory committee review - box 15)

This work task is the facilitation and support for the Metro Council decision about allow, limit, prohibit and their direction to staff about how the program should be designed. This element will include notice to property owners and interested parties. This task will respond to the questions: 1) What areas should be protected or not protected, 2) what program mix (regulation, public expenditures, volunteer actions) should be pursued and 3) how should the local government options - regional safe harbor, riparian district plan, discretionary review be designed?

Draft baseline outreach plan to support Metro Regional Fish and Wildlife Habitat Protection Plan Step II: ESEE

Key outreach objectives:

- To support policy direction of the Council and technical work of the staff.
- To provide timely notification and ample opportunity for stakeholder, property owner, interested party/organization, business and local jurisdictional partner review, assessment and comment.
- To provide a forum for educational exchange between ESEE interests.
- To present information in an easily understood and manageable fashion.
- To meet or exceed all legal/agency requirements/expectations.
- To coordinate outreach activities and information dissemination with other Metro Planning and Open/Green Spaces program areas and other jurisdictions.

Approach

Organize outreach around four critical milestones:

These milestones interface with the Metro ESEE Analysis Flowchart. The numbers adjacent to each of the milestones relates to the sequencing numbers on the flowchart.

1) Upon completion of consequences analysis and summary of trade-offs (#9 on the flowchart)

At this juncture we will have completed a range of trade-offs in each of the four ESEE areas: Economic, Social, Environmental and Energy. The goal at this juncture is to educate. It is suggested that Metro organize an educational exchange amongst the various ESEE areas, sharing information between the Goal 5 TAC, ETAC, MTAC, MPAC and the social advisory group (if one is formed). The breadth and scope of participation in this educational effort would need to be further explored. However, this effort would help the Council and the greater community to begin to narrow the focus and lay the groundwork for a future decision. It is suggested that Metro would hire an outside mediation/facilitation consultant for this effort.

To ensure that the media is fully aware of the trade-offs and findings resulting from the consequences analysis, this effort would also call for a thorough education of media representatives. Metro would prepare user-friendly fact sheets/materials describing the consequences and beginning to find the points of "reasonableness" between the different ESEE areas. Additional communication would occur through the web site, E-News and mailings as funds are available.

2) In conjunction with the Council formal adoption of a resolution approving pre-program alternatives (#11 on the flowchart)

Provide formal notification in accordance with Metro PI procedures and legal requirements. Seek input on design of alternatives- arrange for staff and council presentations to key business, community and interest groups, committee circuit, local government partners etc.

3) Following the Synthesis Report – Community review of the analysis (# 13 on the flowchart)

4) Council decision-making process/decision (#15 on the flowchart).

Entertain full-scale multiple month public review with a manageable number of community "coffee talks" possibly hosted by the Metro Council, MPAC or a team of representatives

from the ESEE areas of interest. Organize series of workshops/open houses or other more engaging efforts, if resources permit. Develop regional collateral piece (either mailed or inserted into a range of community publications). Provide appropriate advertisements/notification in support of Council hearings and final decision. Conduct full-scale media briefing.

It is assumed that the web site and 24-hour hotline will be updated regularly and used as a primary means of information dissemination throughout this period. To secure a greater degree of participation, input and acceptance of the trade-offs and exchanges, other methods of community participation should augment this baseline plan. However, it should be noted that additional materials and services dollars and staff resources would be needed to support such efforts. Examples of possible tools/methods to augment outreach, including rough estimates of materials and services costs are provided below.

- Produce an additional large mailing to property owners and interested parties as part of # 2 or 3 above. Provide companion advertisements of public meetings and a series of workshops or other similar type opportunity to further engage the community prior to adoption of resolution approving program alternatives. (Est. cost: \$45,000)
- Implement a research-based component that would allow for pre-testing and narrowing of possible alternative elements of the natural resource protection program. It could involve both a scientifically sound public opinion survey as well as a web-based survey to test potential strategies and specific elements or options of a program, including funding options. (Est. cost: \$28,000)
- Implement a community-based education effort that utilizes local newspapers as a means to engaging a broader audience. More than ever people are focusing their attention on a more defined or manageable circle of influence. Both research and practice tell us that the family and community nuclei are the predominant focus. Hence, this additional element calls for a tabloid (4-page) to be inserted in the *Community Newspapers*. With an estimated combined distribution of 170,000 readers, reaching 10 weeklies (11 counting Estacada) and 4-5 monthlies, a general regional piece would have one page replated with localized information. (This estimate includes the cost for replating five separate groupings of publications. It also allows for color on two of the four pages, costs for printing and insertion.) The focus of the tabloid would be to educate and inform the broad community about the natural resource protection program and could be used as either a tool to assist in final adoption or as a means to kick-off a program after adoption. (Est. cost: \$14,000-\$18,000)
- This element calls for a middle and high school outreach element that would involve the environmental middle schools (two) and one to two high schools in a curriculum-based program designed around natural resource protection. Similar to the AIM High School Program that was designed to support the Powell/Foster Program, this program would seek to involve the educational community (students, teachers, administrators etc.), parents, the media and the community at large. It would be designed to provide for in-class lessons as well as a participatory community project that might lend itself to something such as demonstrating better sustainable design or other potential elements of the natural resource protection program. We are currently researching available grant opportunities to support this kind of effort. (Est. cost: 28,000- \$40,000)
- Enhance community review of preliminary consultant findings with a series of "hosted" roundtables. For example: Metro's MCCI committee could host a discussion with community/neighborhood members and MTAC and MPAC representative utility members could host a discussion with additional utility interests in the community. (Est. cost: minimal)
- Develop a visual Preference Survey that portrays different case studies to help assess the degree in which individuals are interested in protecting natural resource areas. Provide generic case images of industrial

- lands, commercial based scenarios (town center, built-out and not built-out, wooded private property, wilderness etc.) Distribute this survey through: Web site, mailing, E-News, and through interested organizations list serves, libraries, local jurisdictional partners, piggy-back on to other program outreach opportunities. (Est. cost: \$10,000-\$20,000)
- Conduct a youth oriented component (debate or forum) using the preferential case study images developed in the above survey. Allow ESEE findings or preliminary Council program ideas to form the basis of the youth (high school) discussion. (Est. cost under \$5,000)

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Regional Fish and Wildlife Habitat Protection Proposed Social Component of ESEE process

Background: Per state guidelines for Goal 5, Metro has begun an analysis of environmental, social, economic and energy considerations before moving forward with a proposed program to protect fish and wildlife habitat in the region.

- Metro has conducted an extensive environmental assessment of the regional resources related to fish and wildlife habitat leading up to the Council approval of a thorough inventory.
- The economic component of the process is underway with both an Economic Technical Advisory Committee and an economic peer review committee.
- Energy considerations are considered to be focused on targeted communications with specific representatives within utility and other energy-related fields.
- There is a great deal of latitude in the state Goal 5 guidelines for how social considerations are handled.

Given the attention that the ESEE process will garner with various interest groups, purely a technical approach to the social component could elicit strong reactions and backlash from these groups and the community-at-large. This is particularly true given the breadth and scope of work being conducted on environmental and economic considerations of ESEE.

Proposed approach:

Convene a representational group of people (12-15 members) to meet 3-5 times, to help guide the Social aspects of the ESEE analysis. (Suggested areas of interest and a very preliminary cut of possible organizations are included on the back of this memo.)

Possible meetings might include the following:

Meeting 1: Introduction to ESEE, background information, current vision, and scope of work

Meeting 2: Review and discussion of the Draft Social Consequences Analysis
(These first two could possibly be blended.)

Meeting 3: Evaluation of the various applications

Meeting 4: Further discussion and recommendations for how the Social elements connect with other elements of ESEE (Perhaps make this a joint meeting with representatives of the Goal 5 TAC, ETAC, and utility/energy representatives from MPAC)

Meeting 5: Pre-program ESEE recommendations

The group could also provide valuable input into the outreach program.

Interest areas to be considered for representation on the task force might include: property rights, education, minority communities, social service areas such as affordable housing, elderly services, and disabled advocacy, community services such as the arts, historic preservation, the medical and religious communities and library systems. (Social entities may compete for the same resources; may not have measurable economic "value"; or may hold more of an intangible benefit to the community at-large.)

Possible areas of interest for ESEE Social Committee:

Property rights -United We Stand Foundation

Education - Environmental school official, Community College or Higher Education

Minority Communities:

African American community leader or organization

Hispanic community leader or organization (i.e. Hacienda Community Development Corporation)

Social Services:

Affordable Housing - Portland Housing Center, Washington County Department of Housing Services

Elderly Services - Washington County Aging Services

Disabled Advocacy - Oregon Commission for the Blind

Community Services:

Library Systems - Multnomah County Library System

Arts - Regional Arts and Culture Council

Historic Preservation - Historic Preservation League of Oregon

Public Health Community - Oregon Department of Health, State Epidemiologist

Religious Community - Ecumenical Ministries of Oregon (EMO) (Perhaps representatives from the Policy or Environmental Ministries)

Recreational Interests - Rails to Trails Conservancy, Portland Oregon Visitors Association, Parks and Recreation Districts

Streamside CPR* Program Outline

Purpose, Vision, Goal, Principles and Context

**As adopted by the Metro Policy Advisory Committee
October 25, 2000**

**Metro Regional Services
600 NE Grand Avenue
Portland, OR 97232-2736
503-797-1726**

**contact: Paul Ketcham, Principal Regional Planner
ketcham@metro.dst.or.us**

***CPR = Conserve, Protect and Restore**

Purpose, Vision, Goal, Principles and Context

I. INTRODUCTION

A. PURPOSE

This document provides the organizational, definitional and policy approach that will apply to the creation and implementation of Metro's Goal 5 – Fish and Wildlife Program decision. This Purpose, Vision, Goal and Principles document is intended to guide, inform, and be the philosophical underpinnings of the Goal 5 Streamside CPR program. It is not a regulatory document.

The purpose is to develop a streamside conservation, protection and restoration program that balances the goals of:

- building livable, Region 2040 communities and implementing the Regional Urban Growth Goals and Objectives (RUGGO);
- protecting and enhancing fish and wildlife habitat as required by the Metro Urban Growth Management Function Plan;¹
- supporting a strong economy;
- meeting State Land Use Planning Goal 5 standards and procedures;
- addressing Federal Endangered Species Act (ESA) requirements;
- adding to the progress already made by the implementation of Title 3, regional water quality and flood protection requirements; and
- providing the organizational, definitional and policy approach that will apply to the creation and implementation of Metro's Goal 5 – Streamside Fish and Wildlife Program decision.

Cities and counties, as general-purpose governments, are responsible for comprehensive planning including completion of a generalized coordinated land use map and policy statements that interrelate all functional and natural systems and activities relating to the use of land. Cities and counties also are responsible for implementing ordinances, especially zoning ordinances, to regulate land uses. Metro, a regional government, is responsible for addressing issues of metropolitan concern and the Metro Council may determine such issues and adopt regulations directing local governments to change their comprehensive plans and implementing ordinances to address identified regional issues. The Vision Statement, Regional Goal and Program Principles contained in this document provide overall direction to preparation and implementation of the regional safe harbor, local discretionary and riparian district plan option approaches to Metro Goal 5 compliance that will be available to local governments.

B. VISION STATEMENT

Our region places a high priority on the protection of its streams, wetlands and floodplains to maintain access to nature; sustain and enhance native fish and wildlife species and their habitats; mitigate high storm flows and maintain adequate summer flows; provide clean water; and create communities that fully integrate the built and natural environment. As ribbons of green, stream and river corridors maintain connections with adjacent upland habitats, form an interconnected mosaic of urban forest and other fish and wildlife habitat, and contribute significantly to our region's livability.

The RUGGO state that the region should "Manage watersheds to protect and ensure to the maximum extent practicable the integrity of streams, wetlands and floodplains, and their multiple biological, physical, and social values," as well as that "A region-wide system of linked significant wildlife habitats should be developed. This system should be preserved, restored where appropriate, and managed to

maintain the region's biodiversity." The streamside program will contribute to these objectives by balancing, economic, social, environmental and energy considerations as will future efforts to address watershed and upland habitats.

C. OVERALL GOAL

The overall goal is to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with others streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape. This system will be achieved through conservation, protection and appropriate restoration of streamside corridors through time.

D. PROGRAM PRINCIPLES

The program will be designed to achieve the following future conditions:

Areas of existing forest cover or areas where it is appropriate to restore forest cover. Conserve, protect and restore the biological, physical and social values of streams, wetlands, riparian areas and floodplains, by encouraging the growth and management of mature forest conditions composed of native forest tree species, appropriate for specific site conditions, mixed with native shrubs and herbaceous species, and containing ample standing snags and downed woody debris. Forest conditions will be managed, where appropriate to address public safety concerns.

Areas where forest cover did not exist historically or where non-forest cover is appropriate, based on a natural resources plan. Conserve, protect and restore the biological, physical and social values of streams, wetlands, riparian areas and floodplains through management of native vegetation appropriate to non-forested conditions.

Developed 2040 Centers and areas where floodplain function is artificially controlled. Contribute to the conservation, protection and restoration of the biological, physical and social values of streams, wetlands, riparian areas and floodplains.

The program will be designed to achieve these future conditions using the following principles:

- 1. Ecological Function.** The ecological function of the streamside corridor system will be restored and maintained to the maximum extent practicable given the opportunities and constraints of the urban landscape.
- 2. Economically Sound.** Economic vitality and a healthy natural environment are necessary components of sustainable development in the metropolitan area. Investments in protection and restoration of our natural areas contribute significantly to the region's economic health.
- 3. Protection and Restoration.²** Given the currently degraded condition of a majority of urban streams, wetlands, riparian areas and floodplains, protection and restoration are of equal importance in order to achieve the region's goals. Both protection and restoration are important in moving toward recovery of threatened and endangered salmonids, and avoiding future endangered or threatened listings of both aquatic and terrestrial species.
- 4. Flexible Regulatory Approaches.** Protective regulations shall be based on the best available natural science balanced with economic, environmental, social and energy considerations, and shall provide local governments with flexibility in meeting the overall goals of this program. This

program is also intended to help local governments address the Federal ESA by preventing the need for additional ESA listings and avoiding legal restrictions that may result from current and potential future listings. Implementation of the Federal ESA program for endangered salmonids will need a wide range of actions to be taken by local, state and Federal agencies to recover the species. Metro's requirements are not intended to meet all ESA regulations, but are intended to address recovery obstacles within and along stream corridors. The objective is to obtain Federal approval of this program, so that local governments can use it if they choose. The program is not intended to be the exclusive means available to local governments in the region to address ESA requirements. Local governments can independently seek certification as an alternative.

5. ***Incentives Education and Acquisition.*** Regulatory efforts to conserve, protect and restore natural resources are most effective when combined with incentives, education and acquisition programs that encourage full community participation, therefore, such programs will be an element of the overall program.
6. ***Stewardship Responsibilities.*** All landowners and land users throughout each watershed have an important stewardship responsibility to contribute to the protection and restoration of streams, wetlands, riparian areas and floodplains.
7. ***Urban Form.*** Realization of the region's 2040 Growth Concept requires a compact urban form while protecting natural resources and water quality. This is accomplished in three primary ways:
 - a. Protecting natural areas outside the Urban Growth Boundary (UGB). Accommodate compact development within the UGB in order to minimize land extensive expansion that adversely impacts farm and forest lands and natural areas outside the boundary;
 - b. Accommodating urban growth in a compact form while protecting and enhancing key fish and wildlife habitat, natural areas, and water quality and quantity within the current UGB;
 - c. Protecting and restoring urban stream corridors to provide people with an effective means to access nature, providing ecological linkage to other important fish and wildlife habitats, and compact urban form through integration of the built and natural environments.³
8. ***Measure and Monitor.*** A measuring and monitoring system should be established and should include:
 - Assessment of existing conditions;
 - Use of "properly functioning conditions"⁴ as the description of desired future conditions; and
 - Assessment and regular monitoring over time of streamside conditions to determine progress in achieving the goals of properly functioning conditions.
9. ***Coordination and Cooperation.*** Effective management of the regional streamside resource cannot be achieved without a collaborative approach throughout the region. The Streamside CPR Program will provide local jurisdictions with the flexibility to pursue alternative collaborative management approaches that meet the standards of this programs, such as watershed planning, and will emphasize efforts that ensure coordination and cooperation between and among the region's partners including local governments, business, nonprofits and citizens.

E. CONTEXT

The preamble of Metro's voter-approved 1992 Charter declares that Metro's most important service is to "preserve and enhance the quality of life and the environment for ourselves and future generations."⁵ Through its Charter-mandated responsibilities, Metro Council has provided leadership in addressing growth management issues by working with citizens, elected officials and diverse interest groups to

craft a vision of how the region will grow. Through adoption of policies to achieve that vision, Metro Council has identified the need to balance natural resource protection with urban development while the region grows.

How this balancing will take place, and in what form it will be expressed across the urban landscape, is a key question addressed in various documents. For example, the region's 2040 Growth Concept map includes an environmental greenway along streams in the region to ensure connectivity throughout the urban landscape.⁶ The goal of the Greenspaces Master Plan is to create a cooperative regional system of natural areas, open space, trails and greenways for wildlife and people in the four-county metropolitan area.⁷ Other planning documents which speak to urban natural areas and water resources include the Future Vision⁸, the RUGGO, the Regional Framework Plan⁹, and the Urban Growth Management Functional Plan. A unifying feature of all of these documents is to achieve compact urban form and efficient delivery of urban services while at the same time preserving citizen access to nature and community livability.

A cornerstone of these regional policies is protection of natural systems—regionally significant fish and wildlife habitat, streams, rivers, wetlands and floodplains—because their protection and restoration is essential to maintaining and improving the region's livability, economic well-being and environmental health.

In addition to the regionwide policies, there are State and Federal policies which are also important considerations. The purpose of the State's Land Use Planning Goal 5 is "To protect natural resources and conserve scenic and historic areas and open spaces".¹⁰ At the Federal level, for a large part of the Pacific Northwest Coast and associated inland rivers and streams, the National Marine Fisheries Service (NMFS), is acting under the requirements of the Federal ESA. At this time, NMFS has designated four species of Steelhead and eight other species of salmon as either threatened or endangered in the Columbia River Basin. Local governments, through their comprehensive plans, will be implementing requirements to address natural resource protection. In order to address this status, our region will need to take actions that are consistent with the recovery needs of these species. In doing so, the region, its local government partners and the citizens of the metropolitan area can help ensure that one of the defining symbols of our region once again thrives.

To accomplish the planning work described in these policies, Metro is pursuing adoption and implementation of programs to:

- protect the beneficial uses associated with the region's streams and rivers, including water quality and protect life and property from dangers associated with flooding¹¹
- Protect, conserve and enhance fish and wildlife habitat within regionally significant riparian corridors under Statewide Planning Goal 5¹²
- Protect, conserve and enhance regionally significant upland wildlife habitat under Statewide Planning Goal 5,¹³ and
- Implement the Greenspaces Master Plan.

All of these programs, taken in concert and with full implementation by local governments, will realize the vision for growth enunciated in Metro's Charter, Future Vision and subsequent planning documents described above.

To complete this work effort Metro shall:

1. Establish criteria to define and identify regionally significant fish and wildlife habitat areas;
2. Examine existing Goal 5 data;
3. Identify inadequate or inconsistent data;
4. After considering items 1-3, and after holding public hearings, adopt a map of regionally significant fish and wildlife areas.

II. PROGRAM DESCRIPTIONS (TO BE ADDED)

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¹ The focus of the Purpose, Vision, Goal, Principles and Context Statement is on native species of fish and wildlife whose historic ranges include the metropolitan area and whose habitats are or can be provided for in urban streamside corridors. The Purpose Statement does not intend to include native species such as bear, cougar, lynx and deer, which may be conducive in specific areas such as Portland's Forest Park, but may not be conducive in urban stream corridors elsewhere in the metropolitan area.

² Proposed definition of restoration:

Restoration, in the context of the streamside CPR program, means action taken to return natural riparian functions and values for fish and wildlife. Restoration would be applied where riparian functions are in a degraded condition and are intended to return the riparian functions to good or excellent condition. While there may be instances where restoration to pre-development, natural conditions is possible, in general, restoration should not mean the end-state of re-establishing a totally pristine condition. It should address the improvements or re-introduction of functional values.

Conditions Under Which Restoration Would Occur:

Conditions under which restoration will occur will be established when the program is defined. The current draft of the Goal 5 program does not contemplate that homeowners and other property owners would be required to undertake restoration unless there was a development activity that required a permit for new development, significant modifications to structures, or redevelopment. In the absence of a development permit it is assumed that restoration would be achieved through incentive-based, voluntary, and community-based restoration and enhancement activities. Public education and the promotion of voluntary naturescaping and restoration would be part of the regionwide cooperative effort to improve the existing degraded conditions of our urban waterways.

³ "to provide people with an effective means to access nature" means to help people enjoy, approach or be near to nature. It is not intended to imply the right of any person to enter or make use of private property unless the property owner grants that right of public access.

⁴ Defined by Federal natural resource programs.

⁵ The preamble of Metro's Charter states the following: "We, the people of the Portland area metropolitan service district, [establish an elected regional government] that undertakes, as its most important service, planning and policy making to preserve and enhance the quality of life and the environment for ourselves and future generations." 1992 Metro Charter, page 1.

⁶ The Metro 2040 Growth Concept, acknowledged by the Land Conservation and Development Commission in 1995, states the following: "The basic philosophy of the Growth Concept is: preserve access to nature and build better communities." December 8, 1994, Page 1.

⁷ Other goals of the July 1992 Metropolitan Greenspaces Master Plan include preserving "diversity of plant and animal life in the urban environment, using watersheds as the basis for ecological planning." The Greenspaces Master Plan is guided by the following ecological principles: "Maintain biological diversity by restoring and enhancing a variety of habitats, including wetlands, riparian corridors, forests and agricultural lands." And "Protect, restore and recreate stream corridor vegetation by replacing riparian vegetation where it is lacking or dominated by exotic species and removing barriers, where possible, to maintain connections with adjacent upland habitats."

⁸ The Future Vision states the following: "We value natural systems for their intrinsic value, and recognize our responsibility to be stewards of the region's natural resources." March 1995, page 1. In 2045, the region should be characterized by "Improved water quality, and increased biodiversity," and "restored ecosystems protected from future degradation and decline." Page 12. Specific actions identified: "Manage watersheds to protect, restore, and maintain the integrity of streams, wetlands and floodplains, and their multiple biological, physical, and social values." Page 12.

⁹ Chapter 3 of the December 31, 1997 Regional Framework Plan establishes policies for parks, natural areas and open spaces, and identifies the important environmental benefits of maintaining and improving air and water resources, providing flood control, and protecting fish and wildlife habitat. It commits Metro to "develop a strategy and action plan to address inadequacies in the protection of regional Goal 5 resources. This plan will be carried out by Metro." Page 108, see also page 190.

¹⁰ Goal 5 further states that "Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability." Procedures and requirements for complying with Goal 5 call for an inventory, a determination of significance, an analysis of the economic, social, environmental and energy consequences of a decision that could allow, limit or prohibit a conflicting use.

¹¹ From Title 3, Sections 1-4 of the 1996 Urban Growth Management Functional Plan

¹² From Title 3, Sections 1, 2 and 5 of the 1996 Urban Growth Management Functional Plan.

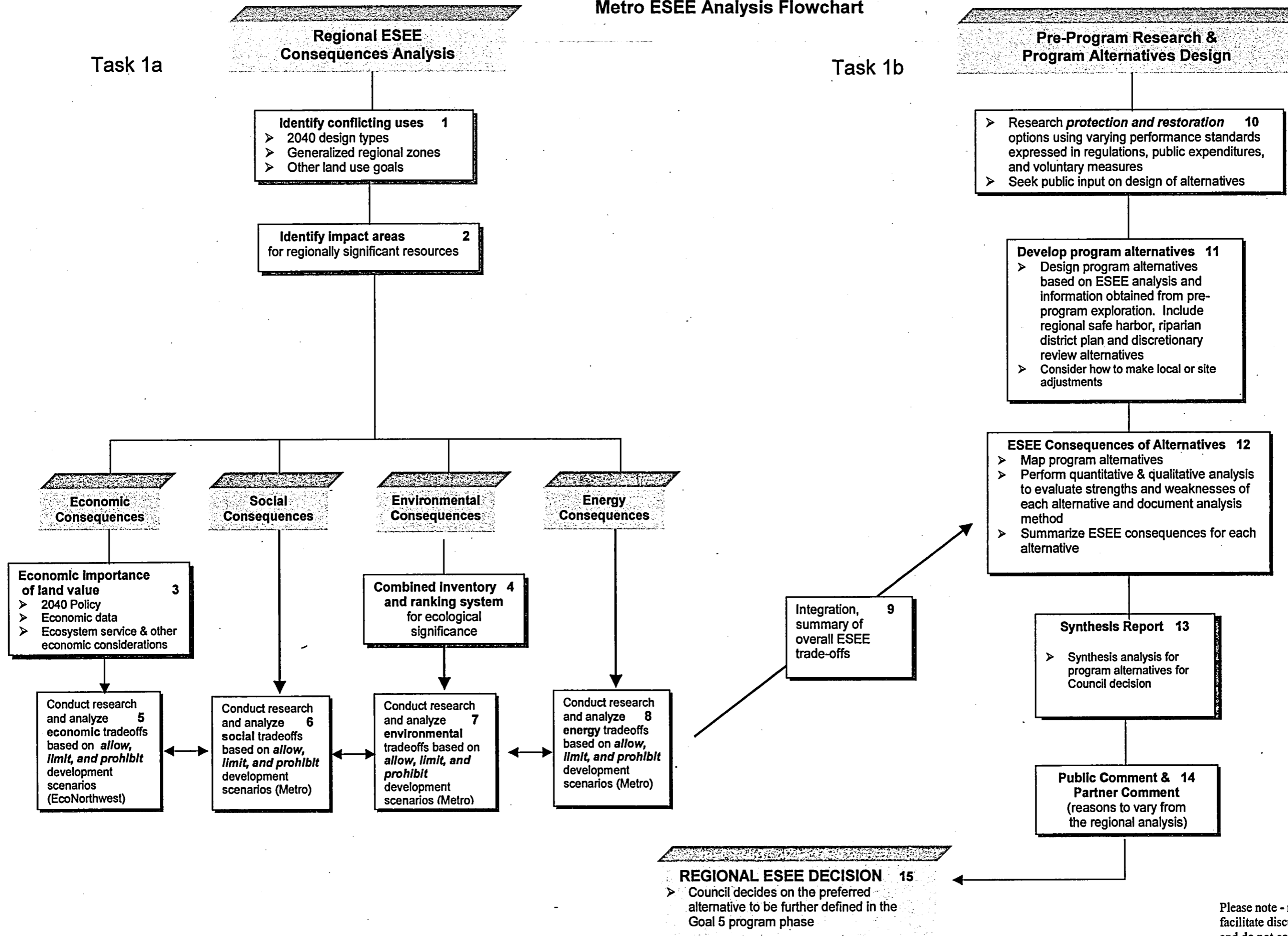
¹³ From Title 3, Sections 1, 2 and 5 of the 1996 Urban Growth Management Functional Plan.

Metro ESEE Analysis Flowchart

022503ci-08

Task 1a

Task 1b



safe harbor departure (plan)

Please note - numbers are provided to facilitate discussion of work elements and do not constitute discrete steps

At <http://www.leg.state.or.us/ors/543.html>

543.015 Policy. The Legislative Assembly declares that it is the policy of the State of Oregon:

- (1) To protect the natural resources of this state from possible adverse impacts caused by the use of the waters of this state for the development of hydroelectric power.
- (2) To permit siting of hydroelectric projects subject to strict standards established to protect the natural resources of Oregon.
- (3) To require the Water Resources Commission, the Energy Facility Siting Council, the Department of Environmental Quality and other affected state agencies to participate to the fullest extent in any local, state or federal proceedings related to hydroelectric power development in order to protect the natural resources of Oregon. [1985 c.569 §2]

543.017 Minimum standards for development of hydroelectric power; public interest considerations; rules.

- (1) In order to carry out the policy set forth in ORS 543.015, the following minimum standards shall apply to any action of the Water Resources Commission relating to the development of hydroelectric power in Oregon:
 - (a) The anadromous salmon and steelhead resources of Oregon shall be preserved. The commission shall not approve activity that may result in mortality or injury to anadromous salmon and steelhead resources or loss of natural habitat of any anadromous salmon and steelhead resources except when an applicant proposes to modify an existing facility or project in such a manner that can be shown to restore, enhance or improve anadromous fish populations within that river system.
 - (b) Any activity related to hydroelectric development shall be consistent with the provisions of the Columbia River Basin Fish and Wildlife Program providing for the protection, mitigation and enhancement of the fish and wildlife resources of the region as adopted by the Pacific Northwest Electric Power and Conservation Planning Council pursuant to Public Law 96-501.
 - (c) Except as provided in this paragraph, no activity may be approved that results in a net loss of wild game fish or recreational opportunities. If a proposed activity may result in a net loss of any of the above resources, the commission may allow mitigation if the commission finds the proposed mitigation in the project vicinity is acceptable. Proposed mitigation which may result in a wild game fish population or the fishery the wild game fish population provides, being converted to a hatchery dependent resource is not acceptable mitigation. A water dependent recreational opportunity must be mitigated by another water dependent recreational opportunity. Mitigation of water dependent recreational opportunities which, in the judgment of the commission, are of statewide significance with a recreational opportunity that is readily available on other waters of this state is not acceptable mitigation. In deciding whether mitigation is acceptable, the commission shall consult with other local, state and federal agencies.
 - (d) Other natural resources in the project vicinity including water quality, wildlife, scenic and aesthetic values, historic, cultural and archaeological sites, shall be maintained or enhanced. No activity may be approved which, in the judgment of the commission after balancing gains and losses to all affected natural resources, may result in a net loss of natural resources. In determining whether the proposed activity may result in a net loss of natural resources, the commission may consider mitigation if the commission determines the proposed mitigation in the project vicinity is acceptable. Mitigation may include appropriate measures considered necessary to meet the net loss standard. In determining whether mitigation is acceptable the commission shall consult with appropriate state, federal and local agencies.
 - (e) In determining whether it is in the public interest to allocate water for a proposed hydroelectric development, the commission shall consider present and future power needs and shall make a finding on the need for the power. For a hydroelectric project with a nominal electric generating capacity of 25 megawatts or more, the Water Resources Commission shall consider any recommendation by the Energy Facility Siting Council. The Energy Facility Siting Council's recommendation shall be based solely on information contained in the hearing record of the Water Resources Commission. The commission's order on the proposed hydroelectric development shall describe the Energy Facility Siting Council's recommendations on the need for the power. If the commission's decision on the need for power is contrary to the Energy Facility Siting Council's recommendation, the commission's order shall explain the commission's failure to follow the recommendation of the Energy Facility Siting Council. The commission also shall consult with the Energy Facility Siting Council on other matters within the expertise of the Energy Facility Siting Council.
- (2) The commission shall adopt all necessary rules to carry out the policy set forth in ORS 543.015 and to implement the minimum standards set forth in subsection (1) of this section. In the absence of implementing rules, any action of the commission relating to hydroelectric development shall comply with the standards as set forth in this section.

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
 TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
 DATE: February 27, 2003
 DAY: Thursday
 TIME: 2:00 PM
 PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS**
3. **BEST GOVERNMENT RECYCLING PROGRAM AWARD** Dunn
COMMUNITY RECYCLING LEADERSHIP AWARD AND Quinn
SPECIAL WASTE EXCELLENCE GOLD AWARD
4. **SECOND QUARTER FINANCIAL REPORT** Short
5. **FINANCIAL STATUS AND TRENDS** Williams
6. **CONSENT AGENDA**
- 6.1 Consideration of Minutes for the February 20, 2003 Metro Council Regular Meeting.
7. **ORDINANCES - SECOND READING**
- 7.1 **Ordinance No. 03-995**, For the Purpose of Amending the FY 2002-03 Park
 Budget and Appropriations Schedule by Transferring \$3,500,000 from
 Contingency to the Debt Service Account, Authorizing Defeasance of
 Certain Solid Waste Revenue Bonds, and Declaring an Emergency.
8. **RESOLUTIONS**
- 8.1 **Resolution No. 03-3282**, For the Purpose of Approving Portland Park
 Regional Federal Transportation Priorities for Federal Fiscal Year 2004
 Appropriations.

- 8.2 **Resolution No. 03-3284**, For the Purpose of Approving Metro's Application for Federal Transportation Funds through the Regional Priorities 2004-07 Solicitation. Park
- 8.3 **Resolution No. 03-3287**, For the Purpose of Endorsement of a Regional Position on Reauthorization of the Transportation Equity Act For the 21st Century (TEA-21). Park
9. **EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660 (1) (d) FOR THE PURPOSE OF DELIBERATING WITH PERSONS DESIGNATED TO CONDUCT LABOR NEGOTIATIONS.**
10. **COUNCILOR COMMUNICATION**

ADJOURN

Cable Schedule for Week of February 27, 2003 (PCA)

	Sunday (3/2)	Monday (3/3)	Tuesday (3/4)	Wednesday (3/5)	Thursday (2/27)	Friday (2/28)	Saturday (3/1)
CHANNEL 11 (Community Access Network) (most of Portland area)						2:00 PM (previous meeting)	
CHANNEL 30 (TNTV) (Washington County, Lake Oswego)	12:00 PM (previous meeting)			11:00 PM (previous meeting)		6:30 AM 7:00 PM 11:00 PM (previous meeting)	3:30 PM (previous meeting)
CHANNEL 30 (CityNet 30) (most of City of Portland)		2:00 PM					
CHANNEL 30 Willamette Falls Television (West Linn, Rivergrove, Lake Oswego)	5:30 AM 2:30 PM	12:30 AM 3:30 PM 10:31 PM		12:30 AM 3:00 PM 10:30 PM		12:30 AM 3:30 PM 10:31 PM	5:30 AM 2:30 PM
CHANNEL 23/18 Willamette Falls Television (23- Oregon City, West Linn, Gladstone; 18- Clear Creek)							
CHANNEL 23 Milwaukie Public Television (Milwaukie)			10:00 AM 9:00 PM				

PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.

Portland Cable Access	www.pcatv.org	(503) 288-1515
Tualatin Valley Television	www.yourtvtv.org	(503) 629-8534
Willamette Falls Television	www.wftvaccess.com	(503) 650-0275
Milwaukie Public Television		(503) 652-4408

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 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 email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 6.1

Consideration of Minutes of the February 20, 2003 Regular Council meeting.

**Metro Council Meeting
Thursday, February 27, 2003
Metro Council Chamber**

Agenda Item Number 7.1

Ordinance No. 03-995, For the Purpose of Amending the FY 2002-03 Budget and Appropriations Schedule by Transferring \$3,500,000 from Contingency to the Debt Service Account, Authorizing Defeasance of Certain Solid Waste Revenue Bonds; and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, February 27, 2003
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)	ORDINANCE NO. 03-995
FY 2002-03 BUDGET AND APPROPRIATIONS)	
SCHEDULE BY TRANSFERRING \$3,500,000)	Introduced by:
FROM CONTINGENCY TO THE DEBT)	Mark Williams, Chief Operating Officer
SERVICE ACCOUNT, AUTHORIZING)	with the concurrence of
DEFEASANCE OF CERTAIN SOLID)	David Bragdon, Council President
WASTE REVENUE BONDS, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations within the FY 2002-03 Budget; and,

WHEREAS, the need for the transfer of appropriation has been justified; and,

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2002-03 Budget and Schedule of Appropriations are hereby amended as shown in the columns entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring funds from Contingency to the Debt Service Account in the Solid Waste Revenue Fund.
2. That the Chief Operating Officer is authorized to use the amended appropriation to defease the Metro Central Transfer Station Project 1990 Series A Solid Waste Disposal System Revenue Bonds due on July 1, 2003, January 1, 2004 and July 1, 2004; and the Metro Central Transfer Station Project 1993 Series A Solid Waste Disposal System Revenue Bonds due on July 1, 2003 and July 1, 2004.
3. That because this Ordinance is necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No.03-995**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Solid Waste Revenue Fund							
	Total Personal Services	109.15	\$8,256,217	0.00	\$0	109.15	\$8,256,217
	Total Materials & Services		\$36,874,939		\$0		\$36,874,939
TOTAL REQUIREMENTS		109.15	\$45,131,156	0.00	\$0	109.15	\$45,131,156

Debt Service Account

<i>Debt Service</i>							
<i>Metro Central Financing</i>							
<i>REVBND Revenue Bond Payments</i>							
	5630	Revenue Bond Pmts-Principal		983,387		1,402,519	2,385,906
	5635	Revenue Bond Payments-Interest		1,680,564		2,097,481	3,778,045
TOTAL REQUIREMENTS			\$2,663,951		\$3,500,000		\$6,163,951

Landfill Closure Account

	Total Materials & Services		\$185,000		\$0		\$185,000
	Total Capital Outlay		\$2,561,800		\$0		\$2,561,800
TOTAL REQUIREMENTS			\$2,746,800		\$0		\$2,746,800

Renewal & Replacement Account

TOTAL REQUIREMENTS			\$2,690,707		\$0		\$2,690,707
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General Account

TOTAL REQUIREMENTS			\$2,341,100		\$0		\$2,341,100
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Master Project Account

TOTAL REQUIREMENTS			\$350,000		\$0		\$350,000
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Recycling Business Assistance Account

	Total Materials & Services		\$1,024,000		\$0		\$1,024,000
	Total Capital Outlay		\$0		\$0		\$0
TOTAL REQUIREMENTS			\$1,024,000		\$0		\$1,024,000

	Total Interfund Transfers		\$4,210,036		\$0		\$4,210,036
<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
	5999	Contingency					
		* Operating Account (Operating Contingency)	2,299,297		(2,299,297)		0
		* Landfill Closure Account	5,132,847		0		5,132,847
		* Renewal & Replacement Account	4,674,478		(1,200,703)		3,473,775
TOTAL REQUIREMENTS			\$27,789,558		(\$3,500,000)		\$24,289,558
TOTAL REQUIREMENTS		109.15	\$88,947,308	0.00	\$0	109.15	\$88,947,308

Exhibit B
Ordinance No. 03-995
FY 2002-03 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
SOLID WASTE REVENUE FUND			
Operating Account			
Operating Expenses (PS & M&S)	\$45,131,156	\$0	\$45,131,156
Subtotal	45,131,156	0	45,131,156
Debt Service Account			
Debt Service	2,663,951	3,500,000	6,163,951
Subtotal	2,663,951	3,500,000	2,663,951
Landfill Closure Account			
Materials & Services	185,000	0	185,000
Capital Outlay	2,561,800	0	2,561,800
Subtotal	2,746,800	0	2,746,800
Renewal and Replacement Account			
Capital Outlay	2,690,707	0	2,690,707
Subtotal	2,690,707	0	2,690,707
General Account			
Capital Outlay	2,341,100	0	2,341,100
Subtotal	2,341,100	0	2,341,100
Master Project Account			
Debt Service	350,000	0	350,000
Subtotal	350,000	0	350,000
Recycling Business Assistance Account			
Materials & Services	1,024,000	0	1,024,000
Capital Outlay	0	0	0
Subtotal	1,024,000	0	1,024,000
General Expenses			
Interfund Transfers	4,210,036	0	4,210,036
Contingency	12,106,622	(3,500,000)	8,606,622
Subtotal	16,316,658	(3,500,000)	16,316,658
Unappropriated Balance	15,682,936	0	15,682,936
Total Fund Requirements	\$88,947,308	\$0	\$88,947,308

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-995 FOR THE PURPOSE OF AMENDING THE FY 2002-03 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$3,500,000 FROM CONTINGENCY TO THE DEBT SERVICE ACCOUNT, AUTHORIZING DEFEASANCE OF CERTAIN SOLID WASTE REVENUE BONDS, AND DECLARING AN EMERGENCY.

Date: February 7, 2003

Prepared by: Douglas Anderson

BACKGROUND

On January 23, 2003, in consultation with Bond Counsel, staff determined that Metro was on a track to violate the Rate Covenant on the Solid Waste Disposal System Revenue Bonds during the current fiscal year. The Rate Covenant states, in relevant part, that:

At all times, [Metro] shall establish, levy, impose, maintain and collect fees and rates and charges for the use of the services and facilities of the system as shall be required to provide net revenues in each fiscal year which at least equal 110% of the annual debt service....

Section 702(j) of the Master Bond Ordinance, Metro Ordinance No. 89-319

The intent of the Rate Covenant is to ensure that Metro will have more than enough revenue, after meeting expenses, to pay the debt service on the bonds. This is a cushion against risk on behalf of the bond holders. The requirement to have revenues at least 10 percent above the debt service is a covenant that Metro made when the bonds were sold. The 110% figure is called the "coverage ratio" and is calculated by dividing net revenue by the amount of the debt service.

Based on current trends of receipts and expenses, staff projects that net revenue will be only 57 percent of the debt service this year. This situation is due entirely to the use of the solid waste fund balance to pay some operating expenses. For purposes of the coverage ratio, the fund balance is not defined as operating revenue. Calculation of the projected coverage ratio is shown in the following table.

FY 2002-03 Net Revenue and Debt Service Coverage

<u>Projections</u>	<u>Amount</u>
Operating Revenue	\$47,922,987
<i>less:</i> Operating Expenditures	\$46,403,552
<i>equals:</i> Net Operating Revenue	\$1,519,435
Debt Service	\$2,651,096
<i>Coverage Ratio</i>	<i>57%</i>

A similar situation exists for the requested FY 2003-04 budget submitted by the department on November 15, 2002. Calculations based on the requested budget show that next year's coverage ratio would be 8 percent.

Metro has three variables under its control for meeting the coverage ratio: Metro can *increase net revenue* by raising rates and/or reducing expenditures, or *reduce the debt service*. Metro needs net revenue of about \$2.9 million to cover 110 percent of the \$2,651,096 debt service in the current fiscal year. Based on the figures in the table above, Metro is about \$1.4 million shy of this revenue

requirement. At this point in the fiscal year, it is not feasible to raise rates, and there is limited scope for reducing expenditures by as much as \$1.4 million. Therefore, Metro must consider early retirement of some of its debt in order to have a chance at meeting the coverage this year. Because coverage is projected to be so low for FY 2003-04, the same solution should be considered for next year. The type of early retirement of debt that Metro would have to undertake is technically termed "defeasance" of the bonds. This ordinance authorizes defeasance of three zero-coupon bonds from the 1990 issue, each with redemption value of \$1,070,000; and two bonds from the 1993 series, having principal values of \$80,000 and \$85,000 respectively. The total of bonds defeased is almost \$3.4 million.

On January 30, 2003, Bond Counsel issued a memorandum describing how the coverage calculation is affected when bonds are defeased. His opinion is based on the fact that Metro is required to make monthly deposits toward debt service payments. (Payments are actually remitted twice a year, on January 1 and July 1.) According to Bond Counsel, all monthly deposits that are due before the defeasance date are *included* as debt service in the coverage calculation. Any deposits with due dates after the defeasance are *excluded* from the coverage calculation.

In practical terms, this means that the sooner the defeasance takes place, the less revenue is required to cover the debt service. For example, if Metro defeases the July 2003 bonds in February 2003, then the deposits due for March through June can be excluded from the coverage calculation. If the defeasance occurs in March, then only the April through June deposits can be excluded. The following table shows that about \$200,000 of additional net revenue is required to cover each month that the defeasance is delayed this fiscal year.**

Effect of Delay on FY 2002-03 Net Revenue Requirements

Timing of Defeasance	Deposits Excluded from Debt Service	Annual Debt Service	Total Net Revenue Required for Coverage	Expenditure Reduction Required after Defeasance*
February	4	\$1,916,845	\$2,108,530	\$600,000
March	3	\$2,100,408	\$2,310,449	\$800,000
April	2	\$2,283,971	\$2,512,368	\$1.0 million
May	1	\$2,467,533	\$2,714,286	\$1.2 million
No defeasance	0	\$2,651,096	\$2,916,206	\$1.4 million

* Additional reductions that are needed to make up the difference between the net revenue required to meet the 110% coverage and the projected availability of \$1.5 million in revenue. See table on page 1.

It is worthy of note that defeasance essentially accelerates the payment of debt service that was scheduled to occur anyway. Therefore, the amount of the defeasance is not an increase in cost to Metro; it simply shifts the timing of payments. However, as will be seen below, this creates an issue for the management of the solid waste reserves. The actual cost of defeasance is estimated to be \$12,000 to \$25,000 depending on the markets at the time of defeasance. On advice of Metro's Financial Advisor, this ordinance amends the debt service budget by \$3.5 million to ensure there is sufficient appropriation to handle any defeasance scenario.

* "Defeasance" means to be relieved of financial and legal requirements of the bonds. In the present case, defeasance would relieve Metro from the legal obligation to cover 110 % of the full annual debt service.

** There is no similar timing issue for FY 2003-04, as long as the bonds are defeased this fiscal year.

ANALYSIS/INFORMATION

1. Known Opposition.

None.

2. Legal Antecedents.

Oregon Revised Statutes Section 294.450 provides for transfers of appropriations within a fund if such transfers are authorized by official resolution or ordinance of the local jurisdiction's governing body.

3. Anticipated Effects:

As described in "Background" above, the primary purpose of defeasing the bonds is to reduce the amount of net revenue necessary to meet the debt service coverage requirement. There are different effects for this and next fiscal year:

FY 2002-03. Defeasance, together with judicious management of expenditures through the end of the current year, should allow Metro to meet the coverage ratio in FY 2002-03. The necessary level of expenditure reduction depends on the timing of the defeasance, as shown in the table on page 2 of this staff report.

FY 2003-04. Even with defeasance, an increase in net revenue of at least \$500,000 is needed in the requested FY 2003-04 budget in order to make coverage next fiscal year. Metro will have debt service of \$635,408 even after defeasing the bonds. This remaining debt service is interest on bonds maturing after FY 2003-04 coverage of this debt service requires almost \$700,000 in net revenue, versus the \$210,000 that is in the budget submitted by the department last November. Hence the need for an increase of \$500,000 or more. The net revenue requirement may be achieved with any combination of expenditure reductions or rate increases totaling \$500,000 or more, provided that the other budget assumptions hold—in particular, the amount of tonnage realized and the price of fuel.

An important additional effect in FY 2003-04 is generated by the accelerated payment of debt—namely, the management of the solid waste reserves. As submitted, the department's proposed FY 2003-04 budget is balanced by the use of approximately \$3.9 million from the fund balance. However, the majority of funds earmarked for this purpose would instead go toward the defeasance, leaving a significant budgetary shortfall for next year. There are a number of options for managing this situation; for example (a) paying back the reserves over time, (b) reducing expenditures and/or increasing rates in FY 2003-04, or (c) accepting a lower level of reserves. In addition, a "rolling defeasance," in which debt service is paid a year in advance, should be considered. This strategy would significantly reduce the debt service that needs to be covered by operating revenue, and would allow considerable flexibility in the use of reserves to pay operating expenditures over time.

In any case, the department is on a sufficiently sound financial foundation to proceed with the defeasance at this time and decide on the management of reserves later. The discussion of options should occur during the FY 2003-04 budget hearings scheduled later this Spring.

4. Budget Impacts.

The cost of defeasing the bonds authorized by this ordinance is estimated at \$12,000 to \$25,000 (the actual cost will depend on the markets at the point of defeasance). Other budget effects have been described throughout this staff report. In summary, this ordinance authorizes the use of

approximately \$3.4 million from reserves to defease certain solid waste bonds in February or March 2003. This \$3.4 million was scheduled to be spent on debt service during the next 16 months, so it is not a "cost" to the agency in that sense. However, the expenditure of these funds *at this point in time* will require a decision on managing expenditures and reserves during FY 2003-04. Some options have been described in "Anticipated Effects" above.

RECOMMENDATION

The Chief Operating Officer recommends approval of Ordinance No. 03-995.

M:\rem\of\projects\Legislation\Bond defeasance stfpt.doc

Agenda Item Number 8.1

**Resolution No. 03-3282, For the Purpose of Approving Portland Regional Federal Transportation Priorities for
Federal Fiscal Year 2004 Appropriations.**

**Metro Council Meeting
Thursday, February 27, 2003
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING) RESOLUTION NO. 03-3282
PORTLAND REGIONAL FEDERAL) Introduced by Councilor Rod Park
TRANSPORTATION PRIORITIES FOR)
FEDERAL FISCAL YEAR 2004)
APPROPRIATIONS)

WHEREAS, the Portland metropolitan region relies heavily on various federal funding sources to adequately plan for and develop the region's transportation infrastructure, and

WHEREAS, Metro must comply with a wide variety of federal requirements related to transportation planning and project funding, and

WHEREAS, Metro's Joint Policy Advisory Committee on Transportation (JPACT) has approved Exhibit A to this resolution, entitled, "Portland Region Priorities for FY 04 federal transportation appropriations,"; now therefore

BE IT RESOLVED, that the Metro Council

1. Approve Exhibit A of this resolution, entitled "FY 04 Federal Transportation Appropriations" and directs that it be submitted to the Oregon Congressional delegation.

ADOPTED by the Metro Council this _____ day of February, 2003

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

Exhibit A
PORTLAND REGIONAL
FEDERAL TRANSPORTATION PRIORITIES
FOR FEDERAL FISCAL YEAR 2004 APPROPRIATIONS

The following request for Congressional assistance in securing FFY 2004 appropriations will be forwarded to the Washington and Oregon Congressional delegations by the Metropolitan Planning Organizations in the Portland metropolitan area.

Because the FFY 2004 Appropriations request is being prepared prior to completion of the FFY 2003 Appropriations Bill, the specific amounts of funding requested for FFY 2004 may need to be revised subject to the amounts appropriated in the final FFY 2003 bill. The funding requested below for FFY 2004 assume that the final FFY 2003 appropriations match the levels requested by the Region. If required, revised appropriations requests will be released as soon as the FFY 2003 Appropriations bill is completed.

In addition, this FFY 2004 Appropriations request is being prepared concurrent with establishing the Region's priorities for the Transportation Reauthorization bill. These priorities include requests for project-specific earmarks and demonstration projects. If included in the Reauthorization bill, some of the earmarked or demonstration projects would seek an initial appropriation in FFY 2004. This FFY 2004 Appropriations request does not address appropriations for projects seeking an earmark for demonstration project status in the Reauthorization bill. Any project earmarked as Demo projects in the Authorization bill will automatically receive funds in FFY 04. The Region will monitor the Reauthorization bill and refine its FFY 2004 Appropriations request when appropriate.

A. Oregon Projects

1. **Interstate MAX.** Request an appropriation of \$77.5 million in Sec. 5309 New Start funding for continued construction of the Interstate MAX extension, the region's priority discretionary project for FFY2004. This amount is consistent with the funding plan approved by FTA in the project's Full Funding Grant Agreement. The project is scheduled to be completed in the summer of 2004 and will require a final appropriation in FFY 2005.
2. **Wilsonville to Beaverton Commuter Rail.** Request an appropriation of \$18 million in Sec. 5309 New Start funds for the construction of the 15.5-mile commuter rail project in Washington and Clackamas County, Oregon. Funds would be used for Final Design, initial vehicle progress payments and acquisition of right of way. This is in addition to the \$2.5 million anticipated to be appropriated in FFY 2003 and will require a final appropriation in FFY 2005.
3. **Sauvie Island Bridge.** Request an appropriation of \$1 million from Bridge Discretionary funds for preliminary engineering for the replacement of the Sauvie Island Bridge. The amount is in addition to the \$2 million anticipated to be appropriated in FFY 2003.
4. **Sec. 5309 Bus and Bus Facilities.** Request an appropriation of \$8 million from Section 5309 bus funds to acquire buses and improve bus facilities.

5. **I-5 Trade Corridor.** Request an appropriation of \$0.5 million from the National Corridor Planning and Development Program to conduct preliminary engineering for the Columbia River vehicle and transit crossings, and associated interchange improvements between SR 500 in Vancouver and Columbia Boulevard in Portland. This is in addition to the \$3.5 million anticipated to be appropriated in FFY 2003.

In addition, the Coast Guard is currently completing an evaluation of the railroad swing-span across the Columbia River to determine if it is eligible for funding under the Truman-Hobbs Act. Pending the outcome of that study, there may be a request for an appropriation to build the recommended project.

6. **Interstate-205.** ODOT is requesting \$1 million for preliminary engineering to add an extra lane in each direction on I-205 between the Stafford Interchange and I-5. This request capitalizes on a planned \$37 million preservation project on I-205 between the Willamette River and I-5, which as currently designed requires temporary detour lanes to be built and then removed after preservation work is completed.

FY 2004 funding will be used to redesign the project and secure the necessary environmental approvals needed to add construction of permanent lanes to the existing preservation project. Federal funds, an estimated \$8 million, will be requested in future appropriations bills to pay for construction of the new lanes. If funded, the combined preservation/widening project would begin in FY 2007.

7. **Sunrise Corridor.** Request \$1 million of Interstate – 4R funds to complete the EIS for the Sunrise Corridor – Phase I. This is in addition to Surface Transportation funds allocated through the Metro Transportation Improvement Program.
8. **Columbia River Channel Deepening.** Request an appropriation of \$25 million from the energy and water appropriations for funding of construction of the channel deepening.
9. **Transportation and Community and Systems Preservation.** Request appropriations from TCSP program as follows:

- \$0.5 million for Gresham Springwater Area Concept and Implementation Plan.
- \$1.0 million for Damascus Area Concept and Implementation Plan.
- \$1.0 million for Kenton Feed and Seed redevelopment.

Note: In addition, the following projects were approved as part of the priority list of projects to earmark through the reauthorization of TEA-21. Depending upon how projects are handled through the reauthorization bill, it may be appropriate to include some or all in the 2004 appropriations bill:

- \$5.6 million for Lake Rd. (Milwaukie)
- \$2.7 million for Gresham Civic Neighborhood LRT Station
- \$2.0 million for Rockwood Town Center

- \$8.0 million for North Macadam Access
10. **Intelligent Transportation System.** Request \$4.25 million appropriation for the Portland region's and State of Oregon's ITS initiatives. Also, request \$4 million for the new Portland State University ITS research center.
 11. **Central City Streetcar.** Request an appropriation of \$1 million in HUD funds for Preliminary Engineering of Portland's streetcar extension to the Eastside.
 12. **Jobs Access.** Request an appropriation of \$3 million from Jobs Access/Reverse Commute (JARC) program. \$1.8 million will support ongoing jobs access programs and \$1.2 million will support expanded TriMet service.
 13. **Regional Support for Statewide Request for Transit Improvements.** The Region supports the Oregon Transit Association's request for statewide transit earmarking including: \$1.5 million of Section 5309 bus funds for construction of a 250 space park-and-ride facility and transit center in Wilsonville, \$0.23 million for South Clackamas County Transit (Molalla), \$0.225 million for City of Sandy Transit, and \$0.20 million for City of Canby Transit.
 14. **Highway Demo Projects.** In the project priorities adopted by the region for reauthorization of TEA-21, a number of projects were identified for funding through the "Highway Demo" funding category. In the past, this funding through the authorization bill has not required a separate appropriation. The following highway demo projects are identified on the Portland Region Reauthorization Priority list:
 - \$32.8 million for I-5: Delta Park to Lombard
 - \$26.4 million for Highway 217: TV Highway to Sunset Highway
 - \$32.0 million for Sunrise Corridor – Phase I
 - \$11.0 million for Ramsay Railroad Yard
 - \$09.0 million for Air Cargo Access
 - \$08.0 million for Boeckman Rd. (Wilsonville)
 - \$05.0 million for Regional Culvert Program
 - \$05.0 million for Regional Trail Program
 - \$14.4 million for Beaverton-Hillsdale/Scholls Ferry/Oleson
 - \$04.2 million for Wilsonville: Barber Road – Urban Village Connection

B. Washington Projects

1. **LRT Loop.** The region supports a \$2 million earmark "new start" funding for the I-5/I-205/SR500 light rail loop for the initial Alternative Analysis feasibility process.
2. **FTA Capital Projects Earmarks.** Request a \$3.6 million capital-leasing earmark to reimburse a public/private partnership that is constructing a 630-space Clark County Fairgrounds Park & Ride.

3. **Vancouver Mall Transit Center.** Request a \$1.6 million earmark to lease land and upgrade existing Vancouver Mall Transit Center to reduce annual maintenance costs and ensure future operations.

4. **FHWA/FTA Intelligent Transportation Systems Earmark.** Regional Transportation Council will consolidate a FFY 2004 earmark request incorporating the needs of C-TRAN: deployment of traffic signal priority equipment on buses; real-time arrival and departure information, and; fleet maintenance management system. Estimated total of these three regional sub-projects is \$1.6 million.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3282, FOR THE PURPOSE OF APPROVING PORTLAND REGIONAL FEDERAL TRANSPORTATION PRIORITIES FOR FEDERAL FISCAL YEAR 2004 APPROPRIATIONS

Date: February 5, 2003

Prepared by: Andy Cotugno

BACKGROUND

The region annually produces a position paper that outlines the views of the Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT), a regional body that consists of local elected and appointed officials, on issues concerning transportation policy and funding that are likely to be considered by Congress during the coming year. This year priorities are focused on both annual appropriations, addressed by this resolution as well as reauthorization of the Transportation Equity Act for the 21st Century (TEA-21), addressed by Resolution No. 03-3271, For the Purpose of Endorsing A Regional Position on Reauthorization of the Transportation Equity Act for the 21st Century (Tea-21).

The proposed position paper addresses several critical regional transportation issues. The Portland region is pursuing an aggressive agenda to implement a high-capacity transit system. This effort involves implementing two projects concurrently within the next three to five years: Interstate MAX and the Wilsonville to Beaverton commuter rail. Additionally, there are several complementary projects for which the region is requesting funding: bus and bus facility purchases regionwide, Wilsonville Park and Ride, Kenton Transit Oriented Development (TOD) project, and Central City streetcar extension to North Macadam.

Oregon and Washington continue developing a cooperative strategy to address the transportation needs in the I-5 Trade Corridor. The paper outlines the Federal funding needs and sources for continuing this work and requests support for obtaining these funds. Other interstate issues addressed in the paper include Columbia River channel deepening, high-speed rail and support of requests by the State of Washington.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Projects within the region earmarked for federal funding must be consistent with the Regional Transportation Plan, adopted by Metro Ordinance No. 00-869A, Consideration of Ordinance No. 00-869A For the Purpose of Adopting the 2000 Regional Transportation Plan; Amending Ordinance No. 96-647C and Ordinance No. 97-715B and Resolution No. 00-2969B, For the Purpose of Adopting the 2000 Regional Transportation Plan as the Federal Metropolitan Transportation Plan and must be amended into the Metro Transportation Improvement Program.
3. **Anticipated Effects** Resolution would provide the US Congress and the Oregon Congressional delegation specifically with the region's priorities for transportation funding for use in the federal transportation appropriation process.
4. **Budget Impacts** Metro is involved in planning related to several of the projects included in the priorities paper and must approve many of the requested funding allocations. Failure to obtain funding for one or more of the projects could affect the FY 03-04 Transportation Department budget. However, most of the funding requests deal with implementation projects sponsored by jurisdictions other than Metro.

RECOMMENDED ACTION

Approve Resolution 03-3282 for submission to the Oregon Congressional delegation for consideration in the Federal Fiscal Year 04 Appropriations Bill.

Agenda Item Number 8.2

Resolution No. 03-3284, For the Purpose of Approving Metro's Application for Federal Transportation Funds through the Regional Priorities 2004-07 Solicitation.

**Metro Council Meeting
Thursday, February 27, 2003
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING METRO'S) RESOLUTION NO. 03-3284
APPLICATIONS FOR FEDERAL)
TRANSPORTATION FUNDS THROUGH THE) Introduced by Councilor Rod Park
"REGIONAL PRIORITIES 2004-07")
SOLICITATION)

WHEREAS, The 2000 Regional Transportation Plan (RTP) establishes the 20-year blueprint for transportation investments in the region to meet expected travel needs and implement the 2040 Growth Concept, and

WHEREAS, The Metropolitan Transportation Improvement Program (MTIP) is the mechanism for allocating federal funds to implement the RTP in five-year increments, and

WHEREAS, Metro is uniquely capable or expressly directed by state and federal regulations to complete certain planning and project functions called for in the RTP, and

WHEREAS, The Council Transportation Planning Committee previously provided preliminary review and approval of the possible Metro applications for MTIP funding, now therefore

BE IT RESOLVED, that the Metro Council approves the applications for funding through the MTP as reflected in Exhibit A.

ADOPTED by the Metro Council this _____ day of February 2003.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

Exhibit A
Metro Applications for MTIP Funds

Metro Core Planning Program

Project: rpln1

Grant Request: \$1,709,000

Match Amount: \$196,000

Total Project Cost: \$1,905,000

Project Sponsor: Metro

This project funds several Metro planning activities, many of which are required of Metropolitan Planning Organizations (MPO) by federal and state regulations. These includes updates and refinements of the Regional Transportation Plan (RTP), performance measures for implementing the RTP, performing the Metropolitan Transportation Improvement Program (MTIP), efforts to develop funding for the RTP projects and programs, the Livable Streets program, development of the regional travel forecasting model, monitoring of the transportation system and provision of technical assistance to local jurisdictions. The funding level provides for continuation of past annual allocations with a 3.5 percent per year escalator.

Metro TOD Program

Project: rtod1

Grant Request: \$4,500,000

Match Amount: \$517,000

Private Match: \$125,425,000

Total Project Cost: \$130,442,000

Project Sponsor: Metro

This project is to continue the Transit-Oriented Development Implementation Program (TOD Program), which helps stimulate the construction of "transit villages" and other joint development projects through public/private partnerships at light rail, commuter rail and streetcar stations throughout the Portland metropolitan region. These compact, relatively dense, mixed-use, mixed-income developments concentrate retail, housing and jobs in pedestrian-scaled urban environments, and increase non-auto trips (transit, bicycle, walking) while decreasing regional congestion and air pollution. TODs increase transit ridership 10 times compared to typical suburban development, but are more expensive and more risky for the private sector. Therefore, public/private partnerships are necessary.

To date, the Program has concentrated on getting built examples of higher density and mixed-use projects to be able to demonstrate developer interest, lender participation and market acceptance, and to determine cost penalties compared to public benefit gained. For the past 18 months, the Program has also been working to address the issue Randy Gragg (The Oregonian's architecture critic) has observed that "despite all the talk about transit villages, not one fully operating village yet exists at a transit station," in which a resident can buy a loaf of bread, walk to lunch, and complete a range of activities without requiring an auto. The program acquired 13 acres surrounding the future MAX station in Gresham and is currently developing the first project with a five-story building with housing over ground floor retail.

A grocery store is already in place and the TOD Program will continue this project while striving to implement, with Priorities 2004 funding, at least one full transit village on the Westside, with a full range of businesses and services. Specific project locations for the program include Gateway, Lloyd District, Hollywood, Peterkort, Beaverton, Orenco, Quatama, Beaverton Creek, Hillsboro Central, Kenton and others, providing they meet program eligibility requirements.

The initial TOD allocation provided \$1 million per year for three years. The following MTIP application applied to continue TOD funding at \$1 million per year but was allocated at \$.75 million per year with the increase policy emphasis on centers. This application proposes TOD funding at \$2 million per year in FY 06 and 07 and seeks to recapture the \$.25 million per year that was cut from FY 04 and 05.

Metro Urban Centers Implementation Program

Project: rtod2
Grant Request: \$1,000,000
Match Amount: \$114,500
Private Match: \$27,000,000
Total Project Cost: \$28,114,500
Project Sponsor: Metro

This project would leverage the construction of significant infill and redevelopment and other joint development projects through public-private partnerships in Metro's 2040 mixed-use areas served by high frequency bus routes. This new development will be compact, relatively dense, mixed-use and mixed-income. It will concentrate retail, housing and jobs in pedestrian-scaled urban environments, and increase non-auto trips (transit, bicycle, walking) while decreasing regional congestion and air pollution. The Centers Implementation Program would operate through cooperative agreements with local, regional and state jurisdictions, would utilize Development Agreements with private developers, and would be governed by the existing TOD Program Steering Committee comprised of representatives from the Governor's Office (Chair), the Department of Environmental Quality (DEQ), the Department of Land Conservation & Development (DLCD), the Oregon Housing & Community Services Department, TriMet, the Metro Council, the Oregon Department of Transportation (ODOT), the Oregon Economic Development Department (OEDD) and the Portland Development Commission (PDC).

I-5 to Highway 99W Corridor and Concept Planning

Project: rpln5
Grant Request: \$500,000
Match Amount: \$57,250
Total Project Cost: \$1,000,000
Project Sponsor: Metro

This application is to complete required corridor planning for the I-5 to Highway 99W connector in the vicinity of Tualatin and Sherwood. The need for a new highway connection in this area was identified in the 2000 RTP, but will not be acknowledged by the LCDC as part of the plan until detailed findings on consistency with rural land use goals can be made.

The corridor for this connection includes new urban land along the south edge of Sherwood, and this project would seek to combine corridor planning for a new facility with needed concept planning for the new urban area. The RTP calls for this work to consider the possibility of creating a "hard edge" to the urban area with a new highway improvement that would serve as permanent definition of the region's urban growth boundary. The funding level is proposed at \$.5 million per year as a start up implementation resource to complement Metro's Centers program. Upon demonstrated success, it would be appropriate to seek a higher amount in the future.

Powell-Foster Corridor Plan (Phase II)

Project: rpln3
Grant Request: \$200,000
Match Amount: \$400,000
Total Project Cost: \$900,000
Project Sponsor: Metro

This application is to complete Phase II of the corridor planning work for Powell/Foster corridor. Phase I is underway and will be completed in June 2003. This application will complete the planning process. The outcome will be a set of feasible alternatives for the corridor with an implementation, phasing and funding strategies. The amount is in addition to the \$.3 million allocated in the last MTIP process.

Regional Freight Data Collection

Project: rpln6
Grant Request: \$500,000
Match Amount: \$250,000
Total Project Cost: \$750,000
Project Sponsor: Metro

This project will collect extensive freight mobility data to augment Metro's truck model and to answer key questions posed by jurisdictions and businesses associations within the region. The data collection effort could include:

- Origin and destination of shipments
- Freight routing on roads
- Truck load factors (how full are trucks based on the commodities they carry)
- Empty loads
- Other factors to be determined

Ultimately, the project will help the region make more targeted, strategic freight investment decisions, increasing the benefit for each dollar spent.

Regional TDM Program

Project: rtdm1

Grant Request: \$3,987,000

Match Amount: \$409,465

Total Project Cost: \$4,396,465

Project Sponsor: Metro and TriMet

This is a joint application by Metro and TriMet. Metro sets the program direction and approves specific implementation projects. TriMet is the primary implementation grant recipient. Transportation Demand Management (TDM) is a set of strategies that encourages the use of alternative modes to driving alone in order to maximize infrastructure investments, create public/private partnerships for trip reduction, and provide cost-efficient alternatives to building new transportation facilities. The Regional TDM program and projects, unlike motor vehicle and transit programs and projects, do not have major sources of revenue outside the MTIP flexible funding. The Regional TDM program leverages and compliments other transportation investments being made through the Transportation Priorities 2004-2007 process. All elements of the TDM program (DEQ ECO clearinghouse, OOE telework, SMART/Wilsonville, TriMet "core" TDM program, TMA program and Region 2040 Initiatives program) are being combined into the Regional TDM program for the current funding request. The core TDM program includes program management, outreach and marketing, TDM program evaluation and regional rideshare. This program will guide future funding allocation decisions and contracts and will include the following:

- Support targeted TDM programs in key corridors identified in the RTP and in TriMet's Transportation Investment Plan.
- Support community- or neighborhood-based TDM programs in Central City, Regional Centers, Town Center, Station Communities, Industrial Areas or Main Streets.
- Increase awareness and performance of the regional rideshare program, including support for the carpoolmatchNW.org program.
- Continue to coordinate TMA program administration and policy development.
- Evaluate options of transitioning TMA Administration from TriMet to Metro or to other appropriate agencies.
- Support TMAs employer outreach and program development in Region 2040 centers, including industrial areas.
- Consider expanding funding levels for Region 2040 Initiatives Grant Program to target TDM programs in key 2040 centers and industrial areas, and to leverage other transportation investments being made throughout the region.
- Continue to support the TDM program at South Metro Area Regional Transit (SMART).
- Develop a strategy for promoting the Business Energy Tax Credit program throughout the region.
- Develop a strategy for promoting telework throughout the region.

- Consider a Regional Travel Options Clearinghouse (similar to Metro's recycling program) that may include a staffed regional TDM hotline, web-based information such as downloadable educational materials and links to regional partners.

The funding level is consistent with Resolution No. 02-3183 which established the appropriate funding level for the TDM program and Transportation Management Associations.

RTP Corridor Project

Project: rpln4
Grant Request: \$500,000
Match Amount: \$600,000
Total Project Cost: \$1,100,000
Project Sponsor: Metro

Chapter 6 of the 2000 RTP identifies a number of major regional transportation corridors with significant needs but which require further planning and engineering before a specific project can be developed and implemented. The State Transportation Planning rule requires prompt completion of these multi-modal corridor plans. In FY 2001, Metro led the Corridor Initiatives Process, which established a strategy for completion and prioritization of the corridors.

The RTP Corridor Project will undertake a refinement plan for the next priority corridor. The list of potential corridors for planning includes I-5, I-205, Barbur Boulevard, Tualatin Valley Highway and several other regional highway corridors. The project will complete systems level planning work and will identify a set of improvement alternatives that can be taken into project development. The outcome of the corridor planning process will be a set of feasible capital improvements for the corridor with an implementation, phasing and funding strategy.

The application is intended to provide \$.25 million per year in FY 06 and 07 for corridor planning priorities established at that time.

Rx for Big Streets

Project: rpln2
Grant Request: \$276,000
Match Amount: \$67,000
Total Project Cost: \$343,000
Project Sponsor: Metro

This project is an effort to conduct joint land use and transportation planning for "big streets" in the Metro region. "Big Streets" are largely four-lane facilities that once served as rural highway routes, but have evolved to become urban thoroughfares. In this transition, the design and function of the routes has often contradicted land use plans, and most of these facilities have not been updated to serve as multi-modal facilities. As a result, the "Big Streets" that define the corridors are among the most deficient transportation facilities in the regional system. They are characterized by inadequate or absent pedestrian

and bicycle facilities, and aging traffic control systems and roadways designs that are insufficient to meet projected demand. These streets already carry heavy traffic volumes, and are actively used by pedestrians and bicyclists, and often have high transit ridership, despite the lack of safe facilities. By design, these routes are intended to balance local access with regional mobility, yet no plans exist for how to strike this balance. The goal of this three-phase project is to establish design principles and a methodology for planning in these corridors through development of design guidelines and pilot projects on three facilities in the region.

The 2040 Growth Concept identified most of these facilities as "corridors," and this land use designation is the last remaining element of the 2040 plan that has yet to be defined at a level of detail needed to be incorporated into local land use plans. This refinement work follows similar efforts for other mixed-use components of the 2040 Growth Concept. In the 1990s, more than one-third of the development in mixed-use areas has occurred in corridors. Yet, these corridors are the least defined of the 2040 land use components, underscoring the need for integrating land use and transportation planning here.

Gresham Civic Drive Green Street Demonstration Project

Project: mgs2
Grant Request: \$250,000
Match Amount: \$25,675
Total Project Cost: \$275,675
Project Sponsor: Metro

This project is a green street demonstration project to retrofit Civic Drive to treat stormwater runoff from approximately 12,800 square feet of impervious surface using larger street trees and structural soils. Curb inserts or perforated curbs that are consistent with the Green Streets handbook will be used to maintain the integrity of the curb while directing stormwater runoff into street tree wells. Existing trees will be salvaged and planted in another location within the TOD project area. Large street trees will be selected from the Trees for Green Streets guide and planted in a site-specific structural soil mix that is amended with organic material. The structural soils will allow larger street trees to be planted, which is unusual in high-density urban areas. The result is a reduction of the volume of runoff that enters the stormwater collection system that does not compromise the amount of right of way available for on-street parking, bike movement, transit stops and pedestrian activities.

The existing stormwater system will be used as an overflow device that directs water to an underground cistern and recycled through a water feature on the northwestern corner of the adjacent lot. This water feature will be a central gathering place and will be used as an opportunity to educate people about the impacts of stormwater runoff on natural stream systems. Signage will be used to explain how the green street treatment helps to mitigate the impervious street surface. Educating the public about the impacts of streets on streams is one of the ways to make green street projects more publicly acceptable. This green streets demonstration project will be coordinated with construction of five-story mixed use development called The Crossing and the new MAX station and plaza in Gresham Civic Neighborhood.

Gresham Civic Station and TOD Development

Project: mtr2

Grant Request: \$3,450,000

Match Amount: \$979,500

Private Match: \$256,000,000

Total Project Cost: \$260,390,000

**Project Sponsors: City of Gresham,
TriMet and Metro**

This project constructs a new light rail station and transit plaza immediately surrounding the future MAX station on 85-acres of vacant land west of Civic Drive in the City of Gresham. This project provides a unique opportunity to design and build a transit station and the surrounding TOD together. When completed, this will be the largest TOD in the region outside Portland's downtown that is physically or functionally connected to transit and a rare opportunity for the transit station to be surrounded by a TOD on all sides. The proposed transit station is the epicenter of Gresham Civic Neighborhood, which will eventually include 700,000 square feet of retail, 1,100 housing units (including for sale and for rent, elderly, market rate and affordable), grocery store, movie theaters, restaurants, health club, health care and office.

This application for the LRT station itself. Past MTIP allocations to the Metro TOD program have funded adjacent development projects.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3284 FOR THE PURPOSE OF APPROVING METRO'S APPLICATIONS FOR FEDERAL TRANSPORTATION FUNDS THROUGH THE "REGIONAL PRIORITIES 2004-07" SOLICITATION

Date: February 3, 2003

Prepared by: Tom Kloster

BACKGROUND

The Regional Transportation Plan (RTP) identifies a 20-year list of future transportation projects based on regional transportation and land-use policies. Most transportation projects of importance to the region are funded with state and federal money. The cost of all the projects approved in the RTP exceeds the amount of funding available at any one time. The Transportation Priorities 2004-07 program will select RTP projects to receive some of the federal funds allocated to this region. Approximately \$635 million is spent on transportation in the Portland metropolitan region each year through a combination of federal, state, regional and local sources. This includes spending on maintenance and operation of existing roads and transit as well as the construction of new roads, sidewalks and bike facilities and implementation of programs to manage or reduce demand on the region's transportation system.

Of this total, Metro allocates regional flexible funds that come from two different federal grant programs: the Surface Transportation and Congestion/Air Quality programs. Approximately \$53 million is expected to be available to the Portland metropolitan region from these grant programs for the years 2006 and 2007. Of this amount, \$12 million had been previously committed to development of light rail in the Interstate Avenue and South corridors. The Transportation Priorities 2004-07 program is the regional process to identify which transportation projects and programs will receive the remaining \$41 million. These funds are limited to eligible sponsors under federal law, including Metro, TriMet, South Metro Area Rapid Transit (SMART), Oregon Department of Environmental Quality, Oregon Department of Transportation, Washington County and its cities, Clackamas County and its cities, Multnomah County and its cities, city of Portland, Port of Portland and parks and recreation districts.

In July 2002, JPACT and the Metro Council adopted a new policy direction for transportation funding. The primary objective is to leverage economic development in priority 2040 land-use areas through investments that support commercial centers, industrial areas and urban growth boundary expansion areas with completed concept plans. Other objectives include emphasizing projects that do not have other funding sources, completing gaps in the system and developing a transportation system that serves all travel options.

The Transportation Priorities program will address this policy guidance in two ways. First, the program provides an incentive for eligible government sponsors to nominate projects that support economic activity in priority land-use areas as defined by the 2040 Growth Concept. Projects fitting this category are eligible for up to a maximum allowed regional match of 89.73 percent under federal requirements. In contrast, projects located outside of these key 2040 areas are only be eligible for up to 70 percent regional match under the new criteria. This approach rewards projects that directly relate to the 2040 plan, while retaining flexibility to fund projects that do not directly benefit a regional priority land-use area but that are deemed to be important and effective transportation projects due to other considerations.

The program also addresses the new policy guidance through the technical evaluation portion of the program. In the technical evaluation of projects, 40 of 100 possible technical points are dedicated to evaluation of the land uses served by the proposed transportation project and how well 2040 Growth Concept objectives are implemented. As in previous allocation processes, projects will still be evaluated and ranked based on their effectiveness, cost effectiveness and impact on safety.

Metro has routinely received fund through the MTIP process for a wide variety of planning activities and projects, ranging from core planning programs that are required by federal law to special programs and projects that advance regional policy. Of these applications, the ongoing funding requests for the following programs (each described in more detail in Attachment A) have been approved in each MTIP update since the early 1990s:

- Metro Core Planning Program
- Metro TOD Program
- Regional TDM Program

In addition to these core programs, Metro has also successfully competed for funds to complete special projects and planning efforts. These efforts include numerous corridor plans, area plans, TOD developments and regional trail projects. The following are special Metro projects proposed for funding as part of the Priorities 2004-07 allocation (also described in more detail in Attachment A):

- I-5 to Highway 99W Corridor and Concept Planning
- Powell-Foster Corridor Plan (Phase II)
- Regional Freight Data Collection
- RTP Corridor Project
- Rx for Big Streets
- Gresham Civic Drive Green Street Demonstration Project
- Gresham Civic Station and TOD Development
- Metro Urban Centers Implementation Program

The proposed resolution would approve the pursuit of Regional Priorities 2004-07 MTIP funds on behalf of Metro, for the funding period of 2004-2007, and direct staff to submit these applications for funding: These proposals were first discussed and approved by the Council Transportation Planning Committee in fall 2002 in draft form, and were submitted for technical evaluation in December 2002.

ANALYSIS/INFORMATION

1. **Known Opposition** None.
2. **Legal Antecedents** Metro has routinely applied for MTIP funds for a variety of purposes, and is recognized by the federal government as an eligible agency grantee for these funds.
3. **Anticipated Effects** If ultimately approved by JPACT and the Metro Council, the funds would advance Metro's efforts to implement the 2040 Growth Concept through strategic transportation planning and investments. These funds would advance planning and development projects that would otherwise not be accomplished with other Metro operating funding sources.
4. **Budget Impacts** The projects and programs represented by these applications would require \$3,616,390 in local match from Metro to receive \$16,872,000 in federal grant funds. It is unlikely

that all of the applications will be approved, though some applications represent ongoing programs that have been routinely funded through the MTIP. These budget impacts are for the 2006-07 fiscal year.

RECOMMENDED ACTION

Approval of Resolution No. 03-3284 to pursue Regional Priorities 2004-07 MTIP funds on behalf of Metro, for the funding period of 2004-2007, and direct staff to submit the applications described previously in this report for funding consideration.

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Agenda Item Number 8.3

Resolution No. 03-3287, For the Purpose of Endorsement of a Regional Position on Reauthorization of the Transportation Equity Act For the 21st Century (TEA-21).

**Metro Council Meeting
Thursday, February 20, 2003
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSEMENT) RESOLUTION NO. 03-3287
OF A REGIONAL POSITION ON)
REAUTHORIZATION OF THE) Introduced by Councilor Rod Park
TRANSPORTATION EQUITY ACT FOR THE
21ST CENTURY (TEA-21)

WHEREAS, the Transportation Equity Act for the 21st Century (TEA-21) was adopted by Congress in 1998; and

WHEREAS, TEA-21 is scheduled to expire at the end of federal Fiscal Year 2003 (September 30, 2003); and

WHEREAS, Congress will be considering reauthorization of TEA-21 during 2003; and

WHEREAS, TEA-21 has a significant policy effect on transportation planning and decision-making and funding in the Portland region; and

WHEREAS, reauthorization results in the "earmarking" or identification of specific projects and establishes the amount of federal funding eligible to be appropriated to those projects; and

WHEREAS, further review of proposed legislation will lead to possible amendment and refinement to this policy position; now therefore

BE IT RESOLVED that the Metro Council:

- 1. Endorses the summary of regional priority policy issues on reauthorization of TEA-21 as reflected in Exhibit A.
- 2. Endorses the regional position paper on reauthorization of TEA-21 as reflected in Exhibit B.
- 3. Endorses the projects identified in Exhibit C as the region's priority projects for TEA-21 reauthorization earmarking.

ADOPTED by the Metro Council this _____ day of February, 2003

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A

Portland Regional Position on the Reauthorization of the Transportation Equity Act for the 21st Century Priority Policy Issues

1. Funding levels

The paramount issue is to increase the funding levels available for transportation. This is particularly important in light of the growing national budget pressures, the increasing federal deficit, the added costs placed on the transportation system due to national security and the growing needs generally. Without increasing the overall program, any debate about changes in any particular program direction is moot. In addition, current provisions for maintaining the firewalls between the transportation trust fund and the rest of the federal budget, minimum appropriation level guarantees and provisions for increasing spending levels if trust fund receipts are higher than estimated (RABA) should continue. Revenue options under discussion to increase the program include:

- Indexing the gas tax (potentially retroactive to 1992);
 - Changing the ethanol tax credit to provided lost funding to the transportation trust fund from the general fund;
 - Recapturing interest on the trust fund from the general fund;
 - Bonding against increased resources;
 - Ensuring the state maintains at least a 95% return on transportation taxes paid to the federal government; and
 - Maintaining firewall provisions that ensure collections to the Trust Fund and provide to the states and localities through annual appropriations.
2. The most important policy area to pursue is to preserve the basic policy structure established by ISTEA and TEA-21, including flexible funding provisions, the role of the MPO in policy setting, funding allocation and project selection and, the sub-allocation to MPOs of STP funds. . In addition, continued allocation of funds to transit districts (through Section 5309 funds) is essential to the goals of the region. As the overall size of the transportation program is increased, it is in these funding sources - STP, CMAQ and Section 5309 - that are the highest priorities to increase. The region and the delegation should monitor and participate in national discussions to address urban congestion problems, especially in large metro areas
3. The discretionary funding categories that are likely to have the greatest financial impact on the region are the transit "New Starts" program and the highway "Borders and Corridors" program. Funding levels should be increased in both programs to provide a mechanism to provide discretionary funding to large projects through a rigorous, merit-based approach. Specific issues associated with these programs include:
- Separation of the "Trade Corridors" program from the "International Borders" program with a significant funding increase and establishment of rigorous criteria focused on movement of freight;
 - Increased funding for the "New Starts" program in recognition of the growing support for creation of a streamlined "Small Starts" category for lower cost Bus Rapid Transit, Commuter Rail and Streetcar projects: support creation of such a "Small Starts program" if additional resources are made available to fund such projects;

- Inclusion of project selection criteria for Streetcar “Small Starts” projects that emphasize commitment to transit supportive development to generate transit ridership in lieu of regional mobility; and
 - Refinement of the TIFIA program to make it more attractive through low cost loans and the addition of a partial grant component.
4. Various programs are under consideration to increase the emphasis on all forms of freight transportation, including research, data collection and funding flexibility, including provisions for selected improvements to the freight rail system. Because of the strong freight character to the Portland area economy, these should be a priority area for the region. Associated with this is consideration of an added Title to the Act that integrates a freight rail program, Amtrak and High-Speed Passenger Rail, including dedication of the 4.3 cent fuel tax now being paid by the railroads to the federal general fund to this Trust Fund.

EXHIBIT B

Regional Position on Reauthorization of the Transportation Equity Act for the 21st Century (TEA-21)

1) Major Funding & Policy Issues

a) Transportation Funding.

i) Setting the Baseline for TEA-21 Reauthorization.

The Transportation Equity Act for the 21st Century (TEA-21) authorized the Revenue Aligned Budget Authority (RABA) to create a more direct linkage between the revenues coming into the highway Trust Fund and the revenues being appropriated to highway and transit construction. Over the first four years of TEA-21, RABA generated significant increases in federal transportation funding. However, the Administration has proposed a significant cut in RABA funding for FY 2003. Unless funding is restored, the baseline spending level for the reauthorization of TEA-21, and the overall level of funding for the five-year authorization period, could be significantly reduced.

Background: The Administration has proposed a RABA formula allocation in its fiscal 2003 budget to Congress that represented an \$8.6 billion or 27 percent cut from FY 2002 levels. Congress has indicated that it will likely restore a portion of these highway funds, enough to bring FY 2003 highway spending up to the TEA-21 authorized level of \$27.7 billion but well short of the \$31.8 billion FY 2002 level. Restoration is important not only for FY03 programs but because the FY03 funding level could establish the baseline for the TEA-21 reauthorization spending levels.

Oregon receives, on average, 1.2 percent of federal aid highway allocations so the impact on the state of setting the reauthorization baseline at the RABA level versus the authorized level is approximately an additional 14 % or approximately \$50 million per year in additional funds. Over the course of the six-year authorization the difference would amount to more than \$300 million in additional funds if the higher authorization level is achieved.

If the Administration's FY03 budget proposal were to become the new authorization baseline, Oregon could stand to lose approximately \$100 million per year over the FY02 RABA levels or \$600 million over the life of the new authorization.

Policy Proposal: Support restoration of the highway program spending cuts proposed by the Administration. The "baseline" spending levels in the new TEA-21 should not be influenced by the lower levels proposed in the Administration's FY 03 budget. Restoring the baseline to the TEA-21 authorized level would increase spending by \$4 billion in the first year of the new bill. Restoring funding to the FY02 spending level would increase spending by \$8 billion in the first year of the new bill.

Consistency: *this is essential to the implementation of the RTP.*

ii) Increase Overall Funding Levels: Additional funding is the most critical issue for the reauthorization of TEA-21.

Background: The overall level of funding for the highway trust fund largely determines the level of funds available for all federally funded transportation programs including highways, bridges, light rail, bus, bike, pedestrian and planning.

TEA-21 Improvements. Federal highway and transit funding increased dramatically under TEA-21. Guaranteed highway funding levels increased 42 percent over the Intermodal Surface Transportation Efficiency Act (ISTEA) levels to \$27 billion. Transit guaranteed levels increased 31 percent. Congress also RABA for the highway program, linking highway spending to trust fund receipts. RABA in particular has generated significantly higher highway funding levels at the national level than would have been available under a fixed authorization formula.

Revenue Aligned Budget Authority. Despite increased funding in TEA-21, needs have continued to outstrip resources because of the aging of the system, increased growth and congestion, growing interest in rail new start projects around the country and the additional cost of responding to new requirements such as the endangered species act. And, although RABA has generated significant additional resources for the highway formula program, recently the appropriations process has varied from the original formula allocation of RABA funds with a few key states receiving earmarks of the full RABA amount. In addition, the interest on the Trust Fund was diverted to the general fund in TEA-21, reducing the available funds significantly.

Inflation. The federal gas tax is a fixed \$18.3 cents per gallon. Because it is not indexed to inflation, each year the federal Highway Trust Fund loses purchasing power in real terms. The national inflation rate for heavy highway construction has averaged (%%) per year over the life of TEA-21.

Ethanol Tax Credit. The federal government supports the ethanol industry with a 5.3 cents per gallon tax credit for "gasohol" which consists of 90 percent gasoline and 10 percent ethanol. With the federal tax incentive, companies that blend ethanol pay a 13 cents per gallon federal excise tax, compared with the standard 18.3 cents per gallon tax on motor fuels.

Additionally, 2.5 cents per gallon of the excise tax on ethanol-blended fuels is diverted to the Treasury's general fund. The highway trust fund receives only 10.5 cents per gallon for each gallon of ethanol-blended gasoline, 7.8 cents less than gasoline. Between fiscal 2000 and 2010 approximately \$15.3 billion will be lost to the highway trust fund due to the ethanol tax credit and diversion to the general fund.

The American Association of State Highway and Transportation Officials (AASHTO) has set a goal of increasing the federal highway program from \$34 billion in fiscal year 2004 to \$41 billion in fiscal year 2009 - an increase of 34 percent. The goal for transit is to see an increase from \$7.5 billion to \$10 billion over six years. In part, AASHTO has proposed funding the increased size of the program through a Federal Transportation Finance Corporation through the use of debt. The goal of the American Public Transportation Association (APTA) is to increase the transit program to \$14 billion per year.

Policy Proposal: Additional funding is necessary to meet the federal and local objectives of the transportation program. There are a number of approaches that could be taken to increase funding. They include:

- (a) Spend the accumulated balances in the Trust Fund.
- (b) Return RABA generated funds to the state formula allocation. Eliminating earmarking would have resulted in an additional \$1 billion in formula highway funds in FY 02 distributed to the states by formula.
- (c) Use general fund dollars to compensate the Trust Fund for the lower tax rate on ethanol (\$.053 lower tax rate) and the portion of the ethanol tax now going to the general fund is \$.025). These ethanol tax credits cost the Trust Fund approximately \$1.5 billion per year.
- (d) Rededicate interest payments currently going to the general fund to the Highway Trust Fund.
- (e) Index the federal gas tax to reflect inflation.
- (f) Support the Federal Transportation Finance Corporation if tied to new revenues.

Consistency: *increased funding is the single most important issue, not only to better fund on-going programs but to allow creation of new programs outlined in this paper.*

- iii) **Oregon Highway Formula Allocation:** Oregon won a significant victory in TEA-21, changing the national formula to return more federal tax dollars to Oregon.

Background: Oregon won a major victory in TEA-21 with the passage of a highway allocation formula that boosted the state's allocation from \$0.89 returned to the state for each \$1.00 of tax paid to \$0.94 cents returned for each \$1.00 paid. The highway allocation formula is critical to the state, local governments, transit districts, and the region because it dictates the amount of funding that is available for planning, air quality improvement, bicycle and pedestrian facilities as well as highway and bridge repair and construction.

Analysis: Next to the overall level of highway trust fund revenues, the allocation formula is the most important factor in determining the amount of federal highway, STP, CMAQ and other transportation funding received by the state. A small change in the formula translates into tens of millions in additional funds allocated to the state. Allocations are based in part on Census data. In past years, the most recent Census data has not always been used, even when available. This has disadvantaged high population growth states and geographic regions.

Policy Proposal:

- (a) Support the state's efforts to secure its fair share of federal Highway Trust Fund allocations and improve its position even further in the upcoming reauthorization.
- (b) Oppose further suballocations of the trust fund. Suballocations actually reduce the flexibility of federal transportation dollars, rather than increasing flexibility as envisioned in ISTEA and TEA-21.
- (c) Congress should require use of the 2000 census wherever the law calls for population in its federal formula programs. If the 2000 census is not available, under no circumstances should data acquired before the 1990 census is used.

Consistency: *at least maintaining the formulas that result in Oregon receiving 94%, return is consistent with the RTP.*

iv) Maintain firewalls and funding guarantees.

Background: Prior to TEA-21, Highway Trust Fund dollars were counted as part of the overall federal budget. Transportation was forced to compete against other federal programs for funding. This resulted in years of under-investment in transportation while at the same time unspent Trust Fund balances ballooned. TEA-21 restored the integrity of the Trust Fund and guarantees that all of its revenues will be spent on transportation.

TEA-21's Revenue Aligned Budget Authority (RABA) provisions have generated significant resources for the highway program. RABA funds are allocated to states based on TEA-21's highway allocation formula. Recently, however, the appropriations process has earmarked funds rather than follow the formula approach.

Analysis: Guaranteed funding for highway and transit programs has provided much needed stability of funding levels, allowing for longer range planning and investment strategies and multi-year federal commitments.

Policy Proposal:

- (a) Support maintaining firewalls that separate the Trust Fund from the unified budget.
- (b) Support continuation of guaranteed funding for highway and transit programs.
- (c) Work to sustain RABA and its formula allocation approach in the next bill, ensuring that Trust Fund balances do not accumulate.
- (d) Support the current ratio between the highway and transit accounts of the Trust Fund.

Consistency: this is essential to the implementation of the RTP by shielding transportation appropriations from unexpected budget cuts.

v) Additional funding for New Starts.

Background: Since the construction of the original eastside MAX light rail project, the Portland region has received more than \$1 billion in New Starts funding. The region has become a national model for using the development of light rail projects to respond to growth, congestion and regional land use and development goals.

Our success has spurred other communities to pursue light rail initiatives of their own. Currently there are 11 projects in Final Design and 39 in Preliminary Engineering. The projects will likely seek a total of \$21.1 billion in TEA-21 authority.

The national growth in proposed New Starts projects has raised congressional attention and support for the program. TEA-21 increased the authorized funding available for the New Starts program from \$760 million in FY1998 to \$1.2 billion in FY2003.

Analysis: While funding has increased, the New Starts program is under intense pressure to respond to a growing number of candidate projects across the country. The most optimistic assumptions for the program call for spending approximately \$10 billion over the next authorization period.

It is a very high priority for the region that the New Starts program remains and increases in funding level.

Current regional priorities for funding from the New Starts Program are:

- to complete appropriations toward the FFGA for Interstate MAX;
- execute an FFGA for Wilsonville to Beaverton Commuter Rail and complete appropriations;
- obtain authorization for the South Corridor project; execute an FFGA and complete appropriations.

Taking a longer-term view, future priorities for New Start funding need to be sorted out. Based upon past funding actions of JPACT, consideration should be given to:

- beginning the Clark County loop connecting Interstate MAX and airport MAX;
- the downtown Portland Transit Mall alignment for MAX;
- extension of the Portland Streetcar into North Macadam and along the Willamette Shore route to Lake Oswego.

Policy Proposal: Support a significant increase in federal New Starts funding to respond to the national demand for New Starts projects and to enable the region to pursue its anticipated fixed guideway initiatives. Any increase in funding for the transit program should concentrate on the New Starts program. Increased funding could come from sources noted above. Maintain current non-federal match requirements in statute and FTA flexibility in applying match requirements.

Consistency: *this is essential to the implementation of the light rail portion of the RTP since this is the major source of funding and national competition continues to increase.*

b) Major Policy Issues

i) Maintain or expand flexible and progressive policies in ISTEA and TEA-21.

Background: ISTEA's groundbreaking achievement was increasing the flexibility of federal transportation funds with the implementation of the STP, CMAQ and Enhancements programs. In addition ISTEA allowed states and local governments greater ability to tailor their transportation programs to reflect their individual goals and needs, while contributing to the development of a national intermodal transportation system.

TEA-21 maintained the flexible transportation funding structures and implemented new programs such as TCSP that allowed even greater flexibility.

Analysis: The Portland region has used the flexibility of the federal transportation funding programs authorized in TEA-21 to shape transportation solutions that work for our cities and neighborhoods. The region has succeeded in increasing transit use at a rate faster than population or VMT growth. The result is one of the most livable communities in the country.

Policy Proposal: Urge Congress to maintain the flexible funding structure of TEA-21 and improve programs such as TCSP so they can fulfill their original intent.

Consistency: *this is essential to the implementation of the RTP since these are sources of funds allocated through the MTIP process.*

ii) Intermodal connectors and freight facilities:

Background: One of the greatest achievements of ISTEA was its emphasis on intermodalism. TEA-21 continued the ISTEA focus on intermodalism and the result has been a more flexible, efficient and integrated transportation system. In particular, ISTEA and TEA-21 allowed greater flexibility in addressing freight mobility issues, an area that had received relatively little attention in federal funding programs previously.

The NHS Intermodal Freight Connectors report sent to Congress documents the fact that NHS freight road segments are in worse condition and receive less funding than other NHS routes. Targeted investment in these "last mile" segments would reap significant economic benefits relative to the costs.

Analysis: TEA-21's focus on intermodalism was a move in the right direction. However, the region's experience over the past six years has indicated areas of potential improvement. For example, there remain a number of limitations on the kinds of freight projects that can receive federal dollars that limit the region's ability to respond to regional priorities.

Policy Proposal:

- (a) The Borders and Corridors program should be amended to focus greater resources on a few strategic freight corridors, like Interstate 5, which connect the United States, Mexico and Canada. An emphasis should be placed on projects that improve the movement of freight. The program's authorization level should be increased.
- (b) Congress should clarify the eligibility of freight rail and road projects for CMAQ funding.
- (c) Congress should consider transferring the 4.3-cent tax on railroad diesel fuel from the General Fund to the Highway Trust Fund to provide resources for expanded freight railroad project eligibility.
- (d) Congress should encourage the creation of a Freight Advisory Group -- a mechanism for communicating with one voice to "one DOT" on freight transportation issues.
- (e) A Freight Transportation Cooperative Research Program should be created.
- (f) Congress should enhance the use of Transportation Infrastructure Financing Innovation Authority (TIFIA) (a credit enhancement program) by lowering the project dollar threshold from \$100 million, changing the debt mechanisms from taxable to tax-free, expanding eligibility for freight projects and relaxing repayment requirements; allow pooling of modal funds; expand the State infrastructure Bank program to all states; create tax incentives for freight rail and intermodal infrastructure investment.

Consistency: this is essential to the implementation of the RTP because these recommendations would assist in implementing I-5 Trade Corridor improvements and because this region has a significant freight function.

iii) Oppose devolution or formularizing of transit discretionary grant program.

Background: During the TEA-21 authorization debate a proposal was surfaced in Congress to eliminate the discretionary transit program that allocates funds to a select group of project based on merit (including New Starts), in favor of a formula program that allocates funds based on population.

Analysis: The region opposed devolution or formularizing of the New Starts program during TEA-21 because the current discretionary grant process ensures high quality projects of a scale sufficient to address major transportation corridors. Formularizing funding would mean each state would receive only a relatively small stream of funds, making the construction of large rail projects with federal funds nearly impossible. Regions with superior projects, such as Portland, would receive no additional funding relative to region's pursuing less meritorious projects.

Policy Proposal: Continue to vigorously oppose devolution or formularization proposals.

Consistency: *this is essential to the implementation of the RTP because shifting FTA funding to formula would ensure that light rail projects would not be implemented.*

2) New Initiatives and Concepts

A number of new initiatives are being debated and analyzed at the national level. Pending the outcome of national developments, the region has not taken a firm position on a number of these concepts. These initiatives and concepts are outlined here in order for the region to be fully informed on the national level debate on TEA-21 policy.

a) Key Transit Policy Issues

i) Balancing Additional New Starts funding.

The region recognizes that attention needs to be given to the needs of existing rail systems to add to their core system capacity. Projects that will make better use of existing infrastructure can offer a cost-effective approach to build transit ridership. This region expects to be able to benefit from such investment in future years. We believe that, consistent with the priority we place on the New Starts program, some of the growth in transit spending above current levels could be devoted to addressing "core capacity" needs.

The top priority of the region is to increase funding for the New Starts program. At the same time, the region continues to support the existing balance at the federal level between New Starts, Rail Modernization and Bus Facilities programs. It will be important to monitor proposals for an added "core capacity" program to determine whether to support it.

Consistency: *increased funding for New Starts is essential to the implementation of the RTP. Creation of a "Core Capacity" funding category, may be useful since it could provide an alternative source for capacity expansion of the existing LRT corridors. Similarly, a "Small Streets" program under discussion could provide an alternative source for streetcar and commuter rail projects.*

ii) Full Funding Grant Agreements for BRT.

Background: There are a set of important regional BRT projects that are often times too small to merit a FFGA for tens of millions in federal participation and too big to be funded in one or two years of the typical one to three-million dollar federal bus discretionary earmark. Transit agencies do not have the capability to carry the financing or the risk of advancing local funds to these projects in anticipation of future federal appropriations.

Analysis: There are some BRT or TSM projects in the new start pipeline, but none have actually received an FFGA. Many TSM projects leverage additional ridership, leverage positive land use patterns around transit stations and generally add value to fixed guideway improvements. At the same time, they do not generally lend themselves to the typical measures used by the FTA in evaluating FFGAs.

Over the course of TEA-21, Congress has moved increasingly to earmarking the FTA bus and bus facilities funds. Unlike the New Starts program, these earmarked projects receive no FTA evaluation or rating prior to congressional funding decisions.

Policy Proposal: To facilitate the development of these projects, which are generally cheaper options, they should be made eligible for FFGAs out of the existing bus program. The FFGAs should undergo FTA review for technical and financial feasibility and transportation benefit but the review should not be as resource demanding as the New Starts program. This would have the effect of returning at least a part of the bus program to a merit-based allocation.

Consistency: this would be useful for implementation of transit elements in the RTP through provision of a multi-year funding agreement.

iii) Streamline Project Delivery.

Background: The design build project delivery method has several advantages over the traditional design-bid-build method. Design build projects bring the architect/engineer and the general contractor together into a single contract entity. The resulting partnership enhances communication between the parties and neutralizes their competing and sometimes adversarial business roles. Further, the owner is relieved of its "go-between" role for design/construction coordination matters since this risk is shifted to the design build contractor.

Design build often results in time savings for overall project delivery compared to the traditional method. Time savings are possible due to the ability of the design build team to begin early phases of construction while design is being completed for later phases.

Design build can sometimes yield significant cost savings, particularly in situations where flexibility in the finished product is possible. In such cases, collaboration between the designer and contractor can achieve the most efficient balance of design choices and construction methods.

Tri-Met Experience. Tri-Met has had several positive experiences with design build project delivery. Of particular note is the Portland Airport Light Rail Extension. That project used a single design build contractor for the entire project. The design build contractor was brought into the project very early in the project life, participating in Preliminary Engineering (PE) work prior to final contract negotiations and final design & construction. In fact, the design build contractor was also an equity partner in the project, providing capital funding in exchange for development rights in publicly owned property surrounding a portion of the alignment. By using the design build method, Tri-Met acquired an excellent system extension and experienced the remarkably low change order percentage of 1.5 percent.

Design build in TEA-21. Design build was introduced to the transit industry in the ISTEA Act of 1991. Several demonstration projects were established to explore this delivery method

in actual transit practice, and the demonstrations were carried through into TEA-21. Results of the demonstration projects were published in a report to Congress in 1998.

In 2000, FTA released interim guidance on how the existing FFGA process steps should be applied to projects using the design build delivery method. Although the guidance was a beneficial step forward in integrating design build into the New Starts environment, additional changes in the FFGA process could render even greater benefits from design build. Reauthorization of TEA-21 may provide an excellent opportunity to do this.

Analysis. The FFGA process for design build outlined in the current guidance is very similar to the process for the traditional delivery method. It is structured to bring the design build contractor into the project at the time a traditional final design would begin. This sequence allows the existing legal and administrative requirements to be applied to design build. However, introduction of the design build contractor at the time of final design is too late to leverage much of the potential benefit of the design build method.

To gain the maximum benefit of design build for transit projects, it is desirable to bring the design build team into the process very early in the project life. It is beneficial for the design build team to participate in PE, prior to development of documents for NEPA approval. This early involvement allows the design build team to influence the alignment layout and station area development to optimize cost, constructibility, ridership, and joint development opportunities. Early participation in joint development opportunities is especially important in order to promote equity partnership from the design build team.

Policy Proposal: Utilizing such early involvement, a revised FFGA process could be as follows:

- (a) *Alternatives Analysis*, including selection of the Locally Preferred Alternative, would be conducted in the usual manner by the sponsor Agency and MPO.
- (b) The Agency would submit to FTA a *Request to Enter Design Development*. This would be similar to a Request to Enter PE and would contain the same information and criteria evaluation/requirements. It would differ, however, in that Design Development authority would encompass both PE and a pre-determined portion of Final Design (perhaps to the 30% level). Combined PE/partial FD recognizes the lack of hard edges between PE and FD in design build and thus eliminates the separate steps of PE/Final Design approval.
- (c) *Upon approval to enter Design Development*, the Agency would execute a two-phase contract with a design-builder. Phase 1 would be for Design Development/NEPA support and Phase 2 would encompass Design Completion/Construction. Solicitations for interested proposers could be initiated concurrently with Step 2 above. Even at this early stage, real financial competition can be generated from proposers through their commitments on:
 - equity investment for property development rights
 - fee percentage on final design & construction
 - incentives for "beating the budget"
 - sharing of unused construction contingency
 - tax incentive rebate from vehicle leasing mechanisms.
- (d) *During Design Development*, the design build would assess the LPA, influence the concept where appropriate, provide support for NEPA documentation, conduct detail design on key issues/areas, and develop a cost estimate for final (production) design and construction. Meanwhile, the agency would lead the NEPA approval effort, solidify local funding (including design build equity partnership, if included) and prepare PMP, Fleet

- Plans, and other documents. The Agency and the design build would negotiate a firm price for the second phase (design/construction) based on the results of Phase 1 efforts.
- (e) Design Development would conclude with *submission of a request for an FFGA*. During the 120-day review process, the design build could proceed with detail design, ROW acquisition and even early construction activities under LONP authority.
 - (f) Once the *FFGA is approved*, the design build contract's Phase 2 work would be authorized, and final design/construction completed.

The alternate scenario provides for an extremely effective alliance between the Agency, designer, and builder. It recognizes that in the design build process, lines between PE and FD are blurred. PE resources are devoted to issues that harbor the greatest risks and rewards. Further, it is the builder itself who decides where the pressure points are, leading to fewer surprises, lower contingencies, and quantifiable risks. Those risks that remain can be discussed and apportioned between Agency and design build and addressed in the terms of the negotiated price.

Conclusion: The current guidance on use of design build contractors for transit construction is a good first step. In cases where there is little possibility for alignment deviation or Joint Development, PE and Final Design can remain separated and the guidance can be followed.

The alternate process described above facilitates even greater benefit from design build by bringing the builder into the process early, thus gaining the benefit of engineering, construction and commercial knowledge before alignment decisions are fixed. The preferences revealed reflect the unique approach of the specific design build team. Further, their vested interest in the construction and operational phases ensures that their ideas are realistic and pragmatic, and endows the design build team with a fiduciary interest in making them work.

Consistency: this would be useful for delivery of the RTP through more efficient, expedited procedures.

b) Environmental stewardship and streamlining.

Background: The National Environmental Policy Act (NEPA) process for large, complex projects has become increasingly lengthy and complex. Listings under the Endangered Species Act (ESA) are impacting not only large construction projects, but also routine preservation and maintenance activities. Previous efforts to streamline the environmental review of transportation projects, including those in TEA-21, have yielded some results, but significant issues remain.

As a result, there is considerable attention by Congress, the federal administration and state transportation agencies to streamlining project environmental review and permitting procedures. The intent is to speed up the time required to begin construction on transportation projects. Particular attention is being paid to elimination of duplicative reviews, consolidating multiple agency approval steps into a single approval step and coordination of reviews by multiple natural resource agencies.

Analysis: In response to Section 1309 of TEA-21, ODOT has developed and implemented a coordinated review process for highway construction projects. This improved method for state and federal permitting agencies to review highway projects is up and running in Oregon. Known as "CETAS" (Collaborative Environmental and Transportation Agreement on Streamlining), it establishes a working relationship between ODOT and ten state and federal transportation, natural

and cultural resource and land use planning agencies. The CETAS partnership has defined how to streamline (in six tasks):

Implement an Environmental Management System to achieve performance based permitting:

- Employ Habitat Mitigation Programs;
- Enlarge GIS Mapping Systems of Natural and Cultural Resources;
- Additional Programmatic Biological Opinions (PBOs);
- Seamless Performance of contractors and local governments;
- Expand Partnerships.

These tasks are aimed at early involvement of natural resource agencies and improved information about natural resources in the transportation project development process.

Policy Proposal: Congress should support state-led efforts to both protect the environment and streamline the review process for transportation projects by:

- Providing increased funding to state departments of transportation and resource agencies to develop new programmatic approaches.
- Funding a pilot project for ODOT to demonstrate the benefits of implementing an Environmental Management System culminating in ISO 14001 certification.
- Providing resources for Global Information Systems (GIS) mapping of natural and cultural resources.
- Sanctioning advanced wetland and conservation banking for transportation projects.

In addition, as Congress and the Administration consider amendments to federal laws and regulations to streamline environmental review and permitting, this should not be used as a method to relax environmental standards. If there is a need to reevaluate environmental standards, this should be done directly.

Consistency: this would be useful for delivery of the RTP through more efficient, expedited procedures.

c) Key Highway Policy Issues

i) Additional resources for the I-5 Trade Corridor.

Background: Interstate 5 (I-5) in Oregon, Washington and California is one of 12 high priority corridors identified in TEA-21. One-fourth of the nation's exports and imports pass through the I-5 corridor.

The area between the I-84 interchange in Oregon and the I-205 interchange in Washington has been identified as having significant bottlenecks that threaten the economic vitality and livability of the region.

The Governors of Oregon and Washington have appointed a 28-member Task Force to develop a bi-state strategic plan to manage and improve transportation and freight mobility in the corridor.

The strategic plan will address freeway, transit, heavy rail, and arterial street needs. The public planning process started in January 2001 and the strategic plan is expected to be complete by the fall of 2002. Partners in this effort include Oregon and Washington Departments of Transportation, Metro, Southwest Washington Regional Transportation

Council, the ports of Portland and Vancouver, the cities of Portland and Vancouver, and Multnomah and Clark counties.

Work by the Task Force in the spring of 2002 will include development of recommendations on finance and implementation, bi-state land use agreements, transportation demand management, community enhancements and environmental justice, and freight and passenger rail.

Analysis: The bi-state strategic plan will address freeway, transit, heavy rail, and arterial needs. The public planning process started in January 2001 and the strategic plan is expected to be complete by the fall of 2002.

Draft Recommendations recently adopted by the Task Force call for:

- Upgrade existing bridges from 6 to 10 lanes across the Columbia River.
- A phased extension of the two existing light rail lines in Portland north to connect as a loop in Clark County
- Implementation of aggressive measures to reduce single auto trip demand, increase transit service and encourage use of alternatives to auto commuting
- Agreement to control land uses to avoid inducing more sprawl in response to a bigger freeway to simply result in a bigger traffic jam in the future.
- Three through-lanes, including Delta Park; and
- Interchange improvements between Columbia Blvd. in Portland and SR 500 in Vancouver.

The Task Force draft recommendations also call for a post-Task Force study of an arterial road west of I-5 in the vicinity of the railroad bridge.

Policy Proposal:

- (a) Supports the state's efforts to eliminate bottlenecks in the I-5 Trade Corridor, especially between Portland and Vancouver, Washington.
- (b) Support separation of TEA-21's Borders and Corridors program with a greater focus of funding in the Corridors program to key international and interstate freight corridors, like the I-5 Trade Corridor.
- (c) Support to a least \$1 billion increase of funds for the Border and Corridor program, expand the concept to include projects that support gateways to national and international markets and focus the emphasis on freight and bi-state cooperation.

Consistency: this would provide an expanded funding category for a significant RTP priority.

ii) Additional Railroad Resources in the I-5 Corridor

(1) Track Capacity

Background: Today the federal investment in passenger rail is a fraction of what is spent on other modes of transportation, and is limited primarily to providing Amtrak with annual operating and capital funds, the vast majority of which go to the Northeast Corridor.

In the Pacific Northwest Corridor, the states are paying the full operating cost to Amtrak. Since 1992, Oregon has spent over \$24 million for operating costs alone. The state, local governments and railroads have invested another \$25 million for track and station improvements in the corridor.

Over \$100 million of track and signal improvements is needed in Oregon's portion of the corridor, without counting the cost of upgrading the rail bridge across the Columbia River. Federal funds are also needed to purchase train equipment, which would help lower operating costs.

The joint UP/BN crossing of the Columbia River is one of the busiest and most important rail links in the region. ODOT and WSDOT, in cooperation with Amtrak, the Ports of Portland and Vancouver, and the railroads, are undertaking a track capacity analysis of the joint UP/BN line across the Columbia River. Previous analyses suggest significant capacity problems on this line segment in the near future, which could impact economic development opportunities, passenger train expansion and through freight operations.

Analysis: States should not have to shoulder these costs alone. Federal highway and transit programs provide capital funding for roads, bridges and transit improvements, and likewise federal funds are needed for passenger rail development. Congress could increase the amount of funding available for passenger rail development if legislation pending this year is enacted. Some versions, however, would create a new complicated loan program rather than a grant program.

Loan programs alone will not provide the federal investment needed for states to develop successful passenger rail corridors. The reauthorization of TEA-21 is an opportunity for Congress to establish a federal rail program that adequately supports passenger rail development.

Policy Proposal: Support federal legislation to increase capital funding for freight and passenger rail facilities. Opposes moves to dissolve Amtrak. However, in the event that Amtrak is dissolved or dramatically restructured to eliminate West Coast services, track rights should revert to the state to allow passenger service to continue.

Consistency: *this would provide funding for elements of the RTP dealing with the high-speed rail, the I-5 Trade Corridor and freight movement in general.*

(2) Truman Hobbs

Background: The joint UP/BN crossing of the Columbia River is one of the busiest and most important rail links on the West Coast. ODOT and WSDOT, in cooperation with Amtrak, the Ports of Portland and Vancouver, and the railroads, are undertaking a track capacity analysis of the joint UP/BN line across the Columbia River. Previous analyses indicate significant capacity problems on this line segment which would impact economic development opportunities, passenger train expansion and through freight operations.

The Coast Guard is currently undertaking an examination of the eligibility of the UP/BN railroad bridge over the Columbia River for Truman-Hobbs (navigational hazard) funding. The rail bridge swing-span is lined up with the lift span on the I-5 bridges, making it very difficult and hazardous for ships to use the I-5 "high" fixed span section.

Using the fixed span section avoids the need for opening the bridge and the resulting delay on I-5.

Analysis: Truman Hobbs is a federal program that funds projects to address rail hazards to navigation. Projects are selected based on the cost benefit of a given investment to the marine and freight rail facilities.

Policy Proposal: The analysis of the cost delay of the UP/BN rail crossing of the Columbia River should be expanded to include the impacts on truck and auto commerce on the I-5 bridge due to lift span operations caused by the RR bridge.

This can be done under existing statutes, but the law should also be changed to allow car/truck delay as part of the consideration. Truman-Hobbs funds are intended for "in-kind" replacement of navigational hazards but can be contributed toward larger facility upgrading projects such as adding capacity to the UP/BN bridge.

Consistency: *this would increase the likelihood of funding to replace the railroad bridge swing span.*

d) **Oppose federal preemption of state law regarding weight-mile fees.**

Background: Oregon maintains the cost-responsibility of paying for maintenance, preservation and modernization of the road and highway system through the weight-mile fee on commercial trucks. The weight-mile fee is based on the weight of the vehicle, the number of axels and the distance the vehicle travels on Oregon roads. The weight-mile tax is structured to most closely reflect the cost responsibility of trucks relative to the taxes paid by auto users.

Analysis: The national trucking industry has sought to eliminate the weight-mile system at the state and federal level. In the debate leading up to ISTEA and TEA-21 there were efforts to introduce amendments preempting weight-mile taxes on the state level.

Policy Proposal: The federal government should not preempt state authority to establish the most equitable method of assigning and implementing cost responsibility.

Consistency: *this would protect a source of funding for the state highway fund that provides about 35% of the funding.*

e) **Multi-State Vehicle Miles Traveled tax demo program.**

Background: As the prevalence of electric and hybrid fueled vehicles increases, there is a growing recognition in Oregon and other states that the gasoline tax is becoming a progressively less adequate financial source for surface transportation programs. In the 2001 legislative session Governor Kitzhaber asked for and received legislative approval of a task force to address the future of the gas tax as a source of Oregon highway funding. The Road User Fee Task Force (RUFTF) is preparing findings and recommendations regarding the viability and applicability of alternatives to the gas tax.

Analysis: Higher fuel efficiency and greater use of alternative fuels for autos erodes the ability of the gas tax to meet growing system demand. Although these vehicles continue to contribute to congestion and road damage, they do not contribute to the transportation trust fund in a proportional fashion.

Policy Proposal: Support a federal effort to examine ways a VMT tax or other road user fee system could be implemented at the state or federal level.

Consistency: this is similar to the Road User Fee Task Force established by the '01 Oregon Legislature to investigate alternative sources to the gas tax.

f) Highway Bridge Replacement and Repair (HBRR) issues.

Background: Current federal rules to determine the allocation of HBRR formula funds to states are based principally on the square footage of bridges. The TEA-21 formula does not recognize the additional cost in preserving and rehabilitating movable (lift span) bridges. The movable Willamette River bridges in Portland and elsewhere in Oregon receive the same funding per square foot as more easily maintained fixed span bridges.

Analysis: Under current formula, Oregon received approximately \$40.2 million in HBRR funds over the first four years of TEA-21, representing approximately 2.7 % of total HBRR funds allocated.

Oregon has 27 heavy movable bridges or approximately 2.3 percent of a national total of approximately 1171 heavy movable bridges. By contrast, Oregon has approximately 7,300 total bridges, about 1.2 percent of the national total for all NHS and non-NHS bridges. Oregon's share of structurally deficient and functionally obsolete bridges is 1 percent of the national total.

It is estimated that the cost to replace or rehabilitate movable bridges is 1.7 times the cost of fixed span bridges.

Policy Proposal: Reauthorization should incorporate a 1.7 times factor in the HBRR formula for lift span bridges.

Consistency: this would provide an expanded source of funds for Multnomah County's Willamette River Bridge project.

g) Orphan Highways.

Background: An orphan highway is any aging US designated state highway that's role as a regional highway has been supplanted by the construction of the Interstate Freeway system. These highway links were predominantly built in the 1930's, '40's and 50's. During their primary service years, land uses that located along their lengths were auto oriented in type and function. Many were constructed as rural areas evolved into the first tier of suburban communities, making the leap from farm to market roads to urban highways. Much of the older commercial strips and nodes that were served by these state roads have been deteriorating and the roadways are likewise underutilized.

Analysis: A program of new reconstruction funds for state and local jurisdictions would make rehabilitation of these roadways viable as multi-modal main streets and boulevards. Application of these funds should be on routes where more intensive comprehensive plan land use designations are already in place. So doing will allow these facilities to not only provide an improved transportation asset but also change the face of the community from a land use perspective.

Examples of Candidate Routes: In Portland, many of the state highway routes that traverse the city have auto oriented commercial uses along their length with intermittent commercial nodes. Sandy Boulevard, as an example, serves several miles of northeast and southeast Portland as a four-lane arterial with sidewalks, intermittent on-street parking, left turn bays and good transit service. The street, which is a state highway, serves both local and non-local transportation trips. The Hollywood and Parkrose Districts serve as commercial centers along its length. Both regional and local land use and transportation policy focus on returning this street to its historic character by reconstructing the street with boulevard type standards that serve all modes and encourage property owners to reinvest in urban density land uses.

The state, in partnership with the city, designed and reconstructed a 12-block length of Sandy Boulevard using the more progressive regional boulevard design guidelines. The amenities included rehabilitation of the entire street cross section; addition of bike lanes, planted medians, pedestrian curb extensions, wider sidewalks and left turn refuges. Existing engineering standards were a difficult stumbling block, requiring design exceptions for some of the design's elements. Providing for more flexible design standards in this proposed program would save considerable time, money and negotiation.

Since its completion private property owners have invested in their storefronts or in some cases completely rebuilt on the sites using the more urban land use development regulations. These new developments have changed the character of the street and added vitality to the community. Now folks actually walk across the street rather than drive. The project is the region's showcase of how these once forgotten highway segments can become the jewel of the community. Other state highway segments that could be candidates include; Powell Boulevard, Lombard Street and Barbur Boulevard in Portland.

Policy Proposal: Create a pilot program of not more than \$25 million to be funded out of new federal funds, rather than off the top of the formula program. Candidate projects would be judged based on the following criteria:

- (a) 100% federal funding when the local government agrees to take over maintenance.
- (b) Local government must commit to supportive comprehensive plan and zoning designations that support more intensive, mixed-use development along part or all of the route.
- (c) FHWA should provide for more flexible design standards to achieve the program's design goals.
- (d) The program should be limited to a small number of pilot projects to curb wholesale earmarking and provide financing to the truly worthy projects.

Consistency: this would provide a source of funds to implement community-based improvements on state highways ODOT would prefer to transfer to local governments. Consistent with the function called for in the RTP.

h) Freeway Removal and Reuse

Background: There is some interest in more flexibility for federal highway dollars to remove and reuse highways and interstate freeways if that is the desire of the local community.

This would continue the tradition of ISTEA and TEA-21 in giving greater flexibility to local jurisdictions in deciding the best local solution to their transportation and land use needs. It would allow the use of federal funds in major, community defining decisions such as the removal of the waterfront freeway and construction of Tom McCall Park.

However, given the tremendous unmet needs for maintenance and preservation of the existing highway and freeway network and the perhaps even greater unmet need for modernization, there is some concern for how one can justify using federal funds for the removal of functioning highway and freeway segments.

Consistency: this would be useful if the RTP is amended to reconfigure or relocate the Eastbank Freeway (I-5). Federal support is more likely for an approach that replaces the current function than completely removes a freeway with no attention to replacement.

i) Improved Transportation Security.

Background: Following the terrorist attacks of September 11, Congress created a new Transportation Security Administration and Office of Homeland Security to develop and coordinate a comprehensive national strategy to strengthen against terrorist attacks and protect the Nation's transportation systems to ensure freedom of movement for people and commerce.

Analysis: Among the activities that will be worked on in the coming months with state and local agencies are: Incident management, prevention, and response and recovery. For all of these activities, good communications is critical. Transportation agencies play an important role in responding to incidents and ensuring the free movement of people and goods. In the Portland region, an interagency group has identified a series of Intelligent Transportation System (ITS) improvements that will enhance the capability of different government agencies to communicate with one another and share information.

Policy Proposal: Federal funding dedicated to improving security should include transportation improvements in Oregon:

- Fully fund the state's ITS initiative, which includes the Portland region's ITS plan providing greater ability for surveillance and response to emergencies.
- Pay for "hardening" and other improvements to bridges or other potentially vulnerable points in the transportation system.

Consistency: although security is not directly addressed in the RTP, increased attention will no doubt lead to higher costs.

3) Multi-Modal Policy Issues

a) Expanded funding to address endangered species issues.

Background: New restrictions and capital requirements resulting from Endangered Species Act (ESA) designations and other federal natural resource protection requirements are substantially increasing the cost of transportation infrastructure construction and maintenance particularly for bridges. Ditches and culverts are no longer viewed simply as a means of conveying water; they are also water quality facilities and either barriers or facilitators of fish migratory movements. Any improvements made within our public rights-of-way must enhance habitat and water quality. The ESA and Clean Water Act (CWA) provide no funding for the required system improvements.

For example, Clackamas County estimated that there are 975 culverts that are barriers to fish migration and salmon-recovery efforts. Many of these culverts have to be replaced or retrofitted with baffles to slow water flow allowing for passage of all life stages of salmonids. Using an

average cost estimated of \$93,000 per culvert replacement, retrofitting all the culverts in the county would cost \$80-90 million.

Analysis: Over 20 federal statutes impose a variety of environmental mandates on the construction, repair, and maintenance activities undertaken within the federal highway system. A 1995 analysis estimated that added costs due to environmental regulation could be 8 to 10 percent of construction expenditures for federal-aid highway projects. While restrictions are less on state and local roads they are nonetheless considerable.

Multiple environmental benefits can be achieved from conforming road and other transportation projects with ESA requirements. These benefits accrue to the community beyond the transportation benefit in the form of cleaner water, reduced flooding, reduced pollution from urban run off, etc. The cost of providing these additional benefits should be shared beyond the transportation resources.

Policy Proposal: TEA-21 reauthorization could provide a new program significantly expand the existing bridge replacement program to address culverts, blocking fish passage or create an add-on to the Public Lands Highway Program for culverts.

Consistency: the RTP was recently amended to include provisions for "Green Streets" including retrofitting culverts to allow better fish passage. This would provide funding for this purpose.

b) Funding Allocation Issues.

Background: With the 2000 Census, there will be a significant increase in the urbanized areas of the country receiving formula allocation of federal transportation planning funds. As many as one hundred new MPOs will be designated in the new bill. In Oregon, two additional MPOs are being formed in Medford and Corvallis. The new MPOs will receive allocations of federal STP and CMAQ funds without reducing the allocations to the existing MPOs regardless of overall federal funding levels. However, unless federal funding increases in the reauthorization, transportation planning fund distributions to the new MPOs will reduce the funding available for existing MPOs.

Policy Proposal:

- (a) FHWA Planning funds should be increased from 1- percent take-down to a 2 percent take-down on the categorical programs to reflect the increasing responsibility of MPOs, the increased number of MPOs as a result of population growth and the increased population inside existing MPOs.
- (b) FTA planning funds should be increased commensurate with population growth inside MPOs.

Consistency: this would allow funding to address transportation planning issues consistent with annual approval of the United Work Program.

c) Refocusing of TCSP program.

Background: The Transportation and Community and Systems Preservation Program (TCSP) began as a targeted \$25 million program in TEA-21. It has since been expanded through the earmarking process into \$250 million program that has drifted significantly from its original

purpose. TCSP was established to investigate and address the relationships between transportation and community and system preservation and to identify private sector-based initiatives.

Although any project authorized under Title 23 or chapter 53 of Title 49 U.S.C. was made eligible, it was expected that the program would focus on corridor preservation activities necessary to implement transit oriented development plans, traffic calming measures, or other coordinated preservation practices.

Policy Proposal: Recommended changes include:

- (a) FHWA and FTA should continue to develop guidance for projects to be funded through the program.
- (b) Publish "best practices" from funded projects. Congress should increase the authorized level of the program to \$250 million, comparable to the FY 2003 appropriations.
- (c) Tighten up statutory language to ensure grants cannot be awarded unless they demonstrate a supportive land use benefit.
- (d) Require an evaluation of the merits of the proposed projects by the Federal Highway Administration and approve funding based upon an evaluation of "Highly Recommended," "Recommended" or "Not Recommended." This should be designed to ensure good projects are recommended for funding, although in a more streamlined manner than the large multi-year contracts under the New Starts and National Trade Corridor Programs.

Consistency: the TCSP program was designed to recognize efforts like ours to link transportation and land use. However, due to congressional earmarking, we have been unable to access these funds since the first year grant to Pleasant Valley planning.

d) CMAQ funding apportionment to states.

Background: ISTEA, adopted in 1991, created the Congestion Mitigation/Air Quality Program to provide a better link between federal transportation spending and the Clean Air Act. Specifically, it provided funds to reduce vehicle emissions through federally funded transportation improvements. Apportionment to the states of the total annual appropriation is based upon the population of the metropolitan area weighted by the severity of the air quality problem, as follows:

- 1.4 for "extreme" ozone non-attainment areas
- 1.3 for "severe" ozone non-attainment areas
- 1.2 for "serious" ozone non-attainment areas
- 1.1 for "moderate ozone non-attainment areas
- 1.0 for "marginal" ozone non-attainment areas
- 0.8 for "maintenance" in area that have attained ozone standards

Furthermore, if the metropolitan area is classified a carbon-monoxide non-attainment area, the population is further weighted by a factor of 1.2 and if the area has reached carbon monoxide attainment status, the population is further weighted by a factor of 1.1. This weighted factor for funding apportionment to states fundamentally creates the wrong incentive. If the area is successful in implementing programs to meet federal air quality standards, it is penalized by a progressively lower funding apportionment. To add insult to

injury, when the area succeeds in meeting air quality standards, it's apportionment drops to an 80% share. The disincentive is compounded by the added factor for carbon monoxide.

Policy Proposal:

The disincentive to meeting federal air quality standards should be removed from the apportionment formula. In fact, it would be more appropriate to reverse the weighting factor and reward the metropolitan area with a progressively higher factor as they reach a better attainment status. At a minimum, the final adjustment factor, upon reaching attainment status should be adjusted to 1.1 or 1.2 to create a financial incentive to achieve and then maintain attainment status.

Consistency: This would increase the level of funding allocated through the MTIP process.

e) **Advanced right-of-way preservation.**

Background: Under current federal regulations, right-of-way acquisition for a federally funded project cannot occur until environmental documents have been prepared and approved and plans and specifications have been approved. Under this approach, right-of-way acquisition happens immediately before construction is to commence. These controls are to ensure that right-of-way acquisition does not happen before the environmental review process determines the best alignment and design for the proposed project and, as a result of early right-of-way acquisition, the environmental review process is prejudiced. As a result of this strict process, right-of-way can be effectively lost in fast growth areas or result in right-of-way that is prohibitively expensive due to development.

Policy Proposal:

Various methods should be sought to allow state and local protection and early acquisition of right-of-way, including:

- Allowing the local government to adopt development regulations identifying a proposed transportation corridor in their comprehensive plans and requiring new development to setback from the proposed corridor. This is commonplace for a setback from an existing road but is more difficult in locations that a new alignment is proposed.
- Allowing the local government to proceed with a protective acquisition of right-of-way when encroachment by a proposed development is imminent with the intent to use the right-of-way for project identified in a local comprehensive plan or sell the proposed right-of-way to the state transportation department upon completion of required environmental review. Under this approach, it would have to be recognized that the environmental review process might result in a different alignment being selected or a decision to not build the project.
- Allowing the state transportation department to proceed with a protective acquisition of right-of-way when encroachment by a proposed development is imminent for any project that is reflected in a federally approved Regional Transportation Plan prepared and adopted by a metropolitan planning organization under federal guidelines.

Further research on these and other methods will be researched with other interest groups.

Consistency: This would facilitate right-of-way protection for large projects in the RTP.

f) **Statewide and MPO bicycle program that addresses bicycle travel planning, operations and safety.**

Background: Enact a required statewide and MPO bicycle program that addresses bicycle travel planning, operations, safety, and capital construction. The program would also require of the highway, transit, rail, and air programs that bicycle plans resulting from this initiative be included in an intermodal connection investment strategy required of all modes. The safety program would address a range of issues from integration of auto and bicycle travel to in-school safety training and identification of safe routes to schools for all grade levels. Funding for this requirement would come, in part, from the highway trust fund and could require coordination between school and transportation authorities.

Consistency: this would affect planning requirements and expand the scope of bicycle-related planning.

- g) **Renew federal support to capitalize State Infrastructure Banks (SIBs), expand flexibility of second-generation funds.**

Background: State Infrastructure Banks were authorized in ISTEA as a revolving source of funds for both highway and transit capital improvements. As an original pilot State Infrastructure Bank, Oregon was allowed to capitalize its SIB with federal apportionments. At that time, it was thought that loan funds repaid to the SIB, regardless of source – federal or state – could be reloaned without federal conditions, such as Buy America or Davis-Bacon. TEA-21 altered this. Only four named states are now allowed to capitalize their SIB's with federal funds.

Analysis: The limitations included in TEA-21 have a limiting effect on the size of Oregon's SIB and, by extension, the size of projects the bank can finance at low interest rates.

Policy Proposal: Lift the limitation on SIB capitalization. Consider changes that allow greater flexibility of reloaned funds.

Consistency: *this would expand this borrowing option for implementation of RTP projects. All projects have a prerequisite that they be reflected in the RTP.*

- h) **Columbia River channel deepening project**

Background: The Port of Portland is pursuing a project sponsored by the Corps of Engineers and six Oregon and Washington ports to deepen the Columbia River navigation channel from 40 to 43 feet, subject to the necessary environmental approvals. A deeper navigation channel will enable cargo ships to carry larger, more cost-effective loads, yielding significant transportation savings to thousands of shippers in the Pacific Northwest and elsewhere in the United States. The project also includes several environmental features that will improve the Columbia River's habitat and environmental quality.

Analysis: Although it is not been addressed in the TEA-21 reauthorization bill, the channel-deepening project continues to be an important transportation priority for the region.

Policy Position: Support the channel-deepening project, subject to the necessary environmental approvals.

Consistency: *this reaffirms past positions.*

- i) **Railroad shared use requirements**

Background: Current federal regulations regarding shared use of tracks between freight and passenger rail operations are intended to address safety concerns. However, as currently structured, the regulations pose a significant obstacle to the efficient use of these valuable resources. The Federal Railroad Administration (FRA) model emphasizes train crash standards and prohibitions against operating freight and passenger trains together. Other models for preserving safety while allowing shared use are used in Europe where technology is emphasized.

Analysis: The European approach to track sharing regulations emphasizes improved signaling and braking systems to avoid crashes in the first place. European standards deflect the energy of a crash away from passengers, and emphasize braking systems, block signaling systems, speed limits where appropriate, and crumple zones to allow passenger vehicles to absorb the brunt of an impact while protecting passengers and drivers. In comparison, FRA's vehicle safety standards

do not speak to locomotive braking, train signaling systems, or speed limits. New authority is needed to facilitate the rules and procedures for permitting shared use of freight rail tracks by Amtrak and commuter rail projects.

Policy Proposal: Support increased funding for the Section 130 grade separation program to enhance public safety at grade crossings on public highways. Encourage FRA to examine European models of freight/passenger train control and approve pilot projects to demonstrate the technology-based approach.

Consistency: *this would facilitate the Washington County commuter rail project and any future similar projects.*

j) Streetcar Initiatives

Background: Many communities are expressing an interest in small scale rail based transit lines to serve redeveloping central city areas and connect neighborhoods in a way that is very different from regional rail systems. The existing federal assistance program, Federal Transit Section 5309 "New Starts," is oversubscribed and is governed by an extensive review and approval process that is not necessary or appropriate for low cost and non-intrusive urban streetcar lines.

Until the 1950's, many communities had extensive streetcar systems which served to connect neighborhoods to central city employment, shopping and cultural opportunities. As heavy industry migrates from the central city, major opportunities are created to foster the development of new, high-density urban neighborhoods. The creation of additional housing in the central city is a key transportation and economic strategy. By absorbing population growth in the central city, valuable farm and forest lands are preserved, the distances that people must travel for employment and other daily needs are greatly shortened, and the environmentally and fiscally costly expansion of the urban interstate highway system can be avoided.

Streetcar Characteristics: By definition, streetcars operate in existing public rights of way, often co-mingled with other traffic. Unlike regional light rail projects that connect major centers over long distances, streetcars connect redeveloping neighborhoods and major attractions over relatively short distances. Streetcars typically operate at lower speeds with more frequent stops to serve a dense mixed-use environment. For this reason the vehicles rely more heavily on operator control than complex technological systems. The vehicles' size and scale are respectful of the neighborhood settings in which they operate. Installation of a streetcar line is accomplished with minimal reconstruction within existing streets or rights of way.

If the Portland region is successful in attaining this new resource program, the region would need to respond by identifying projects that would qualify for financing. The next targeted extension by the City of Portland of the existing streetcar system would be to the connection of the Pearl District, West End, PSU, South Auditorium Area on the west side of the Willamette River with planned high density development in Portland's Central City on the east side of the river including the Lloyd and Central Eastside Industrial Districts and OMSI. This loop system would intercept Downtown bound bus and light rail transit service to facilitate transfers and improve transit access, particularly from the South Corridor to employment concentrations in the Lloyd District.

Analysis: New resources are needed to aid communities in building modern streetcar lines that provide residents and visitors of the central city with a choice in how they move about. For example, a new Portland streetcar line opened in July 2001, demonstrating the ability to capitalize

on lower project cost, a minimally disruptive construction process and the opportunity to attract complimentary, mixed-use urban development. The purpose of this proposal is to set forth the context for a new funding program that would assist communities in developing streetcar lines and systems without competing with larger scale, more costly regional fixed guideway projects.

Policy Proposal:

- (a) **New Funding Program:** The region supports the creation of a new streetcar-funding category with added funds. Legislative action to limit the propagation of regulations from the executive branch, limit to the degree possible and responsible NEPA requirements through an umbrella categorical exclusion, authorization for the Secretary to execute full funding grant agreements and such other changes in existing code and regulation as may be required to implement this program.
- (b) **Project Evaluation Criteria:** A new set of project evaluation criteria should be established that is more appropriate to streetcar projects.

Projects should be reviewed solely against the following standards:

- Streetcar projects are intended to be economical and the maximum federal participation should be limited to \$50 million.
- Project sponsors may be transit properties or other units of local general-purpose government.
- The maximum federal share should be limited fifty percent of total project cost. In addition, streetcar projects should require the financial participation in project construction of the owners of real property abutting the alignment excluding owner occupied residential properties. Property owner participation should be required to ensure that the project recovers a portion of enhanced property values. Property owner participation should have a floor of 10% of construction cost.
- Streetcar projects should demonstrate the development / redevelopment opportunities and in close proximity to the alignment. Projects must demonstrate that property zoning and comprehensive planning designations enabling complimentary mixed-use land uses should also be in place adjacent to the alignment.
- Streetcar projects should demonstrate how redeveloping or new neighborhoods on vacant or underutilized land will be connected to each other or major attractors in the central city and with major regional transit services.
- Project sponsors must provide a detailed operating plan including frequency of service, hours of operation, and stop locations and demonstrate the financial capacity to operate the line.
- Create under the Federal Housing Act authority for the Department of Housing and Urban Development to contract with urban communities to fund the construction of urban fixed guideways that support the development of housing and the re-development of housing in urban areas by the use of streetcar technology.
- The projects approved for funding would be ranked according to their support of mixed-use, higher density land uses. They would not be expected to meet traditional ridership thresholds suggested by USDOT-FTA standards. These projects would be eligible to receive up to \$25 million in FTA Sec. 5309 New Start construction funds regardless of the level of HUD support. They would not be required to meet DOT New Start criteria, and would be exempt from DOT ranking.

Consistency: expansion of the streetcar system is reflected to a limited extent in the RTP but not with federal funds. In addition, MTIP funding has been allocated to define the transit and

bike improvement strategy in the Willamette Shore Corridor to Lake Oswego where a streetcar option would be examined. Creation of a "small starts" federal funding category would facilitate. However, it is not clear that the region should support a "Small Starts" program unless there is significant increases to the "New Starts" program.

k) Support Continuation of the Value Pricing Pilot Program

Background: ISTEA created the Congestion Pricing Pilot Program to support jurisdictions in the implementation of congestion pricing or peak period pricing projects. The program was expanded to include pre-project studies. In TEA-21 the program was continued and renamed the Value Pricing Pilot Program. This relatively small program, with funding of about \$11 million a year, has supported a number of successful projects and studies around the country. There are on the ground implementation projects in San Diego and Orange County California, Lee County Florida, Houston Texas and New York and New Jersey.

Locally, this program provided \$1 million towards the Traffic Relief Options (TRO) study. The TRO citizen's task force recommended that the region consider value pricing whenever major new highway capacity is added. This recommendation was incorporated as a policy requirement in the 2000 RTP. In 2002, Metro obtained an additional \$400,000 grant to fund the value pricing portion of an overall alternatives analysis for the Highway 217 corridor. At the State level, the Road User Fee Task Force, which is looking at alternatives to the fuel tax, is funded out of this program.

The Value Pricing Pilot Program is a small program with a limited number of states (15) that are allowed to participate. Further, due to the difficulty of implementing this relatively new and controversial concept, the program has not always obligated all of its funds. Because of these factors, it is a possible candidate for elimination in renewal discussions. We believe that the program has played a valuable role in forwarding research and implementation at a national level of an important new management and financing tool. In addition, it has provided funding in this region and state and could be a small but important potential source for future studies or projects.

Analysis: Value Pricing, while growing in national and international prominence as a demand management and highway financing tool, still remains in its infancy in terms of actual projects. The federal pilot program continues to provide an important source of funding to support project studies and implementations.

Policy Position: Support the continuation of the Value Pricing Pilot Program at similar funding levels. Support the elimination of the limitation on the number of interstate tolling exemption slots so that more states can participate in the program.

Consistency: *This is consistent with the Congestion Pricing Policy adopted in the RTP.*

l) Technical Issues.

a) Shift PMO funding to FTA wide rather than on project-by-project basis.

Currently Project Management Oversight, FTAs mandated outside project review consultant, is paid out of project appropriations. Often this means that projects receive less funding than expected based on the congressional appropriation for a given year. This can cause troubling adjustments in budget, expenditure and borrowing. PMO work supports the oversight

function of and mandate of the FTA and should be funded out of the agency's budget rather than project-by-project.

Consistency: this would increase the efficiency of delivering certain RTP projects.

b) Buy America.

Instead of having the Transit Agencies certify that the products that they meet Buy America, the Bus/Rail manufacturers could certify that the product that they sell meets Buy America. Each manufacturer does the initial work any way, so having the Transit Agency be responsible for certification makes little sense and costs the federal government a lot of money as each transit agency buying vehicles must audit and do the work for the certification. It is mostly the pre-award audit that is costly to the Transit Agencies - the post award, including buy inspections, makes sense for the transit agency to perform from a quality control perspective.

Consistency: this would increase the efficiency of delivering certain RTP projects.

c) Review of 12-year life for buses.

Currently, FTA prohibits using federal funds to replace buses less than 12 years old. This requirement does not recognize evolving technology nor does it take into consideration the use of the bus during the 12 years.

When a transit agency tries to participate in forwarding new technology, often the first generation of that technology does not produce the results necessary to maintain operations. TriMet's LNG fleet is a good example. These are 1st Generation LNG buses, which after 8-9 years do not run and we have been unable to get replacement parts as the technology has evolved. They are still listed as 12-year buses and unless we get a waiver from the FTA for both the 12-year life and the pay back for short life, we are on the line for a lot of money to go back to the FTA. This discourages transit agencies from participating in new technology.

Different operating environments age buses in different ways. A small transit agency may only run a bus 25,000 miles per year, 8 hours per day, 5 days per week. We run buses 50,000 miles per year, 20 hours a day, 7 days per week. A more accurate bus life measure would be miles, or hours - or any measure that took in account actual use.

Consistency: this would increase the efficiency of delivering certain RTP projects.

d) Excess property.

On projects, other than Westside Light Rail, for which Tri-Met was given a blanket permission to sell excess property, agencies usually have to go through a lengthy Federal process to dispose of unneeded property acquired with federal funds. FTA requires that property be posted for acquisition first by other federal agencies, then by other public agencies. The process can take up to a year.

Consistency: this would increase the efficiency of delivering certain RTP projects.

e) FTA concurrence.

Transit agencies are required to get FTA concurrence on the purchase of property over \$250,000; that which is \$50,000 more than appraisal and anytime condemnation is used. All of this takes a great deal of time. FTA will sometimes allow larger transit districts to purchase property without agency concurrence, however the decision is optional and the threshold uncertain. FTA should allow those properties with FFGAs to exercise this discretion on their own since these properties are already under considerable scrutiny by FTA and PMO.

Consistency: this would increase the efficiency of delivering certain RTP projects.

f) FTA oversight.

Oversight could be streamlined. Now we have:

- PMO - project management oversight
- FMO - financial management oversight
- PMO - procurement management oversight
- Rail State Safety (and Security) Oversight
- Triennial Reviews

All the above derive out of the same basic 22 or so FTA certification requirements, but transit agencies are subjected to different audits and different audit teams at different times. So it would be less onerous if FTA consolidated the oversight audits, audit teams, and rationalized the schedule/periodicity and relationship among the oversight reviews. At a minimum there could be 3 teams: PMO (project), State Rail Safety, and Triennial. The first two would be continuing and the latter every 3 years.

Consistency: this would increase the efficiency of delivering certain RTP projects.

g) OMB leveling the playing field.

Many of the differences between FTA and FHWA are rooted in the OMB circulars regarding the differences in the clients served. FHWA primarily deals with states that are considered to have their own constitutional authority and established procedures regarding financial and legal accountability. Transit agencies, cities, and metropolitan areas have lesser status in the view of OMB, largely deriving their authority from states.

OMB requires more scrutiny by the federal departments administering funds to subdivisions of a state. Reducing oversight where it is not needed, such as where jurisdictions can show a consistent record of sound management of federal funds, would reduce costs and unnecessary delay in project implementation.

Consistency: this would increase the efficiency of delivering certain RTP projects.

m) University Transportation Research Centers

Request: Support enhancement of the Federal University Transportation Centers as part of the reauthorization of the transportation bill.

Background: Congress first authorized the creation of University Transportation Centers as part of the Surface Transportation and Uniform Relocation Act of 1987. This initial legislation authorized 10 centers to coincide with the Federal regions. The University Transportation Centers were again reauthorized in ISTEA and TEA-21. Currently TEA-21 authorizes \$158.8 million for grants to 33 centers (regionally designated centers and congressionally specified centers). Research funded through the Centers requires a 50-50 match and is required to meet peer-review standards; in other words, the research done is not opinion or advocacy research.

The Centers designated as "regional centers" are also called Category A centers in the TEA-21 and receive \$1 million per year for research. The level of annual funding for Regional Centers has not changed since 1987, and a variable obligation limit ceiling has reduced current funding to \$870,000. The Congressionally mandated centers fall into three categories:

Category B: Received \$300,000 in 1998 & 1999 and \$500,000 for 2000 & 2001 *There is authorized a limited competition with Category C for the fifth and sixth years
Assumption College, Purdue University, Rutgers University, South Carolina State University, University of Central Florida, University of Denver and Mississippi State University, and University of Southern California and Cal State University Long Beach

Category C: Received \$750,000 for years of 1998 through 2001 *There is authorized a limited competition with Category B for the fifth and sixth years
Morgan State University, New Jersey Institute of Technology, North Carolina A & T State University, North Carolina State University, San Jose State University, University of Alabama, University of Arkansas, University of Idaho, and University of South Florida

Category D: Received \$2 million per year from 1998 through 2003
George Mason University with University of Virginia and Virginia Polytechnic Institute and State University, Marshall University, Montana State University, Bozeman, Northwestern University, University of Minnesota, and the University of Rhode Island

Justification and Application to Oregon: Making University Transportation Centers a priority in Oregon's recommendations for policies in the reauthorization of the transportation bill will benefit the state's transportation and planning programs. Other organizations are calling for increased funding for research. For example, the American Road and Transport Builders Association is recommending increasing the regional center authorization from \$10 million per year to \$30 million per year. Currently PSU receives about \$100,000 a year in funding for transportation research through an affiliation with the Region X Center located at the University of Washington. Support for the program, including increased funding, would provide additional research capacity through one of two ways: 1) Funding could be increased for the Regional Centers; or 2) PSU could be authorized as one of the Congressionally mandated centers and receive money directly.

Each Center is required to have a theme that organizes the research done by faculty. PSU's theme would be Advanced Information Technology, Urban Transit, and Livability, Health, and Transportation.

Consistency: *as proposed, the Portland State University Transportation Research Center would ensure research is independent and peer reviewed. In addition, an oversight committee, which includes representatives from outside PSU, is proposed. With these provisions, an expanded research capability at PSU would help advance innovative policy directions called for in the RTP.*

EXHIBIT C

Portland Region
Priority Projects for
TEA-21 Reauthorization Earmarking

The projects identified below are consistent with the following principles:

1. The region should have a relatively short list of priorities.
2. As a target, the region should seek authorization for projects under the New Start category that could reach the funding stage at some point during the 6-year authorization period (2004-2009).
3. As a target, the region should seek \$100 million in various highway earmark categories.
4. All projects must be consistent with the RTP Priority System.
5. Project requests should support and reinforce the land use plans of the region.
6. All project requests must be able to use earmarked funds within the six-year timeframe of the reauthorization bill.
7. The jurisdiction requesting a project earmark must be prepared to deliver an appropriate project within the earmarked funding amount regardless of the level of funding earmarked. Partial earmarks must be supplemented with alternate funding sources or scaled to an appropriate sized project.
8. There must be a strong base of support for the projects from governments, community and business organizations.
9. Members of the delegation must be willing to pursue the project earmark.
10. The overall regional list must be regionally balanced.
11. The adopted regional list will be described as the priorities of the region. Local requests outside of the adopted regional list will be strictly the priority of that jurisdiction.

A. Regional Highway Priorities - the following have been identified as regional highway priorities:

- I-5/Delta Park to Lombard (CON)\$32.8 million - Hwy Demo
- I-5/Columbia River Bridge (EIS)\$15.0 million - Borders & Corridors
- Highway 217-TV Hwy-Sunset Hwy
(Westside Corridor Final Phase).....\$26.4 million – Hwy Demo
- Sunrise Corridor - Phase 1
Preliminary Engineering & Right-of-Way acquisition\$32.0 million – Hwy Demo
(Interstate 4R Discretionary can also be considered for funding earmarked)
- Columbia Blvd. Intermodal Corridor
Ramsay Railroad Yard.....\$11.0 million – Freight Rail/Hwy Demo
Air Cargo access.....\$ 9.0 million – Hwy Demo

B. Regional Transit Priorities – The following have been identified as regional transit priorities:

1. Projects to be reauthorized – Section 5309 – New Starts:
 - Continue authorization for preliminary engineering and construction for the entire South/North project from Clackamas County to Clark County: 1. To complete Interstate MAX; 2. The Region’s #1 priority for ‘New Start’ authorization and funding is the South Corridor Project; 3. To continue authorization and funding for Wilsonville to Beaverton Commuter Rail; 4. To allow for future extension of Interstate MAX: Expo-Clark College.

2. Projects requiring new authorization – Section 5309– New Starts:
 - Provide new authority for Willamette Shoreline Streetcar Extension: PSU Lake Oswego – authorization for preliminary engineering and construction.
3. New transit project funding earmarks – Section 5309 – Bus:
 - Earmark funds for TriMet bus expansion and replacement.
4. State of Washington – Section 5309 – New Starts:
 - Support RTC and C-TRAN request for new preliminary engineering authority for I-5 to I-205 Clark County LRT “Loop”.

C. Regional Livability Priorities: The following have been identified as community livability projects:

1. Boeckman Road (Wilsonville).....	\$8.00 Million – Highway Demo
2. Lake Road (Milwaukie)	\$5.60 Million – TCSP/Highway Demo
3. Gresham Civic Neighborhood LRT Station.....	\$2.70 Million – TCSP/New Starts
4. Kenton Feed-and-Seed	\$2.00 Million – TCSP/New Starts
5. Rockwood Town Center.....	\$2.00 Million – TCSP/Highway Demo
6. Bancroft/North Macadam Access	\$8.00 Million – TCSP/Highway Demo
7. Sauvie Island Bridge	\$25.0 Million – Bridge/Highway Demo
8. Regional Culvert Retrofit – Phase 1.....	\$5.00 Million – Highway Demo
9. Regional Trail Program – Next Phase.....	\$5.00 Million – Highway Demo
10. Beaverton Hillsdale/Scholls Ferry/Oleson Rd.	\$14.4 Million - Highway Demo
11. <u>Wilsonville: Barber Road – Urban Village Connection</u>	<u>\$ 4.20 million – Hwy Demo</u>

D. The region also supports Portland State University’s request for designation as a Federal University Transportation Research Center.

Note: It is not clear at this time how project earmarking will be implemented. As such, the categories noted above are preliminary and other funding categories may be more appropriate.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3287, FOR THE PURPOSE OF ENDORSEMENT OF A REGIONAL POSITION ON THE REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT OF THE 21ST CENTURY (TEA-21)

Date: December 27, 2002

Prepared by: Andy Cotugno

BACKGROUND

The Transportation Equity Act for the 21st Century (TEA-21), adopted by Congress in 1997, is scheduled to expire September 30, 2003. TEA-21 is the federal authorization bill for transportation projects and funding. The authorization bill establishes federal programs, identifies or "earmarks" some specific projects and sets the upper limits on the amount of federal funds the programs and projects are eligible to receive. The act also establishes rules for the distribution of federal transportation funds including apportionment formulas for those programs whose funds are distributed by such methods.

The reauthorization bill will have a direct effect on Metro and the region's jurisdictions in terms of how planning for transportation is performed and how much federal assistance to perform this planning function is made available. There is also a direct impact on which transportation projects are identified as eligible to receive federal funding.

The next reauthorization of a federal transportation bill will be considered in the upcoming Congressional session and is scheduled for completion prior to adjournment in Fall 2003. To favorably influence the federal legislation, it is important to clearly articulate the region's positions during their consideration of the reauthorization bill language. This Resolution No. 03-3287, amends and replaces the previously adopted Resolution No. 03-3271 by adding the following changes:

- added language in Exhibit B that environmental streamlining should not be used to reduce environmental standards at the request of Councilor Newman;
- an added project to Exhibit C in Wilsonville at the request of Councilor Hosticka; and
- an added project in Exhibit C at the request of ODOT.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time. Local jurisdictions that have not successfully identified their local transportation priority projects as regional priority projects for federal reauthorization may oppose the regional priority project list.
2. **Legal Antecedents** TEA-21 is the current federal transportation authorization authority providing Metro the authority to function as a federally designated Metropolitan Planning Organization (MPO). TEA-21 is scheduled to expire September 30, 2003 and Congress will be considering reauthorization of transportation legislation during its 2003 session.
3. **Anticipated Effects** This resolution will communicate the regional policy position for reauthorization of TEA-21. The policy paper will be used in the regions federal reauthorization activities in Congress.

4. **Budget Impacts** Reauthorization is a significant issue affecting Metro and the Portland region and, as such, this paper and efforts to influence its outcome are a significant work effort for the department. In addition, one of the issues directly affects funding to MPOs including Metro.

RECOMMENDED ACTION

Adopt Resolution No. 03-3287 as recommended to be amended by TPAC (TPAC amendments are denoted in strike-through and underscore format). The TPAC recommendation to delete reference to suballocation of CMAQ funds to MPOs in Section 2 of Exhibit A is predicated on the understanding from comments from ODOT that it is more appropriate to decide how to best allocate CMAQ funds within Oregon. Under current practices, CMAQ funds are suballocated to current and former air quality non-attainment areas (including to Metro to allocate through the MTIP process). TPAC recommended that there be a letter sent to ODOT from JPACT indicating that this provision was removed because the current practice is to suballocate CMAQ funds and this practice should continue.