



## Metro | Agenda

MEETING: METRO COUNCIL WORK SESSION  
DATE: March 16, 2010  
DAY: Tuesday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

### CALL TO ORDER AND ROLL CALL

- 2:00 PM**      **1.      DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, [March 18, 2010]/ADMINISTRATIVE/CHIEF OPERATING OFFICER COMMUNICATIONS**
- 2:15 PM**      **2.      MAKING THE GREATEST PLACE (MGP):**
- DRAFT ELEMENTS OF MGP INTEGRATED INVESTMENT STRATEGY
  - CAPACITY ORDINANCE: ANALYTICAL APPROACH AND PERFORMANCE ASSESSMENT FRAMEWORK
- McArthur/Wilkinson
- 2:45PM**      **3.      BREAK**
- 2:50PM**      **4.      MAKING THE GREATEST PLACE (MGP):**
- REGIONAL TRANSPORTATION PLAN IMPLEMENTATION
- McArthur/Ellis
- 3:35PM**      **5.      PORTLAND TO MILWAUKIE LIGHT RAIL: GENERAL PROJECT UPDATE, LEGISLATION REVIEW & DISCUSSION**
- Roberts/Weighart/Unsworth
- 4:20 PM**      **6.      COUNCIL BRIEFINGS/COMMUNICATION**

**ADJOURN**







Agenda Item Number 2.0 & 4.0

**MAKING THE GREATEST PLACE  
(MGP):**

- **DRAFT ELEMENTS OF  
MGP INTEGRATED  
INVESTMENT STRATEGY**
- **CAPACITY ORDINANCE  
AND PERFORMANCE  
ASSESSMENT  
FRAMEWORK**
- **RTP IMPLEMENTATION**

Metro Council Work Session  
Tuesday, March 16, 2010  
Metro Council Chamber







# METRO COUNCIL

## Work Session Worksheet

Presentation Date: March 16, 2010 Time: 2:15 pm Length: 75 min

Presentation Title:

Making the Greatest Place:

- 1) Draft Elements of MGP Integrated Investment Strategy
- 2) Capacity Ordinance: Analytical Approach and Performance Assessment Framework
- 3) Regional Transportation Plan Implementation

Department: Planning and Development

Presenters: Robin McArthur (ext 1714), Malu Wilkinson (ext 1680), Kim Ellis (ext 1617)

## ISSUE & BACKGROUND

At the March 16, 2010 work session the Metro Council will have an opportunity to:

- Discuss and comment on draft elements of an Integrated Investment Strategy (MGP 2010 decision chart included in packet; draft outline of Chief Operating Officer recommendation will be handed out at the work session),
- Provide input on the types of engagement opportunities staff is developing for 2010
- Review the analytical approach and performance assessment framework that will inform the draft Capacity Ordinance to be released in summer 2010 (Regional Investment Strategy: 2010 Capacity Ordinance paper included in packet), and
- Discuss a set of recommended actions to implement the Regional Transportation Plan (memo from Kim Ellis included in the packet)

An element of the integrated investment strategy that the Council will be considering this year is to determine the best approach for addressing the region's 20-year population and employment forecast growth while supporting the six outcomes.

The urban growth report (UGR), endorsed by MPAC and accepted by the Metro Council in December 2009, identified the capacity of the region's urban growth boundary (UGB) to accommodate the next 20 years of expected population and employment growth. The 2009 UGR was intended foster the development of an outcomes-based approach to growth management decision-making. The UGR identified a gap between the forecast demand and the amount of zoned capacity that is likely to be developed in the next 20 years for residential and large-lot industrial parcels that support the traded-sector.

The region can fill the identified capacity gap through actions that promote more efficient use of zoned capacity inside the current UGB, or by expanding the UGB, or a



combination of both. Throughout 2010, Metro will be working with local governments individually and through MTAC and MPAC to identify and adopt local and regional actions that will achieve greater efficiencies within the existing UGB and minimize the need for UGB expansion at the end of the year. These actions will also support implementation of the new RTP and meet state planning requirements.

#### **OPTIONS AVAILABLE**

The state requires that Metro identify at least 50% (up to 100%) of the capacity needed to fill the identified gap by the end of 2010, and the remainder (which must be outside the current UGB) by 2011.

#### **IMPLICATIONS AND SUGGESTIONS**

Staff has initiated technical review of Regional Framework Plan and Functional Plan changes. The actions being considered provide incentives and add new regulations. What balance should staff strive to achieve through new policy and implementation changes?

#### **QUESTION(S) PRESENTED FOR CONSIDERATION**

- Are the elements of the Integrated Investment Strategy clear and understandable?
- Are there other kinds of information the Council would like to see in the performance assessment to support informed growth management decision making?
- Does Council have guidance on regulations versus incentives?
- Does Council support the recommended approach for implementing the RTP?

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION** \_\_Yes \_\_X\_No  
**DRAFT IS ATTACHED** \_\_Yes \_\_X\_No



## Making the Greatest Place 2010 DECISIONS

*In 2010, the Making the Greatest Place (MGP) initiative is focused on making the most of existing communities inside the UGB, creating sustainable jobs, and protecting farms, forest land and natural resource areas for future generations. Decisions and actions are focused on making progress toward the six regional outcomes adopted by MPAC, JPACT and the Metro Council:*

VIBRANT COMMUNITIES

ECONOMIC PROSPERITY

SAFE AND RELIABLE TRANSPORTATION

ENVIRONMENTAL LEADERSHIP

CLEAN AIR AND WATER

EQUITY

Decision/Project	What	When	Who
Urban reserves designated	Provides opportunities for future jobs and housing in safe, vibrant and walkable neighborhoods that complement existing communities.	May	Metro Council designates urban reserves.
Concept planning process	Early planning for potential UGB expansion areas to address governance, finance, and development issues. (Title 11)	May	MPAC makes recommendation to Metro Council, Council adopts.
Rural reserves designated	Guarantees the protection of valuable farmland, forest land and natural areas for current and future generations to enjoy.	May	The boards of commissioners of Clackamas, Multnomah, and Washington counties designate rural reserves.
Regional Transportation Plan - final adoption, which initiates local plan implementation	A blueprint and strategy for transportation investments that support a strong economy, sustain healthy communities and reduce greenhouse gas emissions.	June	MPAC makes recommendations to JPACT and Metro Council; JPACT and Metro Council adopts.
20-year capacity ordinance	Identifies how the region will accommodate jobs and housing in the next 20 years.	COO release - Aug Final - December	MPAC makes recommendations to Metro Council; Metro Council adopts.
Framework Plan & Functional Plans	Changes regional policy and implementation requirements. *Protect employment land (Title 4) *Focus development in centers and corridors (Title 6) *Maintain and increase housing capacity (Title 1) *Update 2040 Growth Concept map	December	MPAC makes recommendations to Metro Council; Metro Council adopts.
Regional investment strategy	Use regional investments to leverage development in downtowns, mainstreets, and employment areas.	December	MPAC and JPACT make recommendations to Metro Council; Metro Council adopts.
Financial incentives, parking management, zoning updates, public investments	Targeted policies and investments that support shared local and regional aspirations.	Ongoing	Local jurisdictions and Metro.



## Making the Greatest Place 2010 DECISIONS

### Other ongoing MGP work

Greenhouse gas scenarios	To meet statewide targets for reduction of greenhouse gas emissions, in partnership with local governments Metro will develop potential land use and transportation options to reduce vehicle emissions and create a healthy environment.
Regional indicators project	Develop a set of regional indicators that track the state of the region's people, economy and environment to coordinate efforts for a better future. Project partners include PSU, Metro, local governments, business and advocacy organizations.
Intertwine development and implementation	A network of integrated parks, trails and natural areas that provides unparalleled opportunities to preserve natural areas, open spaces, water and wildlife habitat.



## Regional Investment Strategy: 2010 Capacity Ordinance

In 2010 the region is tasked with identifying a set of policies and investments that address the gap between the forecast demand and the amount of zoned capacity that is likely to be developed in the next 20 years (as shown in the table below). A growth management decision should support the region's ability to meet forecast growth while moving towards the six outcomes that define a successful region, as endorsed by MPAC and the Metro Council in 2008:

- People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.
- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

**Summary of 2009 Urban Growth Report (UGR)**

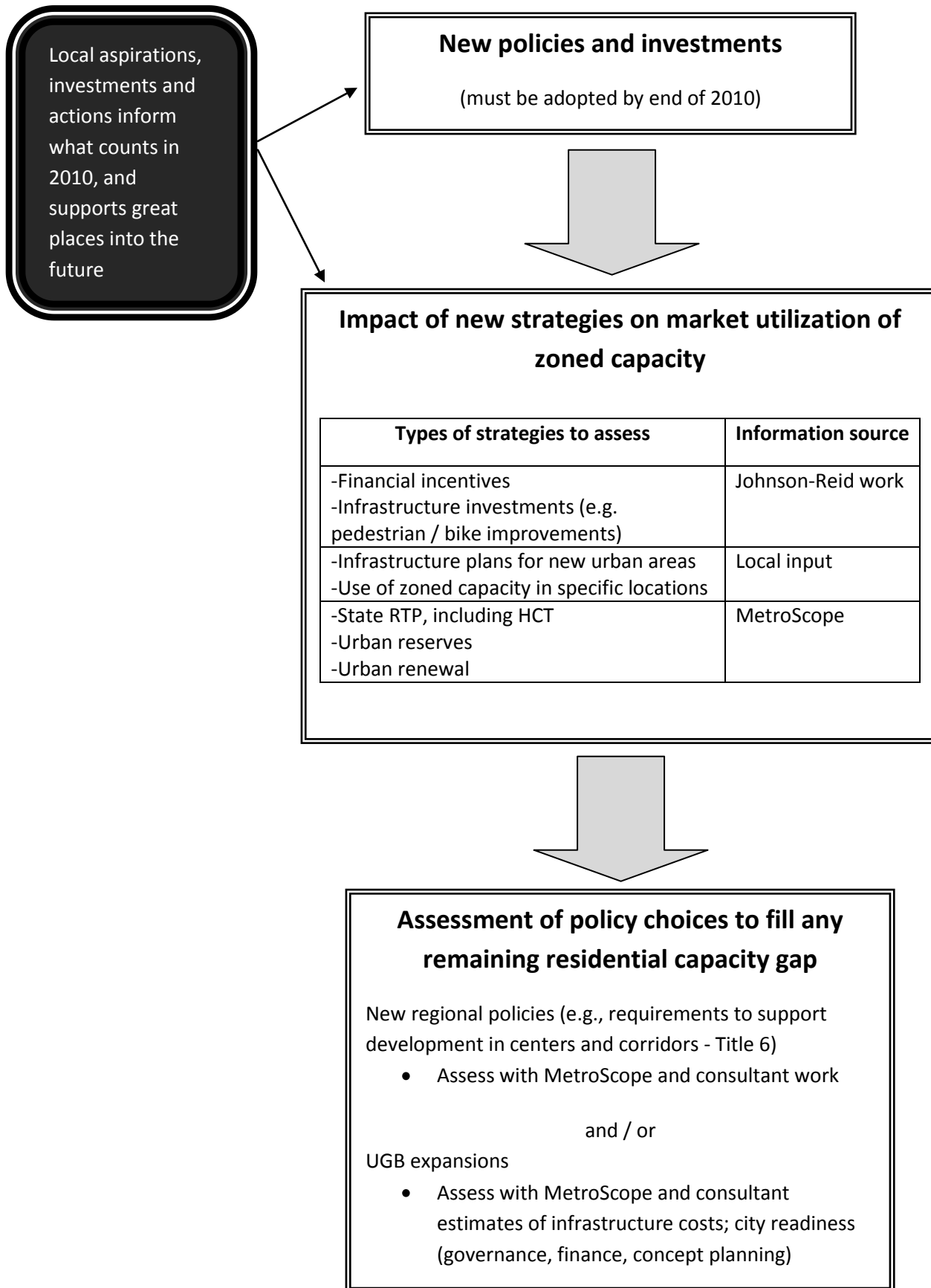
Type of capacity	Capacity gap range in UGR		Middle third capacity gap range	
	Low	High	Low	High
Residential (dwelling units)	27,400	104,900	44,100	62,100
General industrial (acres)	0	0	0	0
Non-industrial (acres)	0	1,168	0	104
Large-lot industrial (acres)	200	1,500	200*	1,500*

\*This is the range recommended by MPAC and included in the UGR.

The region can fill the identified capacity gap through actions that promote more efficient use of zoned capacity inside the current UGB, or by expanding the UGB, or a combination of both. Throughout 2010, Metro will be working with local governments individually and through MTAC and MPAC to identify and adopt local and regional actions that will achieve greater efficiencies within the existing UGB and minimize the need for UGB expansion at the end of the year. The following pieces explain Metro's approach for addressing the residential and large-lot employment analyses and describe an approach for assessing the performance of growth management choices.

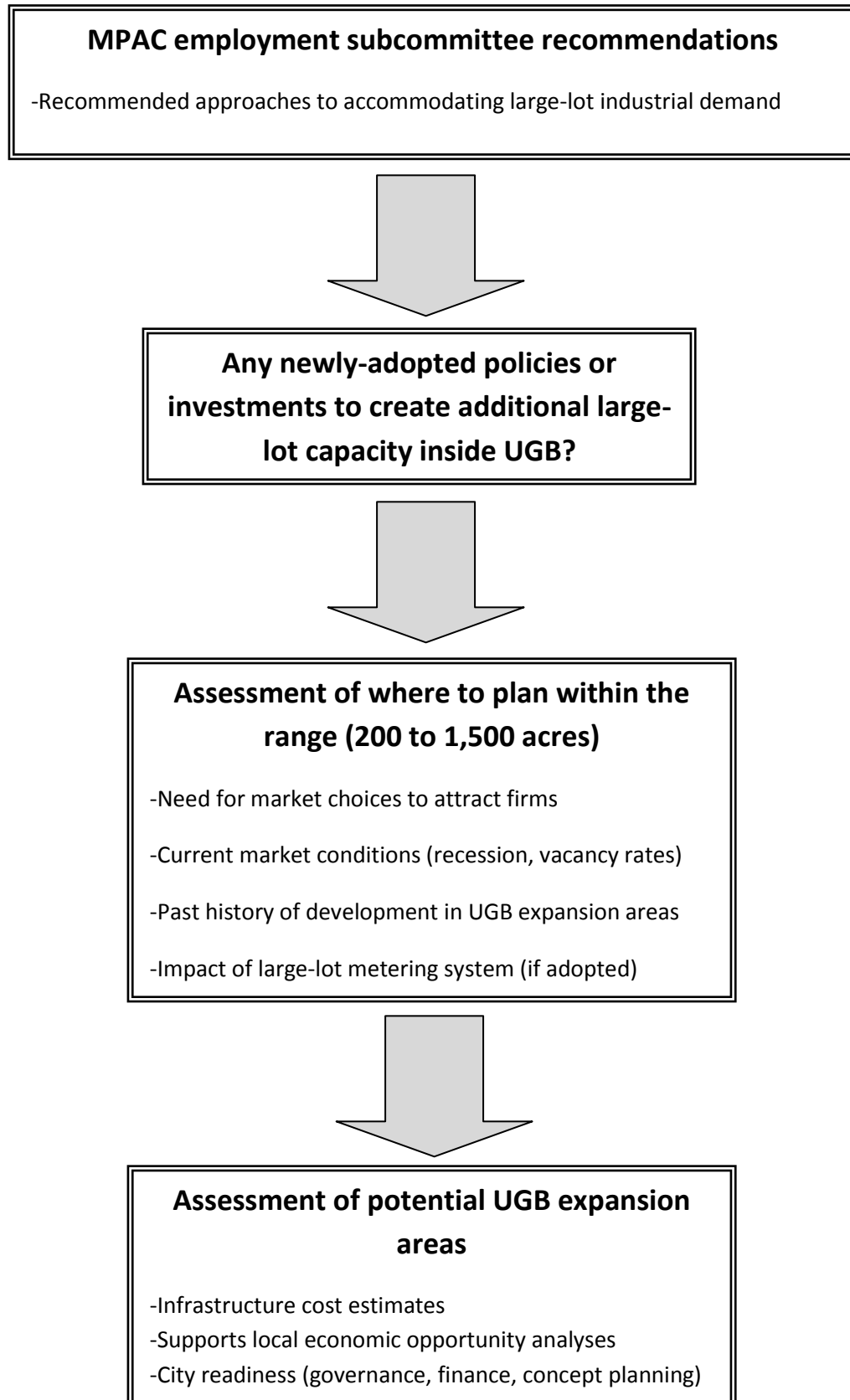


## Approach for addressing the residential capacity gap





## Approach for addressing the large-lot industrial capacity gap





## Performance assessment framework

### Types of performance information that will be available to support decision making

Metro's approach of outcomes-oriented, performance-based decision making calls for information that supports decision-makers' ability to understand the implications of how growth management choices may impact the region's progress towards the six desired outcomes. Several sources of information can be used to depict outcomes and performance of different options to accommodate growth. Some sources will report historic information while others will report forecast information.

Staff will produce a Performance Assessment of growth management choices that clearly describes the implications of options available to fill the 20-year capacity gap for residential and large-lot employment in 2010.

#### Performance information and sources

Performance information	Six desired outcomes						Information sources
	Vibrant communities	Economic prosperity	Transportation choices	Minimize global warming	Healthy environment	Equity	
Market response to capacity	√	√			√	√	Johnson-Reid analysis MetroScope Neighborhood Design and Infrastructure Analysis Historic information for specific locations Intertwine: parks and trails assessment
Travel behavior	√	√	√	√		√	MetroScope Transportation model
Infrastructure costs	√	√	√			√	Consultant (TBD) research on candidate UGB areas MetroScope
Cost burdens (housing and transportation costs)		√	√			√	MetroScope
Greenhouse gas emissions				√	√		MetroScope Transportation model (MOVES model)
Existing community conditions	√	√	√			√	Context Tool Neighborhood Design and Infrastructure Analysis State of the Centers report City economic opportunity analyses
Governance, finance	√					√	Pre-UGB-expansion concept plans (may not be available for 2010 decisions)





## Metro | Memo

Date: March 10, 2010  
To: Metro Council  
From: Kim Ellis, Principal Transportation Planner  
Re: RTP Adoption and Link to Local Implementation of the 2040 Growth Concept to Create Great Communities and Address Climate Change

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### Background

The region is in the final adoption phase for the Regional Transportation Plan (RTP). The RTP establishes a new outcomes-based framework and new policies and tools to guide future planning and investment decisions. To successfully implement this new approach and make progress toward the six desired outcomes identified through the *Making the Greatest Place* effort, new actions, tools and collaboration are needed:

- **Implementation of the 2040 Growth Concept vision for land use and transportation must be accelerated to achieve desired outcomes; yet institutional and fiscal barriers exist.** For example, the City of Tigard proposed mixed-use zoning and doubling the height limit in downtown to 8 stories to create more jobs and housing and support a future high capacity transit connection. Due to potential traffic impacts to OR 99W and Hall Boulevard, the City adopted the mixed-use zoning but retained the current 4-story height limit to meet state requirements. Work will continue to help the City achieve its aspirations.
- **Existing volume-to-capacity-focused mobility standards only tell part of the story, and have limited applicability and flexibility under the outcomes-based RTP.** A more comprehensive framework of measures is needed to define success and guide investments and actions needed to achieve the 2040 Growth Concept vision. The RTP provides a starting point for this work.
- **The benefits and impacts of different actions are not always fully understood or accounted for.** Current analysis tools are limited in their ability to fully quantify the social, economic, and environmental benefits of individual actions (e.g., timing traffic signals, providing financial incentives and civic infrastructure in downtowns, building sidewalks and bike facilities, protecting freight access to industrial areas, etc.). Work will continue to enhance existing tools and understanding.

### Purpose

This memo recommends implementation of a more robust set of actions to implement the new RTP and make progress toward the RTP performance targets. If implemented, these actions will help communities achieve their growth aspirations, and support the region's efforts to create jobs and great communities, use land efficiently, expand travel options, improve freight reliability and address climate change. The transportation actions would be adopted as part of the RTP in June 2010. The land use actions would be adopted as part of the Land Use Capacity Ordinance in December 2010. See **Attachment 1** for a summary of existing required actions and other possible actions to be considered.

The memo also recommends actions for Metro, ODOT and other regional partners to take over the next few years. These actions will result in a more comprehensive approach for implementing the 2040 Growth Concept and meet statewide goals for compact development patterns, mobility and greenhouse gas emissions.



## Proposed Action Plan

### 2010 Recommended Actions

- **Retain current mobility standards**, subject to future refinement. **(June 2010)**
- **Adopt revisions to the Regional Transportation Functional Plan (June 2010) and Urban Growth Management Functional Plan (December 2010)**

*Metro's functional plans direct how local governments implement regional policies, recognizing that "one size does not fit all." Any new functional plan actions should allow for flexibility and varying local aspirations, circumstances, and readiness, but ensure regional policies are being implemented consistently through local transportation system plans (TSPs), comprehensive plans and codes. The following revisions are recommended:*

#### Proposed Transportation Functional Plan revisions (June 2010)

- Require TSPs, mobility corridor strategies and corridor refinement plans to implement the new RTP policies for system management and operations, bike, pedestrian, transit, safety, freight, and connectivity, consistent with state and federal policies (e.g., Congestion Management Process and Oregon Highway Plan (OHP), Major Improvements Policy 1G).
- Require TSPs, mobility corridor strategies and corridor refinement plans to include transportation system management and operations (TSMO) strategies and projects, consistent with the regional TSMO plan.
- Allow local governments to identify alternative approaches to meet mobility standards, as set forth in OHP Policy 1F6, in collaboration with ODOT and Metro, through TSP updates, corridor refinement planning, concept planning or other planning efforts.
- Allow an automatic 30 percent trip reduction credit for plan amendments in areas that have adopted a minimum level of "best practices" actions.
- Provide a list of "best practice" actions that will automatically qualify for 30 percent trip reduction credit and other actions that could allow for additional credit if implemented.
- Clarify RTP amendment process and procedures, including public involvement and notification requirements.

#### Proposed Urban Growth Management Functional Plan revisions (December 2010)

- Require adoption of parking management plans in centers and along high capacity transit corridors.
- Require adoption of property-line boundaries for 2040 designated land uses through a public process.
- Require that a mix of land uses be allowed in 2040 centers, mainstreets and along transit corridors.
- Require limitations on new auto-oriented uses in centers.
- Require limitations on large-format retail near interchanges, unless allowed by an adopted Interchange Area Management Plan.

- **Adopt multi-modal mobility corridor strategies (June 2010)**

*The strategies will define the vision and planned system for each of the region's 24 mobility corridors. The strategies will be tailored for each corridor to support adopted land use plans and corridor function(s) and include management, operations and capital investments to support all modes of travel.*

- **Adopt findings (June 2010)**

- Document the extent of congestion in the region.
- Demonstrate that the region has "done the best we can" to improve highway performance as much as feasible for purposes of meeting state requirements and OHP Policy 1F5.
- Allow the RTP State System to serve as the "reasonably likely" system of improvements and "baseline condition" for local governments to use to assess the traffic impacts of plan amendments to determine if a plan amendment has a "significant effect" on state facilities. This requires local government and TriMet concurrence.
- Document evidence for automatic 30 percent credit for plan amendments.



- **Develop best practices checklist** for determining consistency of local plans with the RTP. **(June 2010)**
- **Request amendments to the Transportation Planning Rule** to define an automatic 30 percent credit for plan amendments in areas that have adopted certain “best practices” actions. **(June 2010)**
- **Request ODOT to engage Metro region** and other MPOs, cities, counties and interested stakeholders in the **mobility standards research** Project #716 that is underway. **(June 2010)**

#### **2011-12 Recommended Actions**

- **Metro and regional partners consider development of alternative mobility standards for individual corridors through refinement plans, concept planning and TSP updates.**
- **Metro updates Best Practices in Transportation System Design Toolkits/Livable Streets Handbooks** in collaboration with ODOT and other regional partners.
- **Metro and regional partners continue model enhancements and develop data collection and performance monitoring system**, to better understand the relationship between compact urban form and trip generation and greenhouse gas emissions.
- **Metro and regional partners complete greenhouse gas scenarios planning as required by House Bills 2001 and 2186 (2009 Session) and Senate Bill 1059 (2010 Session)**, and identify implementation recommendations for Metro region.
- **The Oregon Transportation Commission (OTC) works with Metro and other stakeholders to develop and implement a jurisdictional transfer strategy** for regional and district highways, and provide funding to upgrade facilities prior to, or in conjunction with, the transfer of ownership to local governments.
- **The OTC and the Land Conservation and Development Commission (LCDC) work with Metro and other stakeholders conduct a comprehensive and coordinated review and update to the Transportation Planning Rule, Oregon Highway Plan and mobility standards**, and state procedures manuals and guidelines to more fully integrate the Oregon Transportation Plan policies and state greenhouse gas goals.
- **The OTC and LCDC work with Metro and other stakeholders to develop State Greenhouse Reduction Strategy and Toolkit** for local governments.



## Next Steps

Successful completion of this work is essential to further the region's efforts to implement the 2040 Growth Concept and achieve local communities' aspirations for focusing more housing and jobs in centers and corridors and supporting jobs and access to the region's industrial and employment areas. The proposed actions will also improve safety and freight reliability, expand the travel choices available in communities throughout the region and support current and future efforts to reduce greenhouse gas emissions.

March 15	RTP work group discussion on proposed new transportation actions
March 16	Metro Council discussion on proposed approach and actions
March 22 – May 6, 2010	Final RTP public comment period
March 26	TPAC discussion to identify refinements to transportation actions
April 7	MTAC discussion to identify refinements to transportation actions
April 30	TPAC discussion to identify refinements to transportation actions
May 2010	MPAC, JPACT and Metro Council discuss proposed RTP amendments and functional plan revisions
May 12, 2010	Oregon Transportation Commission briefing on action plan
June 9, 2010	MPAC makes recommendation on RTP
June 10, 2010	JPACT and the Metro Council take action on RTP
June 15, 2010	RTP and new transportation actions submitted to the Land Conservation and Development Commission in the manner of periodic review for approval
July – December 2010	MPAC and the Metro Council discuss the proposed Land Use Capacity Ordinance and related Urban Growth Management Functional Plan revisions



## BEST PRACTICES FOR A SUSTAINABLE AND PROSPEROUS METROPOLITAN REGION

### *A Menu of Actions to Achieve the Region's Desired Outcomes*

#### **EXISTING REQUIRED ACTIONS**

#### **VEHICLE**

- |  |               |
|--|---------------|
| • Housing and job targets for centers  | Title 1       |
| • Adopt and map boundaries of 2040 designations in local comp plan/code  | Title 1       |
| • Progress reports on center strategy  | Title 6       |
| • Limit new large-format retail <sup>1</sup> in employment areas   | Title 4       |
| • Local street connectivity standards in new residential and mixed-use areas   | RTFP          |
| • Minimum/maximum parking ratios   | Title 2       |
| • Pedestrian accessways in parking lots  | Title 6; RTFP |
| • Consider transportation demand management (TDM) and transportation system management (TSMO) programs   | RTFP          |
| • Adopt Non-Single occupancy vehicle (SOV) modal targets and actions to demonstrate progress   | RTFP          |
| • Allow for implementation of street design guidelines/green streets   | RTFP          |
| • Building/pedestrian orientation along transit corridors and within pedestrian districts  | RTFP          |
| • Consider transportation system management and operations (TSMO), bike, pedestrian, transit, safety, and connectivity prior to adding capacity during project development | RTFP          |

#### **PROPOSED NEW TRANSPORTATION ACTIONS**

- |   |               |
|---|---------------|
| • Implement new RTP policies to follow steps in federally-required congestion management process and Oregon Highway Plan Major Improvements Policy 1G during planning (e.g., implement TSMO, bike, pedestrian, transit, safety, and connectivity prior to adding capacity)  | RTFP          |
| • Adopt parking management strategy in Centers that may include: <ul style="list-style-type: none"> <li>○ Inventory of usage</li> <li>○ Timed parking</li> <li>○ Real-time parking information</li> <li>○ Priced parking</li> </ul>   | Title 6; RTFP |
| • Implement TSMO strategies in Centers and Corridors, consistent with regional TSMO plan, that may include: <ul style="list-style-type: none"> <li>○ Signal timing</li> <li>○ Transit priority treatments at intersections</li> <li>○ Limit parking near intersections</li> <li>○ Arterial corridor management</li> </ul> | RTFP; Title 6 |

<sup>1</sup> Greater than 60,000 square feet in size.



**PROPOSED NEW LAND USE ACTIONS**

	<b>VEHICLE</b>
• Adopt parcel-based 2040 design type boundaries in local plans through a public process	Title 1
• Allow for mix of land uses in Centers, Corridors	Title 6
• Limit new auto-oriented uses in Centers <sup>2</sup>	Title 6
• Limit new large-format retail development near freeway interchanges	Titles 4 and 6

**OTHER POSSIBLE ACTIONS**

• Implement new RTP policies to follow steps in federally-required congestion management process and Oregon Highway Plan Major Improvements Policy 1G during project prioritization (e.g., implement TSMO, bike, pedestrian, transit, safety, and connectivity prior to adding capacity)	RTFP
• Complete streets	RTFP
• Arterial connectivity	RTFP
• Sidewalk and bicycle connectivity in Centers, Corridors and to transit stops	Title 6; RTFP
• Bicycle/pedestrian orientation in Centers	RTFP
• Freight access in centers/delivery areas	Title 6
• Adopt plan and zoning consistent with 2040 designation	Title 4, Title 6
• Financial and other incentives to support revitalization/redevelopment/infill in Centers and Corridors	Title 6
• Minimum development thresholds within specified distance of high capacity transit (HCT) stations, streetcar stops and frequent-service bus stops	Title 6
• Civic infrastructure <sup>3</sup> in Centers	Title 6
• Bike parking at transit stops in Centers, Corridors, Station Communities	RTFP
• Expanded TDM programs in Centers, and in areas within certain proximity to station areas, HCT, Frequent Bus and Streetcar	RTFP; Title 6
• Employer-administered TDM programs	RTFP; Title 6; Title 4
• Higher non-SOV modal targets in Centers	RTFP
• Include other RTP targets	RTFP

<sup>2</sup> Limit scale (drive-ins; service stations; auto dealerships; etc.)

<sup>3</sup> Includes schools, hospitals, universities, government buildings



Agenda Item Number 5.0

**PORTLAND TO MILWAUKIE LIGHT RAIL: GENERAL  
PROJECT UPDATE,  
LEGISLATION REVIEW &  
DISCUSSION**

Metro Council Work Session  
Tuesday, March 16, 2010  
Metro Council Chamber







# METRO COUNCIL

## Work Session Worksheet

Presentation Date: **March 16, 2010** Time: **2:15 p.m.** Length: **45 minutes**

Presentation Title: **Portland-Milwaukie Light Rail Project update**

Service, Office, or Center: **Planning and Development, Corridor Planning**

Presenters:

**Bridget Wieghart, Transit Project Manager, x1775**

**Dave Unsworth, TriMet, 503-962-2147**

**Ross Roberts, Deputy Director, Planning and Development, x1752**

### ISSUE & BACKGROUND

This is a general project update. Metro Council adopted the Locally Preferred Alternative for the Portland-Milwaukie Light Rail Project in July 2008. The 7.3-mile light rail line will connect North Clackamas County, Milwaukie and Southeast Portland to South Waterfront, downtown Portland and the regional light rail system. TriMet gained permission from the Federal Transit Administration (FTA) to enter Preliminary Engineering in March 2009. The project will submit an application to enter Final Design to FTA in March 2010. Metro Corridor Planning staff has been working closely with local and federal partners to publish the Final Environmental Impact Statement, anticipated May 2010. The following topics to be presented to the Council are summarized below:

**Finance Plan.** The region has requested, and current project budget is predicated on, 60 percent federal participation in the project. Under the previous presidential administration, we were asked to resubmit our application with 50-50 local-federal match. More recent conversations with the federal government lead us to believe 60 percent federal match is likely. They have also indicated that the contribution would be capped at \$850m. Local jurisdictions are finalizing the intergovernmental agreements for the local match dollars. All local commitments must be in place by March 2010.

<b>Project Funding</b>		
Federal New Starts	\$850.6m	60.0%
Local contributions	\$567m	40.0%
State of Oregon	\$250m	
Metro MTIP	\$72.5m	
TriMet	\$30m	
City of Portland	\$30m	
Clackamas County	\$25m	
City of Milwaukie	\$5m	
In-kind property	\$38m	
Net construction period finance cost	\$100m	
Remaining	\$16.5m	
<hr/> <b>Total Project Cost</b>		<b>\$1417.6m</b>

**IGA Resolution.** On Thursday, March 18 Metro Council will consider Resolution No. 10-4133, which if approved, would memorialize an intergovernmental agreement between Metro and TriMet concerning the commitment of MTIP funds to back bonds for construction of the



Portland-Milwaukie Light Rail Project. This resolution will implement the funding approach approved by Metro Council last year.

**Preliminary Engineering and Final Design.** Preliminary Engineering produces design drawings that move the project from 5 to 30 percent engineering. Drawings contain detailed plans for civil improvements, structures, roadways, traffic, landscaping designs and architectural features. This provides the necessary detail to develop a quality cost estimate. Jurisdictional partner agencies, including Metro, reviewed and provided comments on the 25 percent documents, which TriMet uses to make changes to for the 30 percent drawings and cost estimates for FTA consideration. Once the 30 percent cost estimates are submitted, the FTA holds the project to these costs and any additional costs are wholly borne by the local project sponsor. Preliminary Engineering will be completed in March 2010 and will form the basis of the application to enter Final Design.

**Conceptual Design Report.** TriMet's Conceptual Design Report presents the vision, process and preliminary design for the Portland-Milwaukie Light Rail Project in lively and citizen accessible form. It is a culmination of community input and the discussions and decisions made by project partners and stakeholders that dictate what the project will look like and how it will perform. The concepts and recommendations put forth in the report will guide the project into the Final Design phase. A copy of the Conceptual Design Report has been provided to each of the Councilors and is also online at [www.trimet.org/pm](http://www.trimet.org/pm). TriMet will receive comments on this public discussion draft through the spring of 2010.

**Final Environmental Impact Statement (FEIS).** The FEIS updates and refines information published in the Supplemental Draft EIS (May 2008). The FEIS analyzes potential impacts and proposes mitigations based on the engineering drawings, as well as responds to all comments received during the 45-day SDEIS public comment period. Corridor Planning staff coordinates closely with jurisdictional partners and has submitted drafts to FTA in January and again in February. Anticipated publication date is May 2010. There has been continuous public outreach and involvement, and we are well into the process of fulfilling the federal coordination requirements with federal agencies as well as coordinating with state and local project partners.

### **OPTIONS AVAILABLE**

This is a project update. Background materials are attached and more detailed information will be provided during the work session. On Thursday, March 18 Metro Council will consider Resolution No. 10-4133, which would, if approved, document an intergovernmental agreement between Metro and TriMet to use MTIP funds as a revenue source to back construction bonds for the Portland-Milwaukie Light Rail project.

### **IMPLICATIONS AND SUGGESTIONS**

The project will proceed with confirming funding commitments to complete the application to enter Final Design, due March 31, 2010.

### **QUESTION(S) PRESENTED FOR CONSIDERATION**

Does Metro Council have comments for TriMet regarding the Conceptual Design Report?  
Does Metro Council have overall questions about the Portland-Milwaukie Light Rail Project?  
Does Metro Council need any additional information to act on Resolution No. 10-4133?  
When would Metro Council like another project update?

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION X Yes \_\_\_No**  
**DRAFT IS ATTACHED X Yes \_\_\_No**



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A MULTI- )	RESOLUTION NO. 10-4133
YEAR COMMITMENT OF REGIONAL )	
FLEXIBLE TRANSPORTATION FUNDS FOR )	Introduced by Councilor Carlotta Collette
THE PORTLAND TO MILWAUKIE LIGHT RAIL )	
TRANSIT PROJECT AND SUPPLEMENTAL )	
COMMITMENT TO THE BEAVERTON TO )	
WILSONVILLE COMMUTER RAIL PROJECT	

WHEREAS, Metro is the Metropolitan Planning Organization (MPO) for the Portland metropolitan region, and as such is authorized by the U.S. Department of Transportation to program federal transportation funds allocated by federal law to the Portland region in the Metropolitan Transportation Improvement Program (MTIP); and

WHEREAS, Metro is authorized by the Oregon Department of Transportation (ODOT) to program Congestion Management/Air Quality (CMAQ) funds allocated to the Portland metropolitan region by ODOT in the MTIP; and

WHEREAS, TriMet is the duly authorized public transportation provider for the Portland metropolitan region and as such is an eligible recipient of federal transportation funds through the MTIP; and

WHEREAS, at the recommendation of the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Council adopted Resolution No. 08-3942 "For the Purpose of Proposing Allocation of Regional Flexible Funding to Regional Transportation Programs for the Years 2012 and 2013, and to Bond Payments for Contributions to the Milwaukie Light Rail Transit and Wilsonville to Beaverton Commuter Rail Projects for the Years 2012-2025 Pending Public Comment Period and Air Quality Conformity; and

WHEREAS, at the recommendation of the Joint Policy Advisory Committee on Transportation (JPACT), the Metro Council adopted Resolution No. 09-4017 "For the Purpose of Allocating \$67.8 million of Regional Flexible Funding for the Years 2012 and 2013, Pending Air Quality Conformity Determination" which documented the public comment process for the allocation of regional flexible funds to the projects; and

WHEREAS, these actions establish a multi-year commitment by Metro, as the MPO, to provide a sum of regional flexible funds to TriMet totaling \$144.8 million over the course of years 2012 through 2025 for the purpose of providing a net present value contribution of \$72.5 million to the Milwaukie Light Rail Transit Project and a \$13.3 million supplemental contribution to the Beaverton to Wilsonville Commuter Rail Project; and

WHEREAS, consistent with provisions of Resolution No. 08-3942 TriMet has provided \$13.3 million to the Commuter Rail Project and has agreed to provide \$72.5 million to the Milwaukie Light Rail Transit Project; and



WHEREAS, TriMet anticipates issuing revenue bonds secured by the commitment of regional flexible transportation funds set forth in Resolution No. 08-3942 and Resolution No, 09-4017 to fulfill all or part of its funding commitments; and

WHEREAS, an agreement between Metro and TriMet regarding the regional flexible funds funds committed in Resolution No. 08-3942 and Resolution No. 09-4017 will facilitate borrowings that pledge these funds; and

WHEREAS, these agencies have negotiated such an agreement as shown in Exhibit A; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to approve the Intergovernmental Agreement to Provide and Utilize Regional Flexible Funds to Implement the Milwaukie light rail transit and Commuter Rail Funding Plan, as shown in Exhibit A, and authorizes the Chief Administrative Officer to execute the agreement.

ADOPTED by the Metro Council this\_\_\_\_ day of March 2010.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney



## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 10-4133, FOR THE PURPOSE OF ENDORING A MULTI-YEAR COMMITMENT OF REGIONAL FLEXIBLE TRANSPORTATION FUNDS FOR THE PORTLAND TO MILWAUKIE LIGHT RAIL TRANSIT PROJECT AND SUPPLEMENTAL COMMITMENT TO THE BEAVERTON TO WILSONVILLE COMMUTER RAIL PROJECT

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Date: March , 2010

Prepared by: Ted Leybold and Ross Roberts

## BACKGROUND

The Metro area has constructed a series of regional rail transit capital improvements over the course of the last 25 years. The last several projects, beginning with the Interstate Avenue MAX project, has utilized revenue bond financing of regional flexible transportation funds to contribute to the development and construction of the projects. This allows anticipated federal transportation revenues that come to Metropolitan Planning Organizations (MPOs) to be bonded to allow an immediate contribution to the project as costs are incurred. The Metro Council, advised by the Joint Policy Advisory Committee on Transportation ("JPACT") serve as the decision-making bodies of the Portland Metropolitan area MPO. Agreements between Metro and the bonding agency are established to execute the bonding of the funds.

The decision to commit regional flexible transportation funds to the Milwaukie light rail and Beaverton to Wilsonville commuter rail transit projects was adopted through Resolutions 08-3942 and 09-4017.

TriMet, the lead agency for final design and construction of the rail transit projects, has agreed to serve as the agency that issues the revenue bond on behalf of the region. In order to administer the bonding of these funds, an intergovernmental agreement must be entered into between Metro, acting in the capacity of the Metropolitan Planning Organization of the Portland metropolitan area designated by the United States Department of Transportation to allocate Urban Surface Transportation Funds and as authorized by the Oregon Department of Transportation to sub-allocate Congestion Management / Air Quality federal funding programs, and TriMet as a public transportation provider in the Portland metropolitan region.

The Intergovernmental Agreement to Provide and Utilize MTIP Funds to Implement the Milwaukie LRT and Commuter Rail Funding Plan ("IGA"), shown in Exhibit A to Resolution No. 10-xxxx, sets forth the rights and obligations of Metro and TriMet regarding the multi-year commitment of regional flexible transportation funds established in Resolutions 08-3942 and 09-4017.

Consistent with previous intergovernmental agreements committing a stream of regional flexible transportation fund contributions to regional rail projects, the Metro-TriMet Intergovernmental Agreement, attached hereto as Exhibit A, does the following:

- The IGA commits Metro, as the MPO, to provide a specific stream of annual amounts of regional flexible funds that must be provided to TriMet, in the amounts set forth in Table 1, Column B of the IGA, totaling One Hundred Forty Four Million, Eight Hundred Thousand Dollars (\$144,800,000.00) from 2012 to 2025;



- The IGA commits TriMet to provide \$13.3 million to the Commuter Rail Project, (which TriMet has already done), and \$72.5 million to the Milwaukie LRT Project,;
- The IGA provides that in the event that there is insufficient federal authorization or annual appropriation in any year in which TriMet is scheduled to receive the regional flexible funds as set forth in the IGA, Table 1, Column C, that priority shall be given to providing the regional flexible funds to TriMet over all other projects or programs that are scheduled to receive an allocation of regional flexible funds;
- The IGA provides that in the event that there is insufficient federal authorization or annual appropriation to provide TriMet the full amount of regional flexible funds due in a year, that Metro shall fulfill the funding commitment by supplementing future year allocations to TriMet of regional flexible funds by a five percent (5%) fixed interest rate.
- The IGA provides that in the event that the Milwaukie LRT Project is terminated prior to completion, unexpended and unobligated funds remaining after project termination, if any, shall be reallocated to other projects in the region through JPACT and the Metro Council; regional flexible funds pledged by TriMet to bondholders shall continue to be provided to TriMet in the event of an early termination.

## ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time.
2. **Legal Antecedents** Implements the decision to dedicate funds to the Milwaukie light rail and Beaverton to Wilsonville Commuter Rail projects as adopted through Resolution 08-3942 “For the Purpose of Proposing Allocation of Regional Flexible Funding toe Regional Transportation Programs for the Years 2012 and 2013, and to Bond Payments for Contributions to the Milwaukie Light Rail Transit and Wilsonville to Beaverton Commuter Rail Projects for the Years 2012-2025 Pending Public Comment Period and Air Quality Conformity” and Resolution 09-4017 “For the Purpose of Allocating \$67.8 million of Regional Flexible Funding for the Years 2012 and 2013, Pending Air Quality Conformity Determination”. Supplements an existing agreement on the multi-year commitment of regional flexible funds to the I-205/Mall light rail project as adopted by Resolution No. 04-3468 “For the Purpose of Endorsing a Supplemental Multi-Year Funding Commitment of Metropolitan Transportation Improvement Program Funds for the I-205/Mall LRT Project and Endorsing a Refined Regional Funding Plan”.
3. **Anticipated Effects** Adoption of this resolution would allow TriMet to proceed with issuing revenue bonds based on the commitment of \$144.8 million of future regional flexible transportation funds for an immediate contribution to the Milwaukie light rail and Beaverton-Wilsonville commuter rail projects.

4. **Budget Impacts** None.

## RECOMMENDED ACTION

Metro staff recommends the approval of Resolution No. 10-4133.



## **Intergovernmental Agreement to Provide and Utilize MTIP Funds to Implement the Milwaukie LRT and Commuter Rail Funding Plan**

This **Intergovernmental Agreement to Provide and Utilize Regional Flexible Funds to Implement the Milwaukie Light Rail (“LRT”) and Commuter Rail Funding Plan** (the “Agreement”) is made and entered into by and between Metro and the Tri-County Metropolitan Transportation District of Oregon (“TriMet”). This Agreement is effective as of the last date of signature below.

### **RECITALS**

1. On January 23, 1997 the Metro Council adopted Resolution No. 96-2422 “*For the Purpose of Endorsing a Regional Position on Resolution of the Intermodal Surface Transportation Efficiency Act (ISTEA)*” that established a multi-year commitment of Metropolitan Transportation Improvement Program (MTIP) funds totaling \$55 million over the period of FY 1999-2009 for the South-North LRT Project; and
2. On June 24, 1999 the Metro Council adopted Resolution No. 99-2804A “*For the Purpose of Endorsing the Interstate Max Light Rail (LRT) Project and South Corridor Financing Strategy and Amending MTIP*” that added \$12.5 million to the multi-year commitment of MTIP Funds making a total allocation of MTIP funds of \$67.5 million available for the “North LRT/South Corridor Financing Strategy;” and
3. On March 20, 2003 the Metro Council adopted Resolution No. 03-3290 “*For the Purpose of Endorsing a Multi-Year Commitment of MTIP Funds for a Regional Funding Plan*” and added \$50.0 million over the period of Fiscal Year (FY) 2006-2014 to the multi-year commitment of MTIP Funds; making a total allocation of MTIP Funds of \$117.5 million available for a regional funding plan consisting of Interstate MAX, South Corridor, Commuter Rail, and North Macadam projects; and
4. On July 15, 2004 the Metro Council adopted Resolution No. 04-3468 “*For the Purpose of Endorsing a Supplemental Multi-Year Funding Commitment of Metropolitan Transportation Improvement Program Funds for the I-205/Mall LRT Project and Endorsing a Refined Regional Funding Plan.*” This resolution supplemented the multi-year commitment of funds made in Resolution No. 03-3290 with an additional commitment of \$10.4 million in MTIP Funds between FY 2008-2015, making a total of \$127.9 million of MTIP Funds available to the Interstate MAX, South Corridor (I-205/Mall LRT), Commuter Rail, and North Macadam projects, of which \$41.5 million was applied to the Interstate MAX Project; and
5. Resolution No. 04-3468 also provided that in exchange for the funds remaining in the multi-year commitment of MTIP Funds after the \$41.5 million commitment to Interstate MAX was fulfilled, TriMet would provide a net contribution of \$48.5 million to the South Corridor (I-205/Mall) LRT Project, \$10.0 million to the Commuter Rail Project, and \$10.0 million to the North Macadam Project; and



6. On March 24, 2005 the Metro Council adopted Resolution No. 05-3559, which authorized execution of the “Intergovernmental Agreement to Provide and Utilize MTIP Funds for the Regional Funding Plan for the South Corridor, Commuter Rail, and North Macadam Projects” between Metro and TriMet. The execution of this intergovernmental agreement was completed on April 4, 2005; and

7. On May 15, 2008, the Metro Council adopted Resolution No. 08-3942 “*For the Purpose of Proposing Allocation of Regional Flexible Funding to Regional Transportation Programs for the Years 2012 and 2013, and to Bond Payments for Contributions to the Milwaukie Light Rail Transit and Wilsonville to Beaverton Commuter Rail Projects for the Years 2013 - 2025 Pending Public Comment Period and Air Quality Conformity Determination,*” which provided an additional multi-year commitment of MTIP Funds to TriMet in the amount \$3.7 million per year between 2012 and 2015 and \$13.0 million per year from 2016 through 2025 to provide an additional net contribution to the Beaverton-Wilsonville Commuter Rail Project of \$13.3 million and to provide a net contribution to the Milwaukie LRT Project of \$72.5 million, which is the net present value of the yearly installments through 2025 totaling \$144,800,000 as set forth in Table 1 Column B, assuming a 5% interest rate; and

8. The parties have determined that a formal agreement regarding the commitment, schedule, and utilization of MTIP Funds set forth in Resolution No. 08-3942 is required to successfully and effectively implement the funding commitments to be made to the Commuter Rail Project and Milwaukie LRT Project. This Agreement will be separate from but coordinated with the formal agreement executed on April 4, 2005 in support of the MTIP funding commitment made under Resolution No. 04-3468; and

9. TriMet intends to issue revenue bonds that are secured in whole or part by a pledge of Regional Flexible Funds committed under this Agreement. These initial bonds, together with any bonds that are issued to refund the initial bonds and any obligations of TriMet to providers of credit enhancements or derivative products in connection with the initial bonds or any refunding bonds (and any renewals or replacements thereof) are referred to collectively in this Agreement as “TriMet MTIP Bonds.” Timely receipt of the amounts of Regional Flexible Funds described in Section 2.1, below, is essential to permit TriMet to issue the TriMet MTIP Bonds and to preserve the ability of TriMet to borrow for and fund other regional transportation priorities. The proceeds of TriMet MTIP Bonds are referred to herein as “Bond Proceeds.”

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

## **TERMS OF AGREEMENT**

### **1. Purpose and Term**

1.1 This Agreement sets forth a commitment by Metro and TriMet to provide and utilize certain funds for the Milwaukie LRT Project and the Commuter Rail



Project as set forth in Resolution No. 08-3942; herein referred to as “Regional Flexible Funds.” Funds allocated by Metro through the MTIP process which were previously committed to TriMet by Resolution No. 04-3468 and the intergovernmental agreement between Metro and TriMet dated April 4, 2005 are herein referred to as MTIP Funds. As used throughout this Agreement, “Regional Flexible Funds” shall mean Surface Transportation Program (STP) funds, Congestion Mitigation/Air Quality (CMAQ) funds, and funds provided under any successor or comparable federal urban transportation funding programs that are authorized for distribution by Metro as the Portland Metropolitan Planning Organization (MPO) to projects in the Portland MPO area. For purposes of this Agreement, Regional Flexible Funds shall only include funds from the federal funding programs described in the previous sentence and do not include any other funds allocated to Metro as the MPO that may be reported on in the MTIP process.

- 1.2 This Agreement shall be effective on the date of last signature below and shall terminate when the total multi-year commitment of Regional Flexible Funds provided herein is fulfilled and expended or as otherwise provided in accordance with and for the purposes set forth herein.

## 2. Metro Rights and Obligations.

- 2.1 As the Portland region’s MPO and regional government, Metro shall take all actions under its control to facilitate TriMet’s receipt of the full aggregate annual amounts of MTIP Funds and Regional Flexible Funds shown in Column C of Table 1 by the dates shown below, together with any additional amounts described in Section 2.4, subject only to the terms and conditions set forth herein.

**Table 1**  
**Multi-Year Commitment of MTIP Funds and Regional Flexible Funds to TriMet (1)**

<b>Column:</b>	<b>A</b>	<b>B</b>	<b>C</b>
<b>Federal Fiscal Year (3)</b>	<b>Schedule of MTIP Funds Committed to TriMet for Interstate MAX, South Corridor, Commuter Rail, North Macadam Projects under Res. No. 04-3468</b>	<b>Schedule of Regional Flexible Funds Committed to TriMet for Milwaukie LRT, Commuter Rail, Projects under Res. No. 08-3942</b>	<b>Total Amount of MTIP Funds and Regional Flexible Funds Committed to TriMet (2)</b>
<b>1999</b>	\$1,500,000		\$1,500,000
<b>2000</b>	\$6,000,000		\$6,000,000
<b>2001</b>	\$6,000,000		\$6,000,000
<b>2002</b>	\$6,000,000		\$6,000,000
<b>2003</b>	\$6,000,000		\$6,000,000
<b>2004</b>	\$6,000,000		\$6,000,000
<b>2005</b>	\$6,000,000		\$6,000,000
<b>2006</b>	\$8,000,000		\$8,000,000
<b>2007</b>	\$8,000,000		\$8,000,000
<b>2008</b>	\$9,300,000		\$9,300,000



<b>2009</b>	\$9,300,000		\$9,300,000
<b>2010</b>	\$9,300,000		\$9,300,000
<b>2011</b>	\$9,300,000		\$9,300,000
<b>2012</b>	\$9,300,000	\$3,700,000	\$13,000,000
<b>2013</b>	\$9,300,000	\$3,700,000	\$13,000,000
<b>2014</b>	\$9,300,000	\$3,700,000	\$13,000,000
<b>2015</b>	\$9,300,000	\$3,700,000	\$13,000,000
<b>2016</b>		\$13,000,000	\$13,000,000
<b>2017</b>		\$13,000,000	\$13,000,000
<b>2018</b>		\$13,000,000	\$13,000,000
<b>2019</b>		\$13,000,000	\$13,000,000
<b>2020</b>		\$13,000,000	\$13,000,000
<b>2021</b>		\$13,000,000	\$13,000,000
<b>2022</b>		\$13,000,000	\$13,000,000
<b>2023</b>		\$13,000,000	\$13,000,000
<b>2024</b>		\$13,000,000	\$13,000,000
<b>2025</b>		\$13,000,000	\$13,000,000
	<b>\$127,900,000</b>	<b>\$144,800,000</b>	<b>\$272,700,000</b>

(1) The rights and obligations of Metro and TriMet regarding the multi-year commitment of MTIP Funds shown in Column A are set forth in the intergovernmental agreement executed April 4, 2005. This Agreement sets forth the rights and obligations of Metro and TriMet regarding the multi-year commitment of Regional Flexible Funds shown in Column B. Column C shows the sum of Columns A and B, which represents the total amount of MTIP Funds and Regional Flexible Funds to be programmed each year by Metro and allocated to TriMet based on both the April 4, 2005 intergovernmental agreement and this Agreement.

(2) Amounts shown are prior to any additional amounts allocated to TriMet pursuant to Section 2.4.

(3) The MTIP Funds shown for fiscal years 1999 through 2009, inclusive, have already been received by TriMet.

- 2.2 Each year during the term of this Agreement, the allocation to TriMet of the Regional Flexible Funds due TriMet under this Agreement shall have precedence over all other allocations of Regional Flexible Funds by Metro to other projects in the Metropolitan Transportation Improvement Program (MTIP). Each year Metro shall program, prioritize in project selection, and prioritize for allocation of Regional Flexible Funds and obligational authority the full amount of MTIP Funds and Regional Flexible Funds committed to TriMet in such year under this Agreement, as shown in Table 1, Column C in Section 2.1, plus any additional amounts pursuant to Section 2.4, subject to the conditions set forth in Section 2.3.
- 2.3 In any year in which either the (a) federal authorization of Regional Flexible Funds to the Portland MPO, (b) annual appropriation of Regional Flexible Funds to the Portland MPO, or (c) annual allocation of obligational authority for Regional Flexible Funds to the Portland MPO is insufficient to provide TriMet the full amount of Regional Flexible Funds due in such year under this Agreement, Metro shall provide TriMet the maximum amount of Regional Flexible Funds permitted by the amounts of federal authorization, appropriation, and obligational authority provided to the Portland MPO in such year, and an additional amount of Regional Flexible Funds



shall be allocated to TriMet in the subsequent year as set forth in Section 2.4 of this Agreement

2.4 If the full amount due TriMet in any Federal Fiscal Year is not paid to TriMet, the following provisions shall apply:

2.4.1 If for any reason (except in cases caused by the acts or omissions of TriMet) the full amount of Regional Flexible Funds provided under this Agreement in any Federal Fiscal Year to TriMet is less than the amount shown in Table 1, Column C in Section 2.1, including any additional amounts to be provided TriMet pursuant to this Section 2.4, the amount of Regional Flexible Funds due TriMet under Table 1, Column C in Section 2.1 for the Federal Fiscal Year first following the year in which a Difference occurs shall be increased by 105% of that Difference. "Difference" shall mean (i) the annual amount of committed Regional Flexible Funds for a Federal Fiscal Year shown in Table 1, Column C, including any additional amounts pursuant to this Section 2.4, minus (ii) the annual amount actually provided to TriMet by the Portland MPO under this Agreement for such Federal Fiscal Year.

2.4.2 The intent of this Section 2.4 is to ensure that (i) TriMet receives a total amount of Regional Flexible Funds under this Agreement that has a present value equal (as of the effective date of this Agreement) to the initial schedule of Regional Flexible Funds shown in Table 1, Column C in Section 2.1, based on a five (5) percent discount rate and (ii) the full amount of Regional Flexible Funds committed to TriMet under this Agreement are accounted for separately from the MTIP Funds committed to TriMet by Resolution No. 04-3468 and the agreement between the parties dated April 4, 2005. In the event TriMet does not receive the full amount of Regional Flexible Funds committed under this Agreement from Metro, as the Portland MPO, Metro shall take all necessary actions, including but not limited to the reprogramming of Regional Flexible Funds as set forth in this Agreement, to facilitate TriMet's receipt of the amounts described in Table 1 in Section 2.1, including any additional amounts owed TriMet pursuant to this Section 2.4.

2.4.3 The parties recognize and agree that any additional amounts required by this Section 2.4 may cause Metro's payment schedule to TriMet to extend beyond the dates shown in Section 2.1. This Agreement shall terminate when TriMet receives all monies due to TriMet under this Agreement, or on the date Metro is no longer designated the Portland MPO. In the event an entity other than Metro is designated the Portland MPO prior to the termination of this Agreement, Metro shall take all reasonable steps to assign this Agreement to the successor Portland MPO.

2.4.4 Metro shall not be liable in any way for funding the amounts described in Column B, Table 1 in Section 2.1, except from Regional Flexible Funds as set forth above. In the event the federal government permanently ceases to



authorize, appropriate, or allocate Regional Flexible Funds to Metro as the Portland MPO, Metro shall have no obligation whatsoever to provide any funding to TriMet under this Agreement after the last fiscal year in which Regional Flexible Funds are authorized, appropriated, and allocated to Metro.

- 2.5 Each year throughout the term of this Agreement, Metro's funding commitment set forth in this Agreement shall be fulfilled solely by (i) prioritizing the funding commitments hereunder for allocation of authorization, appropriation, and obligational authority for Regional Flexible Funds, (ii) programming the Regional Flexible Funds committed hereunder, and (iii) taking such other actions as may be necessary or desirable under federal and regional rules and procedures to facilitate TriMet's receipt from FHWA and/or FTA of the annual amounts of Regional Flexible Funds due to TriMet under this Agreement. As used hereunder, "programming" means each year (i) taking all actions required of a MPO by FHWA and FTA statutes and rules, including without limitation 23 CFR 450 and 49 CFR 613, as they may be amended from time to time, and (ii) providing all documentation in a timely manner to FHWA Oregon Division office, FTA Region X office, and ODOT that are required by FHWA, FTA, and ODOT protocols and procedures to facilitate TriMet's receipt of a grant award and obligation of the Regional Flexible Funds from FHWA and/or FTA for the amounts and in the years shown in Table 1 in Section 2.1 of this Agreement, including any additional amounts pursuant to Section 2.4.
- 2.6 Metro shall diligently fulfill the duties assigned to it under this Agreement, including executing and delivering all such documents and instruments as shall be required to enable the Parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement.

### **3. TriMet Rights and Obligations**

- 3.1 TriMet shall take all actions in a timely manner that are required of grantees by the Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) for TriMet's receipt of Regional Flexible Funds provided under this Agreement.
- 3.2 TriMet shall prepare and implement a financing program to use, through direct grants to projects and/or bonds, the Regional Flexible Funds committed to TriMet under this Agreement to provide \$72.5 million in net project funding to the Milwaukie LRT Project, and to repay itself for the \$13.3 million in net project funding it has already provided to the Commuter Rail Project in anticipation of this Agreement.
- 3.2.1 TriMet may employ the Regional Flexible Funds provided under this Agreement to provide the amounts shown in this Section 3.2 in any manner that facilitates the funding and borrowing program. TriMet may pledge all or any portion of the Regional Flexible Funds committed to it under this Agreement to any TriMet MTIP Bonds it deems necessary or desirable to provide the funding amounts shown in this Section 3.2. In addition, TriMet



may, in its sole discretion, employ any portion of the Regional Flexible Funds provided under this Agreement for preventative maintenance, capital improvements, or procurements that make TriMet general funds available to provide all or a portion of the funding amounts shown in this Section 3.2, provided that TriMet shall through one or more of these funding options provide the full amounts shown in Section 3.2 to the respective uses.

- 3.2.2 TriMet shall provide the amounts shown in this Section 3.2 to the Milwaukie LRT Project and to reimburse itself for its previous contribution to the Commuter Rail Project regardless of the borrowing costs it incurs in providing the funds. TriMet will neither be provided additional Regional Flexible Funds to fulfill its obligations under this Section 3.2 nor be required to reimburse the MTIP program if the borrowing costs differ from those assumed in determining the annual amounts of Regional Flexible Funds set forth in Column B, Table 1 in Section 2.1. In the event that interest rates do not permit the borrowings backed by a pledge of Regional Flexible Funds to provide the full amount of funding described in Section 3.2 from the Regional Flexible Funds committed in Section 2.1, TriMet will provide the difference between its funding obligation described in Section 3.2 and the amounts attributable to the Regional Flexible Funds described in Section 3.2 with other TriMet revenues or borrowings. Notwithstanding the previous sentences, if the TriMet MTIP Bonds require materially higher interest rates than anticipated due to unexpected conditions in the municipal bond market, TriMet may seek approval from JPACT and the Metro Council to amend this Agreement to (i) reduce the amount of net project funds TriMet is obligated to provide to the Milwaukie LRT Project and/or (ii) increase the amount of Regional Flexible Funds committed to TriMet under this Agreement.
- 3.2.3 The parties acknowledge and agree that the Commuter Rail Project has been completed and TriMet has, prior to the execution of this Agreement, provided the \$13.3 million for the Commuter Rail Project, thereby fulfilling its obligation to provide funding for the Commuter Rail Project as required by Section 3.2 of this Agreement. The portion Regional Flexible Funds or TriMet MTIP Bonds attributable to the funding commitment for the Commuter Rail Project in Section 3.2 shall be reimbursement to TriMet for its provision of funds for the Commuter Rail Project and TriMet may in its sole discretion use such portion of Regional Flexible Funds or TriMet MTIP Bonds for other capital improvements or procurements. In the event the Milwaukie LRT Project is terminated prior to completion, the portion of the Regional Flexible Funds attributable to principal and interest associated with the contribution to the Commuter Rail Project under Section 3.2 shall not be subject to reallocation under Section 3.2.4.
- 3.2.4 If the Milwaukie LRT Project is terminated prior to completion of construction, the amount of Bond Proceeds repayable from the Regional Flexible Funds provided under this Agreement that are associated with the



Milwaukie LRT Project that (i) have not been expended to pay Milwaukie LRT Project costs prior to the date of termination (“unexpended”), and (ii) are not required to pay Milwaukie LRT Project costs that become due after the date of termination or as a result of the termination or pledge to interim borrowing (“unobligated”), if any, shall be made available by TriMet for reallocation to other regional projects through an allocation process recommended jointly by the JPACT Chair and the TriMet General Manager to JPACT, and approved by JPACT and the Metro Council.. In the event of early termination of the Milwaukie LRT Project, Metro, as the Portland MPO, shall continue to provide to TriMet the revenue stream from Regional Flexible Funds as set forth in Sections 3.2.4.1 and 3.2.4.2 of this Agreement, with TriMet providing the unexpended and unobligated bond proceeds from the terminated project to the regional process for reallocation as set forth above. If the project is terminated prior to completion of construction, all Regional Flexible Funds pledged by TriMet to holders of TriMet MTIP Bonds at the time the project is terminated shall be considered to be obligated to project costs and such pledged Regional Flexible Funds shall not be subject to reallocation to other projects under this Section 3.2.4.

3.2.4.1 If at the time of Milwaukie LRT Project termination: (i) TriMet has issued the full amount of TriMet MTIP Bonds required to provide \$72.5 million in net Bond Proceeds for the Milwaukie LRT Project (i.e. the total amount of Bond Proceeds issued for the Milwaukie LRT Project excluding any amounts required to pay issuance costs, reserves, capitalized interest, discounts, or other similar expenses that reduce the amount of bond proceeds available to pay direct project costs) and (ii) a portion of the \$72.5 million in net Bond Proceeds issued for the Milwaukie LRT Project is unexpended and unobligated at the time of termination, then:

(a) The amount of net Bond Proceeds that would be made available for reallocation under this Section 3.2.4 shall be calculated as \$72.5 million minus the amount of net Bond Proceeds that have been expended or obligated to be expended on the Milwaukie LRT Project as of the date on which the Milwaukie LRT Project is terminated by TriMet; and

(b) Metro shall throughout the entire term of this Agreement provide to TriMet the full annual amounts of Regional Flexible Funds set forth in Table 1.

3.2.4.2 If at the time of Milwaukie LRT Project termination TriMet has not issued and will not need to issue the full amount of TriMet MTIP Bonds required to provide \$72.5 million in net Bond Proceeds for the Milwaukie LRT Project, then:



(a) The amount of Bond Proceeds that shall be made available for reallocation under this Section 3.2.4 shall be calculated as the amount of net Bond Proceeds issued or to be issued for the Milwaukie LRT Project minus the amount of net Bond Proceeds that have been expended or are obligated to be expended on the Milwaukie LRT Project as of the date on which the Milwaukie LRT Project is terminated by TriMet; and

(b) In lieu of the amounts of Regional Flexible Funds shown in Table 1, Metro shall each year provide an amount of Regional Flexible Funds to TriMet equal to (i) the amount that TriMet certifies is or will be pledged in each year to holders of TriMet MTIP Bonds plus (ii) the amount needed to pay for any direct (non-bonded) expenditures of Regional Flexible Funds to be made in each year for the Milwaukie LRT Project or the reimbursement of the \$13.3 million previously expended on the Commuter Rail Project; provided that TriMet may not request more Regional Flexible Funds in any year than the amount set forth for that year in Table 1. Any amounts of Regional Flexible Funds retained by Metro pursuant to this paragraph shall be allocated to projects in such manner as JPACT and Metro may determine.

- 3.2.5 The parties acknowledge and agree that the finance plan for the Milwaukie LRT Project relies on interim borrowing to address the likelihood that federal New Start Funds will not be available to the project in accordance with needs of the construction schedule. All or a portion of the Regional Flexible Funds provided by this Agreement may, in TriMet's discretion, be pledged as security for interim borrowing for the project, to the extent permitted by other borrowing agreements, if any, in which TriMet pledges to bondholders or lenders the Regional Flexible Funds provided under this Agreement.
- 3.2.6 To expedite the project construction schedule, the Regional Flexible Funds or TriMet MTIP Bonds backed by Regional Flexible Funds provided by this Agreement may, in TriMet's discretion, be obligated or used to pay project costs for the Milwaukie LRT Project prior to receipt of a FFGA for the project. The parties acknowledge and agree that TriMet shall not be required to repay or reimburse the MTIP for such funds disbursed or obligated to pay project costs prior or subsequent to receipt of a FFGA for the Milwaukie LRT Project in the event the project terminates for any reason.
- 3.2.7. Within thirty (30) days of Project termination, Tri Met shall send written notice to Metro and the JPACT chair of said termination; the written notice shall describe any additional obligations TriMet must make to pay Milwaukie LRT Project costs after the termination date. TriMet shall make no further



obligations of any Regional Flexible Funds beyond those described in the notice of termination.

- 3.3 Each year TriMet and Metro shall work cooperatively to determine the appropriate annual mix of STP, CMAQ, and/or any successor or comparable federal urban transportation funding programs that comprise Regional Flexible Funds that will be utilized to provide TriMet the amounts of Regional Flexible Funds committed to TriMet under this Agreement.

#### **4. General Provisions**

- 4.1 The parties acknowledge and agree that:

4.1.1 Metro shall not be considered to have failed to comply with its obligations under this Agreement if the amounts received by TriMet are less than those required by Section 2.1, including any additional amounts pursuant to Section 2.4, if the shortfall is due to (i) an insufficient amount of federal authorization or appropriation of Regional Flexible Funds to Metro as the Portland MPO or (ii) an insufficient state allocation of Regional Flexible Funds obligation authority to Metro as the Portland MPO or (iii) the fact that Metro is no longer the regional MPO.

4.1.2 TriMet will rely on the commitment of Regional Flexible Funds made hereunder if and when it issues the TriMet MTIP Bonds to provide the project funding set forth in Section 3.2 of this Agreement.

4.1.3 TriMet will have sole responsibility for determining the validity and security of any TriMet MTIP Bonds it issues or causes to be issued related to this Agreement.

- 4.2 The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particulate term r provision held to be invalid.

- 4.3 That parties agree that neither party may assign any of the responsibilities under this Agreement without the written consent of the other party, that Metro and TriMet are the only parties entitled to enforce the terms of this Agreement, and that nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right to any third party, except as provided in Section 4.4 of this Agreement.

- 4.4 Notwithstanding Section 4.3 of this Agreement, the parties acknowledge that the owners of the TriMet MTIP Bonds and their representatives (including any TriMet bond trustees) and any providers of credit enhancements for the TriMet MTIP Bonds



shall be third party beneficiaries to the representations and agreements set forth in this Agreement.

- 4.5 If a dispute arises between the parties, Metro agrees that so long as TriMet MTIP Bonds are outstanding it shall not take any action that would reduce the amounts that are to be paid to TriMet under this Agreement as a set-off for damages Metro may claim it is owed. To the extent Metro is entitled to any damages for any breach by TriMet of the terms of this Agreement, Metro shall seek payment of those damages solely from funds of TriMet that are not pledged to pay TriMet MTIP Bonds.
- 4.6 This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.

IN WITNESS WHEREOF, the parties hereby acknowledge that they have the authority granted by their respective governing body to execute this Agreement and hereto have set their hands and affixed their seals as of the day and year hereinafter written.

**APPROVED BY METRO**

**APPROVED BY TRIMET**

By \_\_\_\_\_  
Michael Jordan, Chief Operating Officer

By \_\_\_\_\_  
Fred Hansen, General Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO FORM BY METRO**

**APPROVED AS TO FORM BY TRIMET**

By \_\_\_\_\_  
Alison Kean Campbell, Deputy Metro  
Attorney

By \_\_\_\_\_  
M. Brian Playfair, TriMet General Counsel

Date \_\_\_\_\_

Date \_\_\_\_\_





February 15, 2010

Dear Project Partner:

I am excited and gratified to share the Conceptual Design Report (CDR) Public Discussion Draft for the Portland-Milwaukie Light Rail Project. This 110-page report details design of the alignment and station areas through 25 percent design. The CDR is founded on the intensive work of project partners, planners, engineers, committees and the community during the last several years.

During the next few months, this public discussion draft will be circulated among our jurisdictional partners and interested communities. A list of the planned outreach meetings is attached.

To gain a better understanding of the importance of this project for the surrounding communities, the report presents the 7.3-mile alignment in five segments based on commonalities of the 10 station areas. Each section includes an urban design vision, opportunities and challenges, and station area plans. It also details the outstanding issues we need to resolve together.

To assist in our outreach efforts moving forward, the CDR provides the project's history and goals, community involvement efforts, plans for alignment elements such as station furnishings, and sustainable practices strategies. The report also shares preliminary recommendations for transit operations, safety and security, bike and pedestrian access, and much more. The concepts and recommendations put forth in this report will guide the project into the Final Design phase.

This Conceptual Design Report reflects the shared goals and aspirations embodied in the Portland-Milwaukie Light Rail Project partnership. I want to thank all of our colleagues for taking this journey with us on the road to Final Design and, in 2015, light rail service.

Sincerely,

A handwritten signature in black ink, reading "Neil McFarlane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Neil McFarlane  
TriMet Executive Director of Capital Projects



2010 Portland-Milwaukie Conceptual Design Report

**Outreach Plan**

<b>GROUP</b>	<b>DATE</b>	<b>TIME</b>
Portland Community College	Feb 5 (Fri)	2:00 p.m.
City of Portland Planning Commission	Feb 9 (Tues)	12:30 p.m.
American Plaza MAX Committee	Feb 10 (Wed)	11:00 a.m.
Fred Meyer headquarters	Feb 12 (Fri)	11:00 a.m.
Reed Neighborhood	Feb 16 (Tues)	6:30 p.m.
City of Portland Design Commission	Feb 18 (Thurs)	1:30 p.m.
Portland-Milwaukie Light Rail Citizens Advisory	Feb.18 (Thurs)	6-7:30pm
Eastmoreland Neighborhood	Feb 18 (Thurs)	7:30 p.m.
Sellwood-Westmoreland Business Alliance	Feb 18 (Thurs)	
Professional Engineers of Oregon/Columbia Lunch	Feb 22 (Mon)	Noon
Portland-Milwaukie Light Rail Project Open House	Feb 22 (Mon)	4:30-6:30 p.m.
Milwaukie Monthly Stakeholder Mtg	Feb 22 (Mon)	6-9:00 p.m.
AIA Portland - Downtown Urban Design Panel	Feb 23 (Tues)	Noon
Portland-Milwaukie Light Rail Project Open House	Feb 25 (Thurs)	4:30-7:30 p.m.
City of Portland Freight Committee	March 4 (Thurs)	7:30 a.m.
Lewelling N/A	March 4 (Thurs)	7:00 p.m.
Historic Milwaukie N/A	March 8 (Mon)	7:00 p.m.
Hector Campbell N/A	March 8 (Mon)	7:30 p.m.
Central Eastside URAC	March 8 (Mon)	4:00 p.m.
Ardenwald/Johnson Creek Neighborhood Association (N/A)	March 9 (Tues)	6:30 p.m.
City of Portland Planning Commission	March 9 (Tues)	12:30 p.m.
City of Portland Bicycle Advisory Committee	March 9 (Tues)	6:00 p.m.
Milwaukie Planning Commission	March 9 (Tues)	
Milwaukie Design Landmark Committee	March 9 (Tues)	
Creston-Kenilworth N/A	March 9 (Tues)	7:00 p.m.
Brooklyn Action Corps	March 10 (Wed)	6:30 p.m.
Lake Road N/A	March 10	6:30 p.m.
Portland-Milwaukie Light Rail Project Management Group	March 11 (Thurs)	
Willamette Pedestrian Coalition	March 11 (Thurs)	6:30 p.m.



2010 Portland-Milwaukie Conceptual Design Report  
**Outreach Plan**

Island Station N/A	March 11 (Thurs)	6:30 p.m.
Linwood N/A	March 11 (Thurs)	7p.m.
SE Uplift Neighborhood Coalition	March 15 (Mon)	7pm
Milwaukie City Council	March 16 (Tues)	7 p.m.
Hosford-Abernethy Neighbornood Development (HAND)	March 16 (Tues)	7:00 p.m.
Metro Council Work Session	March 16 (Tues)	2:15pm
Johnson Creek Watershed Council	March 16 (Tues)	7 p.m.
TriMet Committee on Accessible Transportation	March 17 (Wed)	
City of Portland Design Commission (West Segment)	March 18 (Thurs)	1:30 p.m.
TriMet Board	March 24 (Wed)	
North Macadam URAC	April	
CEIC Board Meeting	April 1 (Thurs)	12:00 p.m.
City of Portland Design Commission Briefing	April 1 (Thurs)	1:30pm
Central Eastside Industrial Council - Transportation Comm.	April 6 (Tues)	3:30 p.m.
Sellwood-Moreland Improvement League (SMILE)	April 7 (Wed)	7:30 p.m.
South Portland N/A	April 7 (Wed)	7:00 p.m.
Clackamas County Planning Commission	April 12 (Mon)	6:30pm
North Clackamas Chamber	April 12 (Mon)	Noon
City of Portland Planning Commission Hearing	April 13 (Tues)	12:30pm
PDC Board of Commissioners	April 14 (Wed)	8-11am
American Plaza annual residents meeting	April 15 (Thurs)	6:30 p.m.
Portland-Milwaukie Light Rail Steering Committee	April 28 (Wed)	
<b>TO BE SCHEDULED</b>		
Portland Mall Management, Inc.	March	



2010 Portland-Milwaukie Conceptual Design Report  
**Outreach Plan**

Portland Business Alliance Transportation Committee	March	
Oregon University System	March	
Portland State University	March	
Waldorf School	April	
Clackamas County Board of Commissioners	April	
Clackamas County Economic Development Council	April	
City of Portland /City Council	April/May	
Environmental leaders briefing	April	
Willamette River Bridge Advisory Committee (WRBAC)	TBD	
Clackamas County Design Review Board	TBD	
City of Gresham	TBD	