

Draft Outline for Public Information, Education and Action for Ozone Season 1997
Department of Environmental Quality

Objective: Develop plan to improve, expand and coordinate air quality messages and events throughout the summer with regional partners to educate residents about what they can do to keep the air clean. Specific messages and calls to action will focus on driving, lawn and garden equipment and consumer products (paints and aerosol sprays).

The Department of Environmental Quality (DEQ) will take the lead in facilitating the coordination of the efforts in the region. This will include, but not be limited to, working with the City of Portland, Multnomah, Washington and Clackamas counties and other local jurisdictions in the region, Tri-Met, C-TRAN, the American Lung Association of Oregon, ODOT, ODOE, Metro and other public agencies, environmental organizations and private sector participants (identified below).

Program Elements:

Lawn Mower buy-back program: PGE and DEQ will provide \$50 toward the purchase of any electric lawn mower to any resident turning in a gas powered mower in working condition. The program will run March through July 1997 and Metro will accept the gas powered mowers in the region. Additional "events" have been scheduled with Home Depot sponsoring demonstrations at local stores in May and over July 4th weekend.

Consumer product demos: Feature "clean air" products such as non-aerosol hair spray and deodorant in Fred Meyer stores in six states with air quality information, free samples, coupons or discounts on products (August 1997).

Car Dealer PSAs: Recruit easily recognizable auto dealers (Thomason, Tonkin and Lanphere) and produce two (2) 30 second PSAs featuring "smart car" ideas (keeping engines tuned, tires properly inflated, combining errands into one trip) to keep the air clean during the summer months, especially on "Clean Air Action" days.

Press conference emphasizing health issues: To kick-off ozone season, stage a press conference on a local soccer field with health officials and children's athletic groups emphasizing the impact of ozone on health (lung development of children).

Theater slides: With Mount Hood in the background, simple actions will be suggested (alternatives to driving, aerosol sprays and gas powered lawn equipment). The slide will be placed on 145 screens region wide during July 1997. The slide will be similar to signage posted at 70 Chevron stations, 30 Les Schwab tire stores and 35 Fred Meyer stores.

Billboards: Starting June 9th until September 15th, 1997 there will be 27 billboards with "clean air" messages in the Portland Metro area. There will be 4 different designs and it is estimated that 92 percent of the population will see at least one during the three month period.

Radio spots: Two of the radio commercials DEQ produced will air again this summer reminding residents about simple actions they can take on Clean Air Action Days.

Carpool incentives: The City of Portland will again offer free parking in Smart Park garages on Clean Air Action Days to employers who sign up for DEQ's fax advisory. Employers will request vouchers from DEQ when signing up for the program and then distribute them to employees who carpool.

Continued Employer Involvement: Increase the number of employers participating in the Clean Air Action Day notification process from 130 to 200+ and gradually broaden participation to include non-work trips and other pollution prevention activities. The Governor's office will continue to co-sponsor this program and provide recognition.

Local Jurisdiction Participation: Ask local jurisdictions to pledge to inventory emissions and adopt programs to reduce emissions on Clean Air Action Days such as alternative commute programs for employees, gas powered equipment curtailment, reduction in use of solvents and paints or switch to waterborne paints, alternative fueled vehicles/equipment, planning ahead to reduce trips for personal or business related travel.

Media Plan: Continued advisories to area television, radio and print media on Clean Air Action Days (high-ozone potential days) which encourage the public to drive less or at least link trips, curtail use of high VOC products such as aerosols and charcoal lighter fluid and take other pollution prevention actions. Potential radio spots, suggested story ideas such as trip diaries for a particular Portland area classroom or specific employer strategy such as a shuttle will also be considered.

Tri-Met Programs: Tri-Met would generate individualized programs (fresh air kits with several all day transit tickets) with jurisdictions and/or employers to promote transit ridership during ozone season and especially on Clean Air Action Days. Advertising on radio during Metro Traffic control, personalized assistance to employers from Tri-Met marketing representatives, and a feature article in the May employer newsletter, "The Network."

C-TRAN: Free service will again be provided on Clean Air Action Days. Additional outreach to employers in Clark County will also be initiated. C-TRAN will work with the Vancouver Columbian to print recognition ads thanking employers for their participation .

Oregon Department of Transportation (ODOT) Variable Message Signs: Post "Air Quality Advisory Day, Limit Driving" messages on eight (8) freeway signs throughout the Portland region on Clean Air Action Days.

Misc.: Interim telephone survey at the end of ozone season (October) to assess success of regional efforts before final follow-up survey is conducted in 1998.

Washington County Interurban Rail

Briefing Materials for JPACT

Background

Analysis to Date

Railroad Alignment and Station Locations Studied

Average Weekday Patronage Estimates and Boardings by Station

June 1997

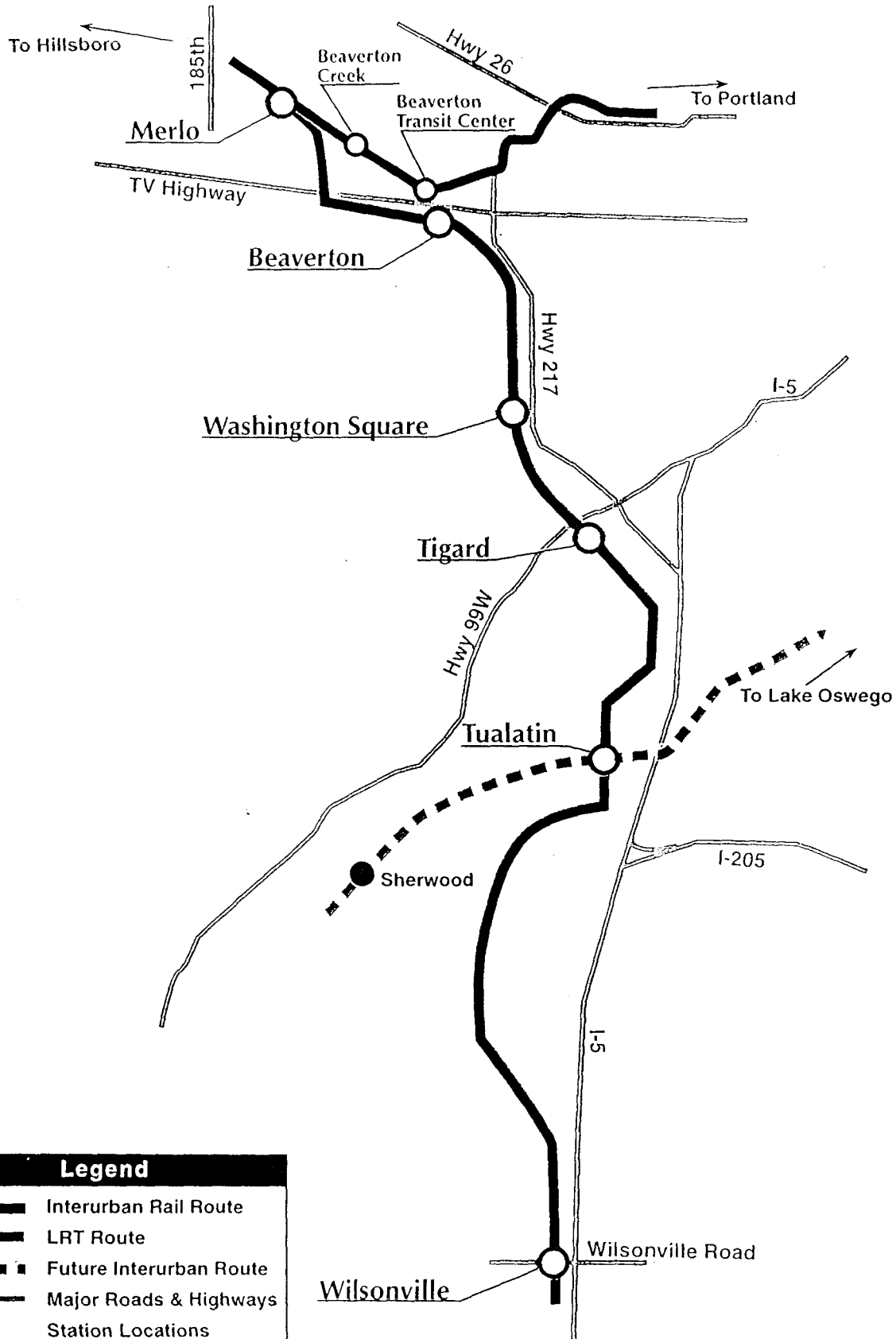
Background

- The Portland Metropolitan area is growing rapidly, and much of the growth is taking place in Washington and Clackamas Counties.
- The increase in population brings a concomitant growth in the number of automobiles and total vehicle miles traveled in the region.
- As a result of this growth, Portland has earned the distinction of being the 15th most congested city in the United States.
- Simply building new roads is not the solution. We must investigate and provide for our residents alternative modes of travel.
- To that end, Portland has an extensive city center bus service, and is systematically constructing a light rail system. But even these efforts may not be sufficient to curb the increase in traffic.
- One congested corridor in southeastern Washington County between Beaverton and Wilsonville lies along two major freeways, I 5 and OR 217. Both freeways currently experience significant congestion.
- A 18-mile long rail branch line closely parallels this corridor, for which a commuter rail operation is being investigated. It would run between Wilsonville (and potentially Salem) and Beaverton (connecting to the Westside Light rail at Merlo Station).

Analysis to Date

- What's been completed - a "fatal flaw" analysis that reviews ridership, legal constraints and track conditions
- Purpose - to determine if there is sufficient extrapolated ridership to justify a more detailed study
- Who's been involved - Washington County; Cities of Beaverton, Tigard, Tualatin, Wilsonville and Sherwood; Tri-Met; Metro; Oregon Department of Transportation
- Ridership analysis - Based on existing traffic modeling forecasts done by Metro during Region 2040 growth management studies, and extrapolated base ridership
 - Estimated ridership:
Year 2000 - 1850 trips/day; 484,700 trips/year
Year 2015 - 2300 trips/day; 602,600 trips/year
 - Annual ridership = daily ridership x 262 (365 -104 weekend days - 11 holidays)
 - Base ridership does not assume any "niche" marketing for additional riders. Most commuter rail systems do extensive niche marketing.
 - Ridership numbers extrapolated here are within the range of start up ridership for other commuter rail projects in the U.S.
- Legal constraints - Portions of the line are owned by two railroads (Burlington Northern/Santa Fe and Union Pacific). Shortline operator leases the track for freight operations. Therefore, three entities to negotiate trackage rights with.
 - The line in question is a branch, not a major freight line.
 - Short line operator is supportive of region's efforts.
 - The underlying owners are not opposed to commuter rail operations, especially on their branch lines.
 - Liability/insurance issues are costly, and a matter for negotiation, but not insurmountable hurdles.

- Track conditions - Track was visually inspected, and is in good condition. Would need at least one additional siding and some crossing and signal upgrades.
- This report was released to the press and public on May 12, 1997



Legend	
	Interurban Rail Route
	LRT Route
	Future Interurban Route
	Major Roads & Highways
	Station Locations
	LRT Station Locations

Figure 2: Detailed Alignment



Table 3
Year 2000 & 2015 Patronage Estimates (Average Weekday)

Operating Service	Service Times	Estimated Daily Patronage	
		Year 2000	Year 2015
Peak (30min)	6am-9am & 3:30pm-6:30pm	1,820	2,290
Midday (60 min)	9am-10am & 2:30pm-3:30pm		
Evening Service (60 min)	6:30pm-7:30pm		

Source: BRW, Inc.; March 1997

Table 4
Year 2000 & 2015 Boardings by Station (average weekday)

Station	Estimated Boardings	
	Year 2000	Year 2015
Merlo	470	590
Beaverton Center	160	210
Washington Square	260	320
Tigard	340	430
Tualatin	370	470
Wilsonville	220	270
Totals	1,820	2,290

Source: BRW, Inc.; March 1997





METRO

May 21, 1997

Mr. Don Aman
Program and Financial Services
Oregon Department of Transportation
Room 307, Transportation Building
Salem, OR 97310

Dear Mr. Aman:

Over the past several months, the region has struggled to identify the funds that will be available in FY 97 to support the "local program" component of transportation projects in Region 1 and to determine which projects will receive funding this year given the shortfall both of funding and of statewide obligation limitation. The following information is to cement our understanding of the current picture and to identify the region's obligation priorities for the remainder of the fiscal year.

Available Local Program Limitation

The local program limit applies to projects programmed within the Region 1 jurisdiction including those located in the rural portions of Region 1 outside of the Metro MPO area. Fund codes effected are Regional STP (33C/35B but excluding 34B funds that have their own obligation limit), Transportation Enhancement (33B), CMAQ (320), HBRR On/Off System (114/117), Safety (33P/141/33A) and Interstate Transfer, or e4 (including 177/178 but excluding 580 funds that are unlimited).

Based on communication to Michelle Thom from Dani Nelson of your office, Metro has been advised that the Region 1 local program can expect a minimum of \$24,928,000 federal share in local program obligation authority in FY 97. This applies to the entirety of Region 1. Additionally, the federal fund codes STP 34B (Minimum Allocation) and e4-580 (Interstate Transfer), which have no limitation, have balances of \$864,354 and \$464,354, respectively. Therefore, the Region 1 local program can expect to obligate up to \$26,257,141.

Additionally, Region 1 staff have confirmed misobligation of state program commitments against local program revenue sources and obligation limit totaling \$2,202,288 (see Attachment 1).

Region 1 will request correction of these obligation errors. Upon corrections being executed, the grand total of the FY 97 Region 1 local program obligation limit will be \$28,459,429 (federal dollars), as shown below.

AVAILABLE LOCAL FUNDS

Local program limitation	\$24,928,000
Funds available with no limitation:	
e4 580 Funds.	464,787
Minimum allocation 34B funds.	<u>864,354</u>
Subtotal Local Program Limitation.	\$26,257,141
Added Local Program Limitation	<u>2,202,288</u>
Total Max Local Program Limitation with Deobligations.	\$28,459,429

In order to utilize the e4-580 component of this limit, the following issue must be resolved. In FY 96, obligations totaling \$750,104 were posted against regional 33C funds for Johnson Creek Boulevard: 32nd Avenue to 45th Avenue project (ODOT Key #06357). No authorization was ever made for use of 33C funds on this project. Rather, an outstanding balance of \$700,290 of IX funds remains authorized for this project. We anticipate that \$464,354 of the posting against 33C funds will be reversed, freeing an equal amount of 33C obligation limit, and that reobligation of the funds will then be posted against the unlimited IX 580 funds. (Eventually, though not necessarily this fiscal year, Metro expects that the entirety of this project's 33C incorrect obligation will be dealt with.)

Obligations to Date

Through April, the region has obligated and deobligated a net \$6,763,976 of preliminary engineering, right-of-way and/or construction against the available local limit. Additionally, the region has authorized -- and is committed to obligate in FY 97 -- \$15,833,400 toward four interrelated Hawthorne Bridge projects. Thus, a balance of \$5,862,053 of local program obligation limit remains.

Approved Obligations Up to Current Local Program Limit

The TIP Subcommittee of TPAC has agreed to obligation of the local program balance on the projects identified in the "FY 97" column of Attachment 2. The Hillsdale Pedestrian Improvement: Burlingame to Berthe Court (ODOT Key #08821) is funded through both regional and state STP funds and is identified to use \$79,000 of local limit. This assumes use of \$60,000 of state limit for which we would like your confirmation. According to Michelle Thom, Region 1 has committed to fund its \$60,000 share

in FY 97 using state limit. The Albina Overcrossing PE project (Key #08824) is also split between local and state funds. The City of Portland will scope an initial PE phase sized to the \$238,181 of local limit funds allocated to the project. We understand the balance of \$362,000 of state funds for the Albina project is included in the Region 1 FY 98 Financial Plan.

State Program Limitation Issues

We understand that Region 1 will endeavor to assure obligation within the state limit of minimum phases requested by local jurisdictions for:

<u>Project</u>	<u>Phase</u>	<u>Amount</u>	<u>Key No.</u>
99W/Tualatin Road/124th Realignment	R/W	\$242,000	08830
Forest Grove: Hawthorne St.-Quince St.	PE	10,000	08831
Murray So. Signal Interconnect/Opticom	PE	10,000	08832
Lovejoy Ramp Replacement	PE	200,000	08820

Please confirm that these obligations will proceed within the state limit.

Note: A balance of \$854,000 of PE for the Lovejoy project is to be included in the Region 1 FY 98 Financial Plan. With respect to both the "local" and "state" program projects listed above, requests for federal funding in excess of the amounts listed should be refused pending written approval by Metro.

FY 97 "Shelf" Projects and FY 98-01 Programming

The "FY 98" column of Attachment 2 lists a set of projects that will be deferred from FY 97 to FY 98 or beyond under the programming described above. At this time, most of the projects in Attachment 2 anticipate bid-ready dates in FY 97. They should therefore be considered for inclusion in lists submitted for redistribution funds, if any such funds become available this year. Metro defers to the ODOT local program coordinators with respect to their determination of which projects will meet ODOT criteria for redistribution "shelf" status.

Additionally, deobligations may continue to post throughout the current fiscal year, increasing the local program obligation limit. As such funds become available, Metro will advise ODOT of desired Region 1 local obligation priorities.

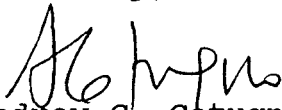
The balance of projects in Attachment 2 that do not receive funding in FY 97 will defer to the FY 98 or later program. Metro

Don Aman
May 21, 1997
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will coordinate with Region 1 staff to integrate these with the other currently programmed projects that are already assured of missing an FY 97 bid letting.

If you have any questions, please contact me or Terry Whisler at 503-797-1747.

Sincerely,



Andrew C. Cotugno
Transportation Director

ACC:TW:lmk

Attachments

CC: Terry Whisler
Mike Hoglund
Don Wagner
Dave Williams
Michelle Thom
Tamira Clark

Attachment 1

Proposed Deobligations	AMOUNT	PHASE	KEY #
Col/Burgard Intch (35B to 33D)	15,927	pe	8814
Col/Burgard Intch (35B to 33D)	<u>16,649</u>	pe	8814
Subtotal 35B deob	32,576		
Col/Burgard Intch (34B to 33D)	174,973	rw	8814
Gresham Civic N/S Collector (34B to 33D)	1,583,584	con	8825
Gresham Civic N/S Collector (34B to 33D)	192	con	8825
Pac W @ Tualatin Rd (34B to 33D)	<u>410,963</u>	pe	8830
Subtotal 34B deob	2,169,712		
**Add'l Local Pgm Limitation w/add'l deob's	2,202,288		

RECOMMENDED OBLIGATIONS IN FY 97 AND DELAYS TO FY 98

MPO Program Recommendation	FY 97	FY 98	PHASE	KEY #
Metro Planning for 1997	600,000		pe	??
Springwater - Milwaukie	51,150		con	7260
So Trolley Extension	380,013		con	6755
SW 141st - Menlo Ave	340,974		con	7045
112th Ave Linear Park	10,000		pe	6968
Traffic Signal Coordination Plan (Gresham)	128,728		con	7252
Ped. Facilities for Transit Access (PtInd)	3,000		utilities	7292
185th: TV Highway-Kinnaman Rd.	36,000		pe	8679
Cedar Hills: Bowmont-Butner	45,000		pe	8644
Hillsdale Ped: Burlingame - Bertha Court, Ph1 (PtInd)	79,000		pe	8823
Albina OX'g, N Lewis Ave - N Interstate Ave	238,181		pe	8824
Pedestrian to Transit (Ph 3)	877,600		con	7292
Morrison Br. Ramp	157,600		con	9016
Oregon Electric R/W	35,000	62,600	pe/rw/con	6760
TOD Phase II		800,000		
Beaverton Central TOD		304,000		
Strawberry Lane: Webster/I-205 Bikelane		187,200		
Ped to Max Capitol Imp (Gresham)		832,000	con	7251
Hawthorne & Madison St. Br Ramp		164,000	con	9015
Columbia Slough (138th Av) Br		640,000	con	8500
SE 39th Ave-SE 52nd Ave (Portland)		54,000	pe	8821
Hall Blvd: Ridgecrest Drive - SPRR X'ing		50,000	pe	9341
Peninsula Trail Crossing		504,000	con	?
Lombard/Burgard		320,000	con	?
MPO Subtotal	2,982,246	2,564,000		

Co. may withdraw request

Rural Program Recommendation	FY 97	FY 98	PHASE	KEY #
Three Columbia Co. Bridges	735,000		con	9052
Sandy Rvr (Lusted Rd.) Bridge	1,840,000		con	6333
Estacada Trail	98,700		con	7165
Molalla River Pathway	32,000		pe	7574
Dairy Cr (Cedar Canyon Rd) Br	5,000	224,000	rw/con	7249
Dairy Cr (Greenville Rd) Br	5,000	250,000	rw/con	7248
Abernethy Creek Bridge (Anchor Way)		105,000	pe	8525
Rural Program Subtotal	2,715,700	579,000		

TOTAL RECMND'D LOCAL PROGRAM OB'S	(5,697,946)
BALANCE OF MAX LOCAL LIMITATION	5,862,053
BALANCE	164,107

**TOLLWAY ADMINISTRATIVE RULES
PROPOSED OUTLINE AND CONTENT**

Discussion Draft

Prepared by Cogan Owens Cogan and ECONorthwest

Revised April 17, 1997

xxx-xx-010 Purpose: These rules describe the process for initiating, evaluating, authorizing and administering tollway projects proposed by private entities; and local, regional or state government. They include requirements for submitting project proposals; guidelines for considering financial and other issues; and requirements for consistency with other local, state and federal policies and processes.

xxx-xx-020 Definitions. As used in OAR xxx-xx-020 to xxx-xx-080:

- (1) "Agreement" means a memorandum of agreement executed by the Oregon Department of Transportation with any private entity or governmental agency to implement the purpose of Oregon Revised Statute 383 or this administrative rule.
- (2) "Department" means the Oregon Department of Transportation.
- (3) "Environmental impacts and assessment" means the assessment of impacts on the environment and any proposed mitigation of impacts, consistent, at a minimum, with state/federal rules, regulations and standards.
- (4) "Financial and institutional capacity" means the current and projected available financial, personnel and other institutional resources available to a private entity or local or regional government necessary to finance and administer a proposed project.
- (5) "Justification" means a concise statement that, at a minimum, explains why the proposed facility is needed; the specific problems that will be resolved; lists specific benefits expected to accrue to the general public; and defines expected impacts on existing/planned transportation facilities near the proposed facility.
- (6) "Liability-creating events" means events that create potential liability for the Department, particularly events where the determination of who is liable could be disputable. Examples include, but are not limited to, accidents due to material or design defects or construction-related events.
- (7) "Local and statewide economic impacts" means estimated impacts on employment, retail sales, tax revenues and/or other economic indicators for the state and local jurisdictions in which the proposed project is located.
- (8) "Minimum STIP requirements" means requirements imposed by the Department and local or regional governments through the Statewide Transportation Improvement Program (STIP) as defined below.
- (9) "MPO" means any metropolitan planning agency in Oregon designated by the state or federal government as responsible for transportation planning and coordination within its jurisdiction.

- (10) "Perfected security agreement" means an agreement giving the Department a clear and senior claim on a security in the event of default or other condition identified in the agreement.
- (11) "Private entity" means any nongovernmental entity, including a corporation, partnership, company or other legal entity or any natural person.
- (12) "Reasonable rate of return on investment" means a percentage rate calculated in an agreement that establishes an annual average profit rate. This rate will be negotiated between the Department and any other party to the agreement and calculated pursuant to section xxx-xx-060(5) of this rule, as well as any other procedures developed by the Department to implement this rule.
- (13) "Regional decision-making body" means any MPO, Council of Governments or other regional body recognized by the State of Oregon as having authority to make binding regional decisions regarding transportation and land use planning.
- (14) "RTP" means a Regional Transportation Plan adopted by Metro or any other MPO.
- (15) "STIP" means the Statewide Transportation Implementation Program as adopted and implemented by the Department and the Oregon Transportation Commission (OTC). Rules and procedures for implementing the STIP are found in the *STIP Development Manual* adopted by the Department.
- (16) "Tollway Account" means a separate account within the State Highway Fund as defined in ORS 383.009.
- (17) "TSP" means any adopted regional, county or local Transportation System Plan.

xxx-xx-030 Initiation by public and private entities, initial review and administrative fee.

(1) Local or regional governments may propose tollway projects at any time. In addition to information required for the STIP process, local governments shall provide information on the following:

- (a) Estimated local funding contributions;
- (b) Estimated portion of costs to be covered by toll revenues;
- (c) Proposed sources of additional funding;
- (d) Justification for project to be constructed as a tollway;
- (e) Proposed ownership and financing arrangements; and
- (f) Financial and institutional capacity to meet proposed responsibilities for finance, operation, maintenance and administration.

(2) Private firms may propose tollway projects at any time. Proposals shall be submitted to the Department regional manager for the region in which the majority of the proposed project, measured in lane-miles, is located.

- (a) If a proposed project is already included in the STIP or a local transportation system improvement plan, the proposer shall submit the following information:

- (A) Qualifications and experience in previous similar projects;
 - (B) Size and form of proposed financial commitment, if any, from the government sector and private sources;
 - (C) Financial and institutional capacity to meet proposed responsibilities for finance, operation, maintenance and administration;
 - (D) Proposed form, extent and duration of government participation; and
 - (E) Time schedule for completion.
- (b) If a proposed project is not already included in the STIP or any local or regional transportation system plan (TSP), the proposer shall submit the information required in subsection (a) of this section, as well as information required by local, regional or state transportation planning agencies needed for the STIP process.
- (c) Private entities shall agree to cooperate with the Department and local or regional governments in their review and evaluation of proposals through the STIP process.
- (3) Department staff shall review proposals submitted by local governments or private entities.
- (a) The Department shall review proposals submitted by local governments to determine if the proposing agency has adequately demonstrated it can meet its proposed responsibilities for financing, operating, maintaining and administering the project. Upon making such a determination, the Department shall do the following:
- (A) If the project is in the STIP, the Department shall proceed to further detailed review pursuant to section xxx-xx-050 of this rule;
 - (B) If the project is not already in the STIP, Department staff shall determine whether the project could meet minimum STIP requirements. If the Department makes such a determination, it shall proceed to further detailed review pursuant to section xxx-xx-050 of this rule;
- (b) The Department shall review proposals submitted by private entities to determine if the proposer has demonstrated the experience and capacity to build, operate or maintain the proposed facility and the project. Upon making such a determination, the Department shall do the following:
- (A) If the project is in the STIP, the Department shall proceed to further detailed review pursuant to section xxx-xx-050 of this rule;
 - (B) If the project is not already in the STIP, Department staff shall determine whether the project could meet minimum STIP requirements. If the Department makes such a determination, it shall proceed to further detailed review pursuant to section xxx-xx-050 of this rule;

- (c) Proposals submitted for further review pursuant to subsections (a) and (b) of this section also shall be forwarded for review by the Department to local or regional governments for cities, counties and regions in which the project is located.
- (4) The Department shall charge the following fees for reviewing any project proposed by a private entity to a local, regional or state government or other public agency:
 - (a) For initial review pursuant to section xxx-xx-030(3)(b), the administrative fee shall be \$10,000;
 - (b) For projects that are approved for detailed consideration and evaluation, the additional fee for review pursuant to section xxx-xx-050, shall be \$40,000; and
 - (c) Review fees will be deposited in the State Tollway Account and used to cover the cost of reviewing proposals.

Discussion

The statute allows ODOT, local governments or private entities to initiate a tollway project, but does not specify the type of projects that can be initiated or the process for doing so. In most other states, the state transportation department issues a request for proposals and accepts proposals from private entities. In Florida, administrative rules govern the process by which the state manages a turnpike authority, allows for counties to establish regional tollway authorities and encourages private consortia to propose new tollway projects. They note that this enhances competition, stimulates submission of better proposals and facilitates completion of projects before FDOT could otherwise fund them. In our case, an administrative rule is required and is the appropriate mechanism for defining the initiation process.

ODOT management staff, most stakeholders interviewed and project policy advisors recommend a flexible and inclusive approach to initiating projects. They suggest that any local or private entity be able to propose a project to encourage innovation and be responsive to local needs. At the same time, most say that ODOT should have a central oversight role. For projects integral or vitally connected to the state transportation system ("state projects"), the state should have primary oversight authority. For local or regional projects, they recommend more local oversight. For all projects, most people recommend that ODOT have at least a coordinating role. The above process is designed to meet these objectives.

Those involved in drafting the rules were nearly unanimous in their belief that the tollway initiation and review process should be integrated with the existing STIP process. Accordingly, we reference STIP requirements in this and other sections and provide an entry point to the STIP.

A two-step review process has been proposed. In the first step, ODOT would evaluate general feasibility and the financial and institutional capacity of the proposer to meet their responsibilities to construct, maintain and/or operate the facility. The second step would be a detailed evaluation of design, financing and environmental and other impacts. This evaluation would be integrated and consistent with the STIP process. This process is intended to strengthen ODOT's coordinating role; establish an initial review fee that will

discourage frivolous proposals and reimburse a portion of expenses; and help integrate tollway initiation and review with the STIP process.

We surveyed transportation staff in several other states to determine how they arrived at their administrative review fee and whether they feel the fee is appropriate based on their experience to date. Most set the fee relatively arbitrarily and most are relatively satisfied with the results. In each case, the DOT needs to hire outside financial or other technical consultants to review proposals. In almost all cases the fee was set high enough (\$25,000 - 50,000) to discourage frivolous proposals. Virginia charges an initial fee of \$5,000 for a less detailed review of basic qualifications and general technical and financial feasibility. They wanted to limit frivolous proposals but also wanted to give smaller firms the opportunity to submit proposals. They charge an additional fee of \$20,000 for a more detailed subsequent review.

All of the people interviewed reported that they do not believe their fee covers the full cost of review, though several say they intended to subsidize review to some degree and see it as a developmental cost. Florida is an exception to this rule. They charge an initial deposit of \$50,000 and additional reimbursement for costs above \$50,000. Only one project has been submitted where the fee and expenses have not reached \$50,000, although the project is currently on hold and fees could theoretically reach or exceed \$50,000.

The initial costs of studying the Newberg-Dundee and Tualatin-Sherwood projects also indicate that the proposed fees will cover a portion, but not the full costs of evaluation. Washington County has spent approximately \$50,000 on study of the Tualatin-Sherwood highway as a first leg of the Western Bypass. ODOT's preliminary feasibility study of both projects has cost approximately \$200,000 to date.

Given the review process proposed, we recommend a two-tier fee, similar to Virginia's, though we recommend higher administrative fees, closer to those charged by California or Florida.

The issue of whether or not ODOT should develop a list of potential projects or locations, possibly originating in corridor or other planning processes also was discussed. While this could provide the private sector and local governments with direction about projects that meet statewide needs, it also could stifle creativity and innovation. We believe that the disadvantages of producing a list of recommended projects outweigh the advantages. Excluding or differentially ranking projects based on inclusion in an ODOT list is problematical. In addition, most proposed projects are likely to be already included in a local, regional or state improvement plan.

xxx-xx-040 Administration of projects.

- (1) Once the Department approves a tollway project, it may enter into an agreement with a local or regional government or private entity to design, build, operate, maintain or administer a tollway project.
- (2) Before entering into such an agreement, the designated government agency or private entity must demonstrate the financial and legal capacity to meet its

responsibilities for financing, operating, maintaining or administering tollway projects.

Discussion

As noted above, ORS 383 gives ODOT responsibility for entering into agreements with private entities or other units of government to design, build, operate or maintain a tollway. It creates a State Tollway Account for moneys associated with tollway projects and specifies that ODOT is to administer the account. It also specifies a variety of public-private partnership arrangements that may be undertaken to plan, finance, build, maintain and operate tollways.

As with the initiation process, ODOT staff, stakeholders and policy advisors recommend an approach that is flexible and responsible to local needs but ensures adequate state oversight. Local or regional governments should be able to establish tollway authorities or administer primarily local or regional facilities, provided they have the financial and legal capacity to do so. Local and regional projects may be defined as those serving or benefiting local populations, (those that do not have major connections to state facilities?), and those that would not significantly restrict existing access to adjacent areas. Requiring such arrangements to be part of an agreement with ODOT should ensure adequate oversight.

xxx-xx-050 Evaluation.

(1) Projects shall be evaluated for inclusion in the STIP by the Department (for statewide projects) or the appropriate MPO or other recognized regional decision making body. After the Department has made a determination, pursuant to section xxx-xx-030, that a project is feasible and the proposer can meet its proposed responsibilities for financing, operating, maintaining and administering the proposed project, the proposer will submit additional information to be used in the STIP evaluation process, including:

- (a) Engineering information related to alignment, cross-section, access points and other related factors;
- (b) Right-of-way needs;
- (c) Estimated local and statewide economic impacts;
- (d) Environmental impacts and assessment; and
- (e) Detailed finance plan and cost information.

(2) Evaluation criteria and procedures shall be the same as those used for other STIP, TIP or RTP projects or other regional transportation decision-making processes, except as follows:

- (a) Until formally incorporated in existing processes, criteria and procedures also must include:
 - (A) Consideration of local and statewide economic impacts;

- (B) Comparison of traffic congestion and economic conditions in communities served by competing tollways financed in part by state funds; and
 - (C) Other provisions set forth in this rule.
- (b) Unless already included in the evaluation process, availability of funds from toll revenues or other sources of funding not budgeted through the STIP process shall be considered in ranking projects. Given a financially constrained STIP, the availability of toll or other local revenues shall improve a project's ranking to the extent that they enhance other elements of the state transportation system or the system as a whole.
- (3) Projects must be consistent with applicable federal, state, and local plans and policies, including:
- (a) Local and regional TSPs;
 - (b) Local and regional land use and comprehensive plans; and
 - (c) All other plans and policies referenced in STIP consistency requirements.

Discussion

In most other states surveyed for this project, including Virginia, Florida, Minnesota, South Carolina and Texas, tollway projects already must be in the STIP or added to it to be approved. Furthermore, in Minnesota and Virginia the STIP evaluation criteria are applied to all projects, including tollways.

Those who participated in drafting these preliminary rules agreed that tollway projects should be evaluated alongside other STIP projects. To establish a separate process would be redundant and inconsistent with Oregon's transportation planning process. Most agree that the only significant difference between tollway and other STIP projects is the availability of toll revenues or other funds not typically available for other projects and see no reason to evaluate tollway projects using a different process. Consequently the STIP process is referenced liberally in these sections.

Though a variety of factors are considered in ranking projects during the STIP process, some of the required criteria included in ORS 383 are not formally referenced in any document pertaining to the STIP. Consequently, they are included in this rule, with the provision that they must be considered in addition to other STIP requirements until they are formally incorporated in the STIP process (see section xxx-xx-050(2)(a)).

The majority of, though not all, who provided advice agree that the availability of toll revenues and other additional funds should have an impact on the ranking of a tollway project within the STIP since it affects the project cost (in STIP dollars) and may make it possible to develop more non-tollway projects. On the other hand, people also expressed a concern that bad projects not be built just because toll or other money is available. Using the STIP evaluation process to rank tollway projects will reduce the likelihood of such a situation. Advisors recommended two alternative methods of using the availability of toll or

other revenues to re-rank tollway projects within the STIP (listed above in italics). They also suggest providing very flexible language and leaving implementation to the STIP process.

Requiring review and approval by a regional decision-making body will encourage local jurisdictions in a region to consider the trade-offs between using STIP or local funds for tollway or other projects and facilitate buy-in at the regional level.

xxx-xx-060 Financial and ownership agreements, use of public funds, risk to the state and rate-of-return.

(1) The Department may enter into agreements with private entities to design, build, maintain or operate tollways. Arrangements include those specified in ORS 383.

(2) In general, public funds should be considered only when a project will provide significant, beneficial effects beyond the immediate users of the facility, such as environmental benefits, significant improvements in the performance of other portions of the state roadway network, or demonstration value. In determining how to most appropriately use public resources, the Department may:

- (a) Use public money in a manner consistent with the use of such moneys in non-tollway projects;
- (b) Use public funds to underwrite studies and other costs associated with public planning processes such as for environmental studies;
- (c) Contribute moneys dedicated to special facilities, such as structures of a tollway project that serve non-economic, but socially-desirable goals (e.g., facilities for handicapped vehicles and interchange modifications that improve performance of another roadway); and
- (d) Consider the provision of future revenue guarantees.

(3) Financial risk to the state is affected by:

- (a) Amount of equity the State commits to the project;
- (b) Degree of leverage [debt-finance] of the project, generally, and the use of publicly-issued bonds to finance the facility, specifically;
- (c) Degree to which the state highway system is dependent on the project; and
- (d) Other factors, including:
 - (A) Level of liability-creating events assumed by the state during construction and operation;
 - (B) Accuracy of traffic demand forecasts, cost studies, and other analyses; and
 - (C) Financial stability of the private partner in the facility.

- (4) To reduce financial risk to the state, the Department may consider the following procedures:
- (a) Obtain independent investment banking analysis of the transaction and contract terms;
 - (b) Acquire appropriate guarantees, perfected security interests, and other protections from the actions of risky partners;
 - (c) Obtain ownership and/or control interests in the facility as necessary to balance the assumption of liability with the ability to control that liability; and
 - (d) If assuming liability, exert control over that liability by participating on boards or committees of the entity building and/or operating the facility.
- (5) The state shall negotiate a reasonable rate of return on private investment (ROI) with any private entity participating in building, operating or maintaining a tollway, based on the following considerations:
- (a) The ROI should be equivalent to the rate of return available on alternative investments of like risk, duration, and tax treatment in the private marketplace; and
 - (b) The ROI should be properly computed recognizing the financial structure of the total financing, including:
 - (A) The type of debt used;
 - (B) The value of the State's contribution to equity [e.g. rights-of-way];
 - (C) The role of implicit or explicit financial guarantees and contingencies; and
 - (D) The structure of ownership and control over the facility's life.

Discussion

As with other aspects of the rules, the range of financing and ownership arrangements allowable should be as inclusive as possible. The optimum arrangement in any given situation likely will vary on a case-by-case basis and should not be prescribed in the administrative rule. However, ODOT should have guidelines for determining how public funds can best be used to leverage private contributions, increase the economic viability of a project or simply use state resources most cost-effectively. For example, due to the risks associated with up-front costs for designing or developing a facility, the private sector may be unwilling to participate in tollway project development unless the public sector underwrites or limits costs of environmental impact or other needed studies.

This provision of the rules provides several recommendations for minimizing risk and controlling liability.

ORS 383 requires the state to negotiate a "reasonable rate-of-return" for private investment. Rate-of-return is calculated in a variety of different ways and it may not be appropriate or

beneficial to specify a given rate in the rule. However, it is essential that certain factors be considered in calculating the rate-of-return and appropriate for the state to require a rate-of-return comparable to private investments of similar type and duration.

xxx-xx-070 Legislative Authorization.

(1) Upon inclusion, ranking and approval through the process outlined in previous sections of this rule and the STIP process, the Department shall submit tollway projects to the legislature for consideration/approval.

Discussion

ORS 383 states that, with the exception of the Newberg-Dundee bypass and the Tualatin-Sherwood Highway, any other project must be authorized by the legislature based on consideration of a number of factors included in the statute. Therefore, for the time being, the rule needs to include this provision. However, it may be advisable to revise the statute, given that the rule integrates initiation and evaluation of tollways in the STIP process and concerns by ODOT management staff and others that future tollway projects could be introduced to the legislature by entities other than ODOT, circumventing state planning processes. We recommend ODOT pursue legislation to revise ORS 383 to provide ODOT and local/regional governments the authority to authorize projects pursuant to review, evaluation and approval through the process prescribed in this rule.

xxx-xx-080 Public notice/involvement requirements.

(1) The Department or local or regional decision-making bodies shall provide opportunities for public notice and involvement in accordance with existing requirements for the STIP or similar local or regional transportation planning processes.

(2) In conducting public outreach efforts, agency personnel shall specify that tolls will be collected to finance the project and make efforts to inform and involve those most affected by tolling

(3) Though the public will be informed about proposed toll rates, rates shall be negotiated between the Department or a local/regional government and any participating private entity

Discussion

Though tolls and tollway projects may be controversial and represent a significant change in transportation financing, nearly everyone involved in drafting these rules stated that existing public involvement policies and strategies are adequate for informing and involving the public in decisions about tollway projects. They feel that additional requirements will be redundant. However, several people suggested that public outreach efforts should be targeted to those most affected by tolls and emphasize the fact that revenues will be collected via tolls. They also noted that the subject of transportation financing is complicated and confusing and general education on it would be helpful in conjunction with outreach efforts for tollway projects.

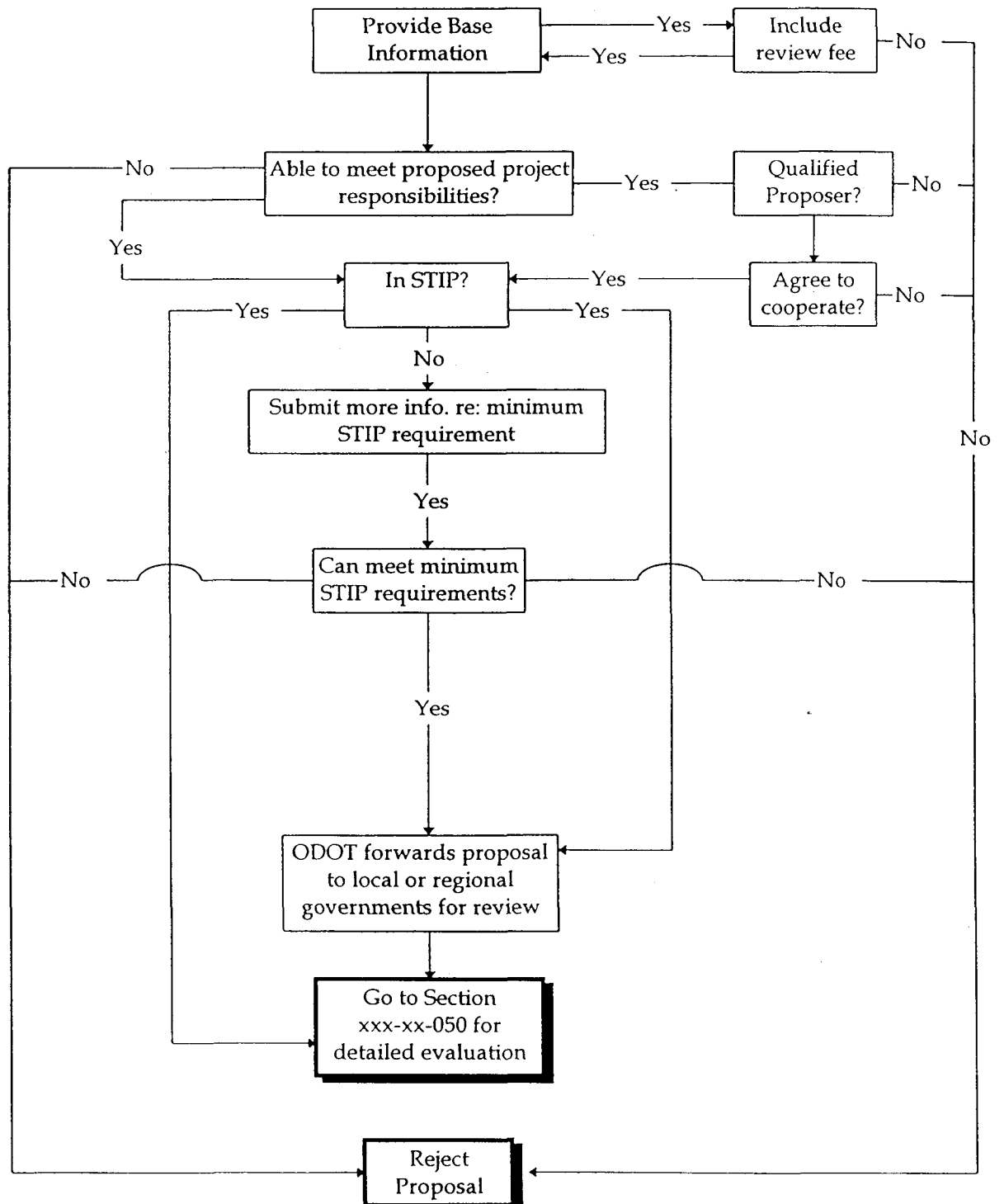
FLOW CHART FOR INITIATION OF A PROPOSAL PURSUANT TO SECTION XXX-XX-030

Proposed by:

Local or Regional Government

Either

Private Entity



COMMITTEE MEETING TITLE

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