

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A ) RESOLUTION NO. 10-4185  
SUPPLEMENTAL MULTI-YEAR )  
COMMITMENT OF REGIONAL FLEXIBLE ) Introduced by Councilor Carlotta Collette  
FUNDING FOR THE YEARS 2015-2027, )  
FUNDING THE PORTLAND – MILWAUKIE )  
LIGHT RAIL TRANSIT PROJECT, AND )  
PROJECT DEVELOPMENT FOR THE )  
PORTLAND – LAKE OSWEGO TRANSIT )  
PROJECT, AND THE SOUTHWEST CORRIDOR )  
AND AUTHORIZING EXECUTION OF AN )  
AMENDMENT TO THE EXISTING )  
INTERGOVERNMENTAL AGREEMENT WITH )  
TRIMET REGARDING THE MULTI-YEAR )  
COMMITMENT OF REGIONAL FLEXIBLE )  
FUNDS )

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 Mitigation/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,” which established a multi-year commitment to TriMet of regional flexible funds totaling \$144.8 million for the purpose of providing a net present value contribution of \$72.5 million to the Portland-Milwaukie Light Rail Project and \$13.3 million for the Commuter Rail Project; and

WHEREAS, at the recommendation of JPACT, on March 18, 2010 the Metro Council adopted Resolution No. 10-4133 “For the Purpose of Endorsing a Multi-Year Commitment of Regional Flexible Funds for the Portland-Milwaukie Light Rail Transit Project and Supplemental Commitment to the Beaverton-Wilsonville Commuter Rail Project,” which authorized execution of an intergovernmental agreement between Metro and TriMet that enumerated the obligations of the parties with regard to the multi-year commitment of funds initially endorsed under Resolution No. 08-3942; and

WHEREAS, the Federal Transit Administration (FTA) has advised TriMet that it would provide a maximum 50 percent share, rather than 60 percent share, of the cost of the Portland-Milwaukie Light Rail Transit Project with Section 5309 New Start funds, creating a funding shortfall that is planned to be resolved through a combination of scope reductions and supplemental funding contributions to the project; and

WHEREAS, the 2004 Regional Transportation Plan (RTP) prioritized preparation of a high capacity transit plan for the Lake Oswego-Portland corridor, and JPACT recommended and on December 13, 2007 the Metro Council approved Resolution No. 07-3887A “For the Purpose of Identifying Alternatives to Advance into a Draft Environmental Impact Statement for the Portland to Milwaukie Corridor Transit Project,” which adopted the Lake Oswego-Portland corridor high capacity transit alternatives to be evaluated in a Draft Environmental Impact Statement, and the current project development schedule calls for selection of a locally preferred alternative and advancement into the preliminary engineering/final environmental impact stage during FY 2011; and

WHEREAS, JPACT recommended and on August 12, 2010 the Metro Council approved Resolution No. 10-4179 “For the Purpose of Amending the FY 2010 Unified Planning Work Program (UPWP) to Modify Funding Allocations for the Southwest Corridor and East Metro Corridor Refinement Plans” and Resolution No. 10-4177 “For the Purpose of Amending the January 2008 MTIP (FY 2008 – 2011) to Modify Funding Allocations for Southwest Corridor and East Metro Corridor Refinement Plans.” which funded the Southwest Corridor Refinement Plan as part of a larger study that includes the preparation of Alternatives Analysis, Preliminary Engineering and Environmental Impact studies for high capacity transit in the Southwest Corridor, and

WHEREAS, on Sept. 2, 2010 JPACT recommended approval of Resolution No. 10-4185 as shown in Exhibit A for a supplemental commitment of \$66 million of regional flexible fund to allow the contribution to the design and construction of the Portland-Milwaukie Light Rail Project to be increased by \$27.4 million (making the total contribution \$99.9 million) and, in addition, to allow a \$6 million contribution for activities related to the preparation of preliminary engineering and environmental impact studies for the Lake Oswego-Portland Transit Project and a \$6 million contribution for activities related to the preparation of Alternatives Analysis, preliminary engineering, and environmental impact studies for the Southwest Corridor; and

WHEREAS, the schedule for design and development of the Portland-Milwaukie Light Rail Transit Project currently anticipates issuing bonds secured in part by the supplemental regional flexible fund commitment described in Exhibit A to this resolution by or about May 2011; and

WHEREAS, JPACT recommended and the Metro Council approved Resolution No. 10-4160, the 2014-2015 Regional Flexible Fund Allocation Report, which described targets to be used in allocating regional flexible funds in the upcoming cycle of programming funds in the MTIP; now therefore

BE IT RESOLVED, that the Metro Council hereby:

- Approves the proposed supplemental commitment of regional flexible funds recommended by JPACT and shown in Table 1 of Exhibit A; and
- Authorizes the execution of an amendment to the intergovernmental agreement between Metro and TriMet approved under Resolution No. 10-4133, in a form approved by the Office of the Metro Attorney and consistent with this Resolution, that incorporates the supplemental multi-year commitment of regional flexible funds shown in Table 1 of Exhibit A for the uses set forth in Table 2 of Exhibit A; and

- Directs staff to employ the targeted amount of funding for the “Regional Program HCT Development” shown in the “2014-15 Regional Flexible Fund Allocation –Policy Framework” enacted in Resolution No. 10-4160 to fulfill the supplemental commitment of regional flexible funds shown in Exhibit A for fiscal years 2014 and 2015.

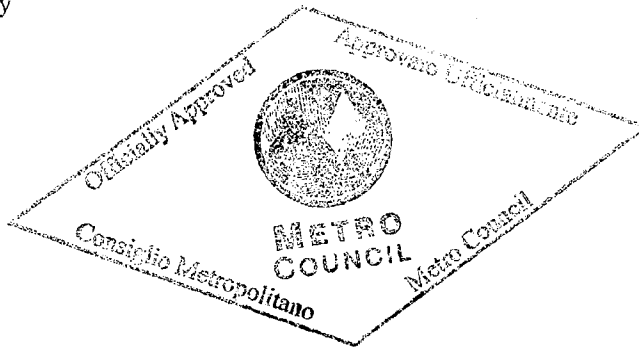
ADOPTED by the Metro Council this 7<sup>th</sup> day of October, 2010.

  
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Carlotta Collette, Acting Council President

Approved as to Form:



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Alison Kean Campbell, Deputy Metro Attorney



# Exhibit A

## Exhibit A to Resolution 10-4185 Supplemental Multi-Year Commitment of Regional Flexible Funds for Portland-Milwaukie Light Rail Transit Project, Commuter Rail Project, and Project Development Activities for the Lake Oswego Transit Project and Southwest Corridor

- The multi-year commitment of regional flexible funds for the region’s high capacity transit program was last approved by Resolution No. 08-3942 and implemented by the intergovernmental agreement approved by Resolution No. 10-4133. The amounts previously approved and shown in Column A below are proposed to be supplemented to include the amounts shown in Column B to provide the total amounts shown in Column C:

Table 1: Multi-Year Commitment of Regional Flexible Funds

	A	B	C
Fiscal Year	Regional Flexible Funds Committed to Portland-Milwaukie LRT and Commuter Rail, Projects under Res. Nos. 08-3942 and 10-4133	Supplemental Commitment of Regional Flexible Funds for Portland-Milwaukie LRT Project and Other HCT Development Activities under Res. No. 10-4185 [this reso]	Total Amount of Regional Flexible Funds Committed to TriMet for Portland-Milwaukie LRT Project, and Other HCT Development Activities
2012	\$3,700,000		\$3,700,000
2013	\$3,700,000		\$3,700,000
2014	\$3,700,000	\$2,000,000	\$5,700,000
2015	\$3,700,000	\$2,000,000	\$5,700,000
2016	\$13,000,000	\$3,000,000	\$16,000,000
2017	\$13,000,000	\$3,000,000	\$16,000,000
2018	\$13,000,000	\$3,000,000	\$16,000,000
2019	\$13,000,000	\$3,000,000	\$16,000,000
2020	\$13,000,000	\$3,000,000	\$16,000,000
2021	\$13,000,000	\$3,000,000	\$16,000,000
2022	\$13,000,000	\$3,000,000	\$16,000,000
2023	\$13,000,000	\$3,000,000	\$16,000,000
2024	\$13,000,000	\$3,000,000	\$16,000,000
2025	\$13,000,000	\$3,000,000	\$16,000,000
2026		\$16,000,000	\$16,000,000
2027		\$16,000,000	\$16,000,000
	<b>\$144,800,000</b>	<b>\$66,000,000</b>	<b>\$210,800,000</b>

As used in this resolution, the term “regional flexible funds” includes urban Surface Transportation Program (STP) and Congestion Mitigation Air Quality (CMAQ) funds, or any successor or replacement federal funding programs, allocated by formula or

agreement to the Portland metropolitan region. The MTIP will be amended to program these supplemental regional flexible funds for use by TriMet.

2. Subject to approval of the supplemental contribution of regional flexible funds shown in Column B of Table 1, TriMet will prepare and implement a financing program, in accordance with project development schedule for the Portland-Milwaukie Light Rail Transit Project, to provide through direct federal grants of regional flexible funds from Column C of Table 1 or equivalent amounts of its general funds, or a borrowing strategy employing regional flexible funds shown in Column C of Table 1 or equivalent amounts of general funds, or a combination thereof, the following amounts to the uses stated below:

**Table 2: Contributions to Projects (\$ Millions)**

Project/Activity	Existing Contribution	Additional Contribution under Res. No. 10-4185 [this reso]	Total Contribution
Portland-Milwaukie Light Rail Transit Project	\$72.5	\$27.4	\$99.9
Repayment to TriMet of Amounts Advanced for Commuter Rail Project	\$13.3		\$13.3
Portland-Lake Oswego Corridor Transit Project: for activities related to preparation of Preliminary Engineering and Environmental Impact Studies		\$6.0	\$6.0
Southwest Corridor for activities related to preparation of Alternatives Analysis, Preliminary Engineering, and Environmental Impact Studies		\$6.0	\$6.0
	\$85.8	\$39.4	\$125.2

The amount shown above for the Portland-Milwaukie Light Rail Transit Project may be increased if financing terms allow.

3. A mix of Surface Transportation Program (STP) and Congestion Mitigation and Air Quality (CMAQ) funds that corresponds to the needs of TriMet's financing program will be used to fulfill the multi-year commitment of funds. Representatives of Metro and TriMet will cooperatively determine the appropriate mix of CMAQ and STP funds required by TriMet's financing program that will be used to fulfill the multi-year commitment of regional flexible funds.
4. TriMet intends to issue bonds secured in part by the annual amounts of regional flexible funds shown in Table 1 of this Exhibit A. Accordingly, the annual amounts shown in Column C of Table 1 are fully committed to TriMet in the amounts and during years indicated; subject only to authorization and appropriation of regional flexible funds by the federal government and the terms and conditions of existing intergovernmental agreement between Metro and TriMet approved by Resolution No. 10-4133.

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4185, FOR THE PURPOSE OF APPROVING A SUPPLEMENTAL MULTI-YEAR COMMITMENT OF REGIONAL FLEXIBLE FUNDING FOR THE YEARS 2015-2027, FUNDING THE PORTLAND-MILWAUKIE LIGHT RAIL TRANSIT PROJECT, AND PROJECT DEVELOPMENT FOR THE PORTLAND – LAKE OSWEGO TRANSIT PROJECT, AND THE SOUTHWEST CORRIDOR AND AUTHORIZING EXECUTION OF AN AMENDMENT TO THE EXISTING INTERGOVERNMENTAL AGREEMENT WITH TRIMET REGARDING THE MULTI-YEAR COMMITMENT OF REGIONAL FLEXIBLE FUNDS

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Date: August 20, 2010

Prepared by: Andy Cotugno  
503-797-1763

### BACKGROUND

Based on a series of actions by JPACT and the Metro Council, TriMet was awarded a multi-year commitment of regional flexible funds for the development of the region's high capacity transit system. Most recently JPACT and Metro approved an intergovernmental agreement that provides TriMet a stream of regional flexible funds that would be bonded to provide a \$72.5 million contribution to the Portland-Milwaukie LRT Project and a \$13.3 million contribution to the Commuter Rail Project (TriMet has already provided these funds to the Commuter Rail Project and would be repaid for that contribution with the bond proceeds).

The proposed resolution expands and extends the multi-year stream of regional flexible funds currently committed to TriMet to support three regional high capacity transit priority projects. Specifically, the supplemental regional flexible funds shown in the proposed resolution would be bonded to provide \$27.4 million in additional funding for the Portland-Milwaukie LRT Project, \$6 million for preliminary engineering, final design, and environmental studies for the Lake Oswego to Portland Transit Project, and \$6 million for alternatives analysis, environmental studies, and preliminary engineering for high capacity transit in the Southwest Corridor.

The current commitments of regional flexible funds result in a 46% share being dedicated to HCT project development, declining by 2025 to 36%. The proposal embodied in this resolution would result in this 46% share declining by 2025 to 43% and extending the commitment two more years to 2027.

The Portland-Milwaukie LRT Project applied for FTA approval to enter Final Design based on a finance plan that proposed a 60 percent share of Section 5309 "New Starts" funds from the Federal Transit Administration (FTA). The project development schedule and finance plan are currently based on commencing in-water construction activities during the approved "fish window" in July 2011, which would only be possible if entry into Final Design is accomplished by or around December of this year. If that approval is not secured in time and the commencement of in-water construction cannot start by July 2011, the start of construction would be delayed until July 2012 and project costs would be anticipated to increase significantly due to inflation and other costs caused by the delay.

FTA recently notified TriMet that it would limit its contribution of New Starts funds for the Portland-Milwaukie LRT Project to a 50 percent share; creating a gap in the financial plan. The size of the gap depends on a complex array of factors including the exact combination of cutbacks and additional revenues that would be used to resolve the gap, the amount and timing of bonding programs employed, the timing of when funds would be available, and other factors. The current plan for filling the gap is predicated on about \$90 million in cost reductions and \$90 million in additional revenue.

In order to secure FTA approval to enter Final Design in time to commence in-water construction in July 2011, TriMet must resubmit a Final Design application and Final Environmental Impact Statement by about October 1<sup>st</sup> of this year that incorporates the scope reductions and specifies a revised finance plan based on the assumed 50 percent FTA New Starts share. Approval of the proposed supplemental contribution of Regional Flexible Funds would significantly assist in the development of a revised finance plan that would be acceptable to FTA by increasing the contributions to the project by \$27.4 million. In order to fully meet the requirement of a balanced financial plan, an agreed upon list of scope reductions and other commitments of additional funds would be required from other participating governmental partners.

The region, through JPACT and the Metro Council, has established high capacity transit in the Lake Oswego-Portland corridor as a regional priority. A regional effort is currently underway to analyze alternatives in the corridor and to prepare a Draft Environmental Impact Statement (DEIS). Selection of a locally preferred alternative (LPA) by JPACT and the Metro Council is scheduled for later this year. The funds provided by this resolution allow \$6 million to advance preliminary engineering, final design, environmental studies, and other FTA requirements for the Portland – Lake Oswego Transit Project. Metro will lead the completion of the alternative analysis and Draft Environmental Impact phase; TriMet will lead the preliminary engineering phase. Additional funding will be required from the participating governments to fund the remaining cost of these activities.

In the recently adopted Regional High Capacity Transit System Plan, the region, through JPACT and the Metro Council, has established the Southwest Corridor as the next priority corridor for high capacity transit development. In August, JPACT and Metro provided initial funding for the Southwest Corridor Refinement Plan. Following the Refinement Plan, JPACT and Metro anticipate initiating an alternatives analysis, environmental studies, and preliminary engineering on project options within the Corridor. The funds provided by this resolution allow \$6 million to be provided for alternatives analysis, preliminary engineering, environmental studies and fulfilling other FTA requirements for high capacity transit options within the Southwest Corridor. Metro will lead the alternatives analysis and Draft Environmental Impact phase; TriMet will lead the preliminary engineering phase. Additional funding will be required from the participating governments to fund the remaining cost of these activities.

Beyond the priority for Portland to Milwaukie, Portland to Lake Oswego and Southwest Corridor established by JPACT and the Metro Council, the recently adopted High Capacity Transit System Plan provides a framework for advancing future corridors. This framework is defined around regional and local actions to increase the competitiveness of individual corridors through commitments of funding and land use actions to increase ridership. This framework could lead to future actions to consider Regional Flexible Funds leveraged with funding commitments by others to assist in advancing these future corridors.

By Resolution No. 10-4160, JPACT and the Metro Council established a policy framework for the 2014-2015 update to the Regional Flexible Funds. The framework targets \$2 million in each of FY 2014 and FY 2015 for high capacity transit development. The supplemental commitment of funds proposed by this resolution would use this \$2 million in Regional Flexible Funds in FY 2014 and 2015, increase it by \$1 million per year to a total of \$3 million per year in 2016 and extend the overall funding commitment two more years to 2026 and 2027 as follows:

<b>Fiscal Year</b>	<b>Regional Flexible Funds Committed to Milwaukie LRT and Commuter Rail, Projects under Res. Nos. 08-3942 and 10-4133</b>	<b>Supplemental Commitment of Regional Flexible Funds for Milwaukie LRT Project, and Other HCT Development Activities</b>
<b>2012</b>	\$3,700,000	
<b>2013</b>	\$3,700,000	
<b>2014</b>	\$3,700,000	\$2,000,000
<b>2015</b>	\$3,700,000	\$2,000,000
<b>2016</b>	\$13,000,000	\$3,000,000
<b>2017</b>	\$13,000,000	\$3,000,000
<b>2018</b>	\$13,000,000	\$3,000,000
<b>2019</b>	\$13,000,000	\$3,000,000
<b>2020</b>	\$13,000,000	\$3,000,000
<b>2021</b>	\$13,000,000	\$3,000,000
<b>2022</b>	\$13,000,000	\$3,000,000
<b>2023</b>	\$13,000,000	\$3,000,000
<b>2024</b>	\$13,000,000	\$3,000,000
<b>2025</b>	\$13,000,000	\$3,000,000
<b>2026</b>		\$16,000,000
<b>2027</b>		\$16,000,000

TriMet seeks JPACT and Metro Council approval of the supplemental multi-year commitment of regional flexible funds, as shown in the proposed resolution, and for an amendment to the existing intergovernmental agreement between TriMet and Metro in order to implement the supplemented commitment.

At the August 27, 2010 meeting of the Transportation Policy Alternatives Committee, adoption of this resolution was recommended with a 13-yes, 4-no, 1-abstain vote. During deliberation, an amendment to the proposal to limit the MTIP commitment to the portion related to funding the Portland to Milwaukie LRT project. The amendment was proposed based upon concern about using borrowing for project development and the aggressive implementation schedule for high capacity transit and for concern over committing funds for project development concurrent with service cuts and fare increases. The amendment failed on a 9-no, 8-yes, 1-abstain vote. At the Sept. 2, 2010 meeting of the Joint Policy Advisory Committee on Transportation (JPACT) adoption of this resolution was recommended on a 15 – yes, 0 – no, 1 – abstain vote. A public comment period for this legislation was held from September 6, 2010 through October 5, 2010. One comment was received expressing concern about allotting resources to the light rail project.

**ANALYSIS/INFORMATION**

- Known Opposition:** TPAC considered but did not recommend deferring the elements of this proposal relating to funding project development for the Portland to Lake Oswego and Southwest Corridor projects.



2. **Legal Antecedents:** Resolution No. 08-3942 established a multi-year commitment to TriMet of regional flexible funds for the purpose of providing a \$72.5 million to the Portland-Milwaukie Light Rail Project (“PMLRT”) and \$13.3 million for the Commuter Rail Project. Resolution No. 10-4133 authorized execution of an intergovernmental agreement between Metro and TriMet regarding the multi-year commitment of funds approved by Resolution No. 08-3942. The 2004 Regional Transportation Plan (RTP) prioritized preparation of a high capacity transit plan for the Lake Oswego-Portland corridor and Resolution No. 07-3887A adopted the Lake Oswego-Portland corridor high capacity transit alternatives to be evaluated in a Draft Environmental Impact Statement. Resolution No. 10-4179 funded the Southwest Corridor Refinement Plan as part of a larger Southwest Corridor Plan that includes the preparation of Alternatives Analysis, Preliminary Engineering, and Environmental Impact studies for the Southwest Corridor. Resolution No. 10-4160 established a policy framework for the 2014-2015 allocation of regional flexible funds. Further, Resolution No. 04-3498 endorsed the supplemental multi-year funding commitment of MTIP funds for the I-205/Mall project is an earlier example of reserving a portion for future flexible funding for specific high capacity transit projects.
3. **Anticipated Effects:** Adoption of this resolution will help rebalance the financial plan for the Portland-Milwaukie LRT Project and allow TriMet to resubmit its application for entry into Final Design. Further it will assist in funding project development activities related to two other regional priority high capacity transit corridors.
4. **Budget Impacts:** No Metro funds are obligation by this resolution.

#### **RECOMMENDED ACTION**

Adoption of Resolution No. 10-4185 by the Metro Council is recommended.