

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010-	)	RESOLUTION NO. 10-4211
13 METROPOLITAN TRANSPORTATION	)	
IMPROVEMENT PROGRAM (MTIP) TO	)	Introduced by Councilor Carl Hosticka
DELETE THE WASHINGTON SQUARE	)	
REGIONAL CENTER TRAIL: HALL TO	)	
GREENBURG PROJECT AND SUBSTITUTE	)	
THE FANNO CREEK TRAIL: MAIN TO HALL	)	
PROJECT		

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council must approve the MTIP and any subsequent amendments to add new projects to or significantly change the scope to existing projects in the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2010-13 MTIP on September 16, 2010; and

WHEREAS, the JPACT and Metro Council awarded \$386,000 of Regional STP funding authority from the 2004-07 Regional Flexible Fund Allocation process to the City of Tigard to design a multi-use trail project in the Washington Square regional center area; and

WHEREAS, the awarding of these funds is adopted in the 2010-13 MTIP as Programming Table 3.1.1; and

WHEREAS, the “Washington Square Regional Center Trail: Hall to Greenburg” Project is no longer feasible due to the discovery of previously unidentified environmental and right-of-way impact issues that make construction of the trail at the estimated cost infeasible; and

WHEREAS, the City of Tigard has proposed to apply the funds from the “Washington Square Regional Center Trail: Hall to Greenburg” Project to “Fanno Creek Trail: Main to Hall” Project; and

WHEREAS, the City Tigard and Metro have concurred the original project is no longer feasible; and

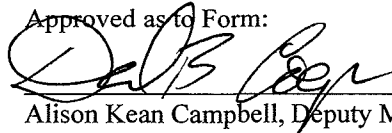
WHEREAS, the Oregon Department of Transportation (ODOT) has been consulted and concurs that the original project is no longer feasible; and

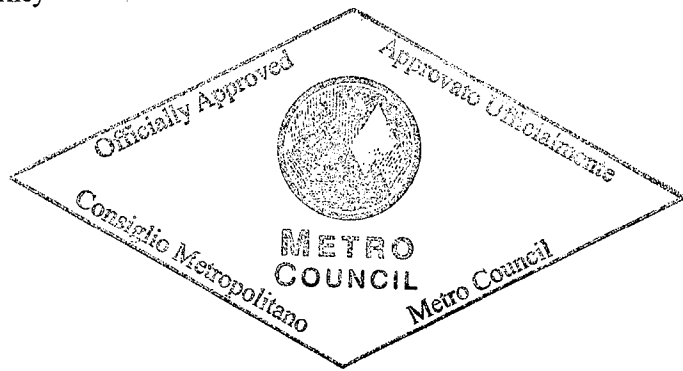
WHEREAS, Section 1.7 of the 2010-2013 MTIP states that the MTIP shall be amended by Metro/JPACT Resolution where an adjustment will significantly change the project scope, whose definition includes “more than 50% of the project area outside of the original project area scope,” under which this change qualifies; NOW THEREFORE

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to delete the "Washington Square Regional Center Trail: Hall to Greenburg" Project and substitute the "Fanno Creek Trail: Main to Hall" Project, and to modify the Programming Table, Section 3.1.1, of the 2010-13 Metropolitan Transportation Improvement Program as provided in Exhibit A to this resolution.

ADOPTED by the Metro Council this 18 day of November 2010.

  
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Carlotta Colette, Acting Council President

Approved as to Form:  
  
\_\_\_\_\_  
Alison Kean Campbell, Deputy Metro Attorney



**Exhibit A to Resolution No. 10-4211**

**2010-13 Metropolitan Transportation Improvement Plan Table 3.1.1 amendment**

**Action:** Transfer funds from the Washington Regional Center Trail project to the Fanno Creek Trail project.

Existing Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Washington Square RC Trail: Hall - Greenburg	Construct a multi-use trail	13527	Tigard	\$429,734	Cons	STP	2011	\$134,929	\$15,443	\$279,808	\$430,180

Amended Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Washington Square RC Trail: Hall - Greenburg	Construct a multi-use trail	13527	Tigard	\$0	Cons	STP	2011	\$0	\$0	\$0	\$0

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Fanno Creek Trail: Main - Hall	Construct a multi-use trail	TBD	Tigard	N/A	Cons	STP	2011	\$0	\$0	\$430,180	\$430,180

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 10-4211, FOR THE PURPOSE OF AMENDING THE 2010-13 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO DELETE THE WASHINGTON SQUARE REGIONAL CENTER TRAIL: HALL TO GREENBURG PROJECT AND SUBSTITUTE THE FANNO CREEK TRAIL: MAIN TO HALL PROJECT

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Date: November 18, 2010

Prepared by: Amy Rose 503-797-1776

### **BACKGROUND**

In 2003, a Regional Flexible Transportation funding award of \$386,000 was made to the City of Tigard to design a multi-use trail project in the Washington Square Regional Center area from Hall Blvd to Greenburg Road and acquire right-of-way and construct the project between Hall Blvd. and Highway 217.

During initial development of the Washington Square Regional Center Trail project, the City of Tigard discovered that previously unidentified environmental and right-of-way impact issues that make the construction of the trail at the estimated cost infeasible. The Tigard City Council, Metro staff and ODOT staff concur that building the project is not feasible with the amount of funding currently available.

Through a Memorandum of Understanding with Metro, Attachment 1 to the staff report, the City of Tigard has agreed to construct the Fanno Creek Trail in the Tigard Town Center area between Main Street and Hall Blvd. with a minimum of \$430,180 of local funds if the federal funding on the Washington Square Regional Center Trail project can be redeployed to other existing Tigard managed federal aid projects.

In considering the transfer of funds from one project to another, Metro staff has reviewed the Fanno Creek Trail project for consistency with the policies and criteria from the 2004-07 regional flexible fund allocation process to determine whether the project meets the intent of the original allocation made to the Washington Square Regional Center Trail project. The Fanno Creek Trail project has many of the same characteristics as Washington Square Regional Center Trail. Fanno Creek trail is in a Center; it completes a gap in the bikeway system and improves safety for bikes and pedestrians in an area that has roadways that are a deterrent to walking and biking. The project is consistent with the projects submitted for consideration in the 2004-07 funding cycle for which Washington Square Regional Center Trail was awarded funds.

To accomplish this substitution of projects from the Washington Square Regional Center Trail to the Fanno Creek Trail, Metro proposes to allocate the federal funding authority remaining on the project to existing federal aid projects already managed by the City of Tigard. This includes a transfer previously executed to exchange federal funds on the Washington Square trail project for local funds on the Tualatin River Bridge trail project and an exchange of the remaining federal funds from the Washington Square Trail project for local funds budgeted to the Tigard Main Street project. A total of \$134,929 in Regional STP funding authority will be transferred to the Main Street project. Tigard's obligation to locally fund the Washington Square Regional Center trail project would then be transferred to an obligation to locally fund the Fanno Creek Trail project in an equal or greater amount of the original allocation to the Washington Square regional center trail. The purpose of transferring federal funds to the other federal aid projects managed by Tigard and making the Fanno Creek trail project locally funded is to increase efficiency and save project costs.

The City of Tigard seeks JPACT and Metro Council approval to delete the Washington Square Regional Center Trail project funding from the MTIP and replace that project with the Fanno Creek Trail project as described. The proposed change in the scope of the project warrants a resolution per section 1.7 in the 2010-13 MTIP.

## **ANALYSIS/INFORMATION**

- 1. Known Opposition** None known at this time.
- 2. Legal Antecedents** Section 1.7 of the 2010-2013 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 10-4186 on September 16, 2010 (For the Purpose of Approving the 2010-13 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area) (“2010-13 MTIP”). MTIP provides that it may be amended by Metro/JPACT Resolution where an adjustment will significantly change a project scope, defined as “the deletion of a modal element described in the original project scope . . . or if . . .the proposed change in scope would have significantly altered the technical evaluation of a project during the project prioritization process;” Proposed resolution will amend the Programming Table 3.1.1 of the 2010-13 MTIP. Changes scope of project originally awarded funding authority by Resolution No.03-3335 (For the purpose of allocating \$53.75 million of Transportation Priorities funding for the years 2006-07, pending air quality conformity determination).
- 3. Anticipated Effects** Adoption of this resolution will allow City of Tigard to apply additional funds to the Main Street project in Downtown Tigard.
- 4. Budget Impacts** No Metro funds are obligated by this agreement.

## **RECOMMENDED ACTION**

Metro staff recommends the approval of Resolution No. 10-4211.

**Attachment 1**

MEMORANDUM OF UNDERSTANDING  
BETWEEN METRO AND  
CITY OF TIGARD  
FOR  
WASHINGTON SQUARE REGIONAL CENTER TRAIL

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into by and between METRO, the Portland Urbanized Area Metropolitan Planning Organization ("MPO"), acting by and through its elected officials, hereinafter referred to as "METRO," and CITY OF TIGARD, hereinafter referred to as "TIGARD," collectively referred to as the "Parties."

WHEREAS, by authority granted in ORS 190.100 and 283.110, units of local government or state agencies may enter into agreements for the performance of any or all functions and activities that parties to the agreement, or their officers or agents, have the authority to perform, and

WHEREAS, METRO and TIGARD are interested in establishing and maintaining a collaborative partnership for the development of the Washington Square Regional Center Trail Project: Hall to Greenberg, hereinafter referred to as "PROJECT"; and

WHEREAS, TIGARD was awarded \$386,000 in Regional STP funding authority from the 2004-07 Regional Flexible Fund Allocation process to design a multi-use trail project in the Washington Square regional center area from Hall to Greenberg and acquire right-of-way and construct the PROJECT between Hall and Highway 217, and

WHEREAS, in initial development of the PROJECT, TIGARD has discovered previously unidentified environmental and right-of-way impact issues that make construction of the trail at the estimated cost infeasible, and

WHEREAS, the PROJECT is currently programmed in federal fiscal year 2011 of the 2008-11 MTIP and STIP under ODOT Key #13527, and

WHEREAS, TIGARD proposes to construct the Fanno Creek trail in the Tigard town center area between Main Street and Hall Boulevard with at least \$430,180 of local funds if the federal funding on the Washington Square regional center trail project can be redeployed to other Tigard managed federal aid projects, and

WHEREAS, TIGARD has also received Transportation Enhancement funding for the Tualatin River Bridge project that utilized \$251,071 in Regional STP funding authority from the Washington Square Regional Center Trail project in exchange for a commitment of local funding to the Trial project, and

WHEREAS, TIGARD has also received \$2,540,000 in Regional STP fund authority for the Main Street: 99W to Railroad project that can utilize the remaining balance of \$134,929 in Regional STP funding authority from the Washington Square Regional Center Trail project, and

NOW THEREFORE, the premises being in general as stated in the foregoing, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Pursuant to the authority cited above, TIGARD agrees to carry out the Fanno Creek Trail Project, as described in this MOU and in the terms and conditions of Intergovernmental Agreements (IGAs) that may be entered into by the Parties.
2. This MOU is effective October 1, 2009 through September 30, 2014. Either Party may terminate this MOU at any time by providing written notice of such termination to the other Party.
3. This MOU may be revisited and modified as needed, when the Parties so determine. Any modification to this MOU shall not be effective unless it is in writing and signed by both Parties.

4. This MOU in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.
5. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the Parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in a separate written IGA(s) between the Parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority.
6. The principal contacts for this MOU are:

Ted Leybold  
 MTIP Manager  
 Metro  
 600 NE Grand Avenue  
 Portland, OR 97232  
 Phone: (503) 797-1759  
 Fax: (503) 797-1911

Kim McMillan  
 Project Manger  
 City of Tigard  
 13125 SW Hall Blvd  
 Tigard, OR 97223-8187  
 Phone: (503) 718-2642

**METRO AGREES TO:**

1. Amend the MTIP/STIP to eliminate programming of \$251,071 of local funding and reprogram \$134,929 of STP funding from the Washington Square Regional Center Trail project to the Tigard Main Street project.
2. Amend the MTIP/STIP to program \$430,180 of local funding on the Fanno Creek Trail: Hall to Main Street project.

**TIGARD AGREES TO:**

1. Design and build the Fanno Creek Trail project between Hall Boulevard and Main Street using a minimum of \$430,180 in local funding (the original \$386,000 of Regional STP funding plus required local match of 10.27% of total project cost).
2. Provide periodic reporting to Metro on the progress in executing this project and request any significant changes in scope or schedule to the work program for approval by the Principal Contact for Metro.
3. If TIGARD does not adequately complete the project deliverables described above, \$386,000 of Regional STP funding authority or an amount up to \$386,000 as determined by the MPO governing board: the Joint Policy Advisory Committee on Transportation (JPACT), will be reprogrammed from the Tigard Main Street project to the Washington Square Regional Center Trail project. If no funding authority remains on the Tigard Main Street project at the time the JPACT decides to reprogram Regional STP authority to the Washington Square Regional Center Trail project, future Regional funding authority may be withheld from TIGARD until such time as JPACT determines that the obligation to develop the Washington Square Regional Center Trail project is met.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their seals as of the day and year written above.

**METRO**

  
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Robin McArthur  
 Director of Planning & Development

9/27/10  
 \_\_\_\_\_  
 Date

**CITY OF TIGARD**

  
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Craig Prosser  
 City Manager

9/17/10  
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 Date