

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 90-1326
ENTERING INTO AN INTERGOVERN-)	
MENTAL AGREEMENT REGARDING CO-)	Introduced by
ORDINATION OF DECISION-MAKING)	George Van Bergen, Chair
FOR THE WESTSIDE CORRIDOR PROJECT)	Joint Policy Advisory
AND HILLSBORO PROJECT)	Committee on Transportation

WHEREAS, The Westside Corridor Project and Hillsboro Project are evaluating alternatives for light rail transit and highway improvements between Portland and Washington County; and

WHEREAS, Approval of the Preferred Alternative for these projects must be consistent with Oregon land use law; and

WHEREAS, The Metropolitan Service District, Tri-Met, Oregon Department of Transportation, Portland, Beaverton, Hillsboro, Washington County and Multnomah County will be parties to approving the Preferred Alternative; now, therefore

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes entering into the Westside Transit Corridor Planning Coordination Agreement regarding coordination of decision-making for the Westside Corridor Project and Hillsboro Project in substantially the form contained in Exhibit A.

ADOPTED by the Council of the Metropolitan Service District this 27th day of Sept., 1990.



Tanya Collier, Presiding Officer

EXHIBIT A

WESTSIDE TRANSIT CORRIDOR
PLANNING COORDINATION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 1990, by the Metropolitan Service District (Metro), Oregon Department of Transportation (ODOT), Tri-County Metropolitan Transportation District of Oregon (Tri-Met), Washington and Multnomah counties, political subdivisions of the State of Oregon, and the cities of Beaverton, Hillsboro and Portland, incorporated municipalities of the state of Oregon.

WHEREAS, ORS chapter 190 authorizes units of local government and state agencies to enter into agreements for the performance of any or all functions and activities that a party to the agreement, its officers or agents, have authority to perform; and

WHEREAS, Statewide Planning Goal 11 (Facilities Planning), ORS 197.190, ORS 268.385, and OAR 660-11-015(2) require that city and county public facility plans and actions related to transportation facilities shall be coordinated with each other and state and federal providers of public facilities; and

WHEREAS, ORS 197.185 and OAR 660-11-015(3) require special districts to assist in the development of public facility plans for those facilities they provide, and to enter into intergovernmental cooperative agreements with affected jurisdictions or Metro to coordinate the plans and programs of the District affecting land use; and

WHEREAS, The Westside Corridor Project Draft Environmental Impact Statement (DEIS) was completed in 1982; and

WHEREAS, The Westside light rail transit was the recommended corridor and mode of transportation in the 1983 Preferred Alternative Report for the Westside Corridor from Downtown Portland to S.W. 185th Avenue; and

WHEREAS, Tri-Met prepared a DEIS Evaluation Report in January 1989 which identified changed circumstances and changes to the proposed action which would result in significant environmental impacts not addressed in the DEIS, and recommended supplementing the 1982 DEIS; and

WHEREAS, A Supplemental Draft Environmental Impact Statement (SDEIS) is being prepared by Tri-Met and ODOT, with the concurrence of the Urban Mass Transportation Administration (UMTA) and Federal Highway Administration (FHWA), to evaluate impacts of changed circumstances since 1982; evaluate the impacts of LRT alignment option and highway improvement refinements to the 1983 Preferred Alternative; and evaluate a No-Build

alternative as required by the National Environmental Policy Act, a Transportation Systems Management (TSM) alternative as required by UMTA, and short term options also required by UMTA; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated after hearings on the SDEIS technical findings; and

WHEREAS, Metro has initiated, with the concurrence of UMTA, an Alternative Analysis and Draft Environmental Impact Statement (AA/DEIS) for the Hillsboro Corridor west of 185th Avenue terminus of the Westside Corridor Project; and

WHEREAS, The Hillsboro AA/Draft EIS will evaluate an LRT extension, a TSM alternative, and a No-Build Alternative west of 185th Avenue; and

WHEREAS, A Preferred Alternative Report recommending an alternative is anticipated in the spring of 1991 after hearings on the AA/DEIS; and

WHEREAS, The Westside Corridor Project and Hillsboro Project Preferred Alternative adoption will be independent decisions; and

WHEREAS, State, regional, and local governments seek to coordinate facility planning for this major regional transportation corridor from the time a project configuration may first be adopted;

NOW, THEREFORE, METRO, ODOT, TRI-MET, MULTNOMAH COUNTY, WASHINGTON COUNTY, AND THE CITIES OF BEAVERTON, HILLSBORO AND PORTLAND AGREE AS FOLLOWS:

- I. Plan and Zoning Review: Metro, Counties and Cities hereby agree to initiate staff review of existing regional functional plan, comprehensive plan, and Public Facility Plan and land use regulation provisions relating to transportation in the Westside Corridor. These parties shall identify amendments to regional functional plans, and to local comprehensive plan policies, Public Facility Plan elements, and land use regulations and other adopted comprehensive plan implementation measures that are required if a "build" option is selected in the Preferred Alternative Reports, and to identify local plan and land use regulation requirements for which findings of consistency will be necessary.

II. Project Goal Findings:

- A. All parties hereby agree to consider and take action on the Preferred Alternative Reports as follows:
1. Metro shall consider any appropriate amendments to its Regional Transportation Plan at the time it considers adoption of the Preferred Alternative Reports recommendation of a project alternative for the Westside Corridor and Hillsboro Project by Resolution.
 2. Each County and City shall consider either (a) a Resolution adopting the Preferred Alternative Reports if the recommended project is consistent with its comprehensive plan, or (b) a Resolution of Intent approving the recommended alternative subject to review of any comprehensive plan or land use regulation amendments needed to adopt the Preferred Alternative Reports.
 3. Tri-Met shall consider adoption of the Preferred Alternative Reports after Metro, Counties, and Cities have considered Resolutions under this section.
 4. ODOT will take such actions as may be required on the Preferred Alternative Reports in the manner to be set forth in a state agency coordination program to be certified by the Land Conservation and Development Commission in the fall of 1990.
- If adopted by any party the Preferred Alternative Reports shall be supported by findings of consistency with applicable statewide goals and specific comprehensive plan provisions and other land use regulations of individual jurisdictions.
- B. All parties hereby agree to provide staff participation in the development of land use findings for applicable statewide planning goals for any project configuration in the Preferred Alternative Reports considered for adoption by all affected jurisdictions. The Westside Corridor Project and the Hillsboro Project shall be responsible for the development of Project Goal

Findings with the participation and assistance of all parties coordinated by Metro.

- C. If the Reports are adopted, each party shall prepare any appropriate amendments to its comprehensive plan based upon these project goal findings needed to be consistent with the Preferred Alternative Reports. Each party takes such action in accordance with the adoption procedures established for the party as indicated in III. below. If any County or City adopts a Resolution of Intent, it shall immediately authorize staff to notify the Director of the Department of Land Conservation and Development of any proposed comprehensive plan or land use regulation amendments and schedule the final hearing to consider adoption of the proposed amendments.

III. Specific Plan Findings: Each County and City which adopts a Resolution of Intent requiring consideration of comprehensive plan policy or map amendments, public facility plan amendments, amendments to land use regulations, amendments to other adopted comprehensive plan implementation measures, or additional goal findings consistent with incorporation of an adopted Preferred Alternative Reports for the Westside Corridor Project or Hillsboro Project shall be responsible for preparing findings particular to its plan to supplement Project Goal Findings. Any such amendments, supported by specific plan and goal findings, shall be prepared for consideration at the time the Preferred Alternative Reports recommendation with project goal findings is considered, to the extent possible. If comprehensive plan, or public facility plan, or other changes are not required, each County and City shall prepare for consideration any findings required to demonstrate consistency of the Preferred Alternative Reports with its adopted comprehensive plan and land use regulations at the time the Preferred Alternative Reports are considered for adoption.

IV. Local Implementation: Implementation of comprehensive plan provisions for any Westside Corridor Project or Hillsboro Project will require detailed project design and mitigation specifications. These details are beyond the scope of a Preferred Alternative Reports project recommendation. Such design specification decisions shall be accomplished at design review or permit approval by each city or county consistent with its comprehensive plan, public facility plan, and

zoning ordinance for that portion of the Westside Corridor or Hillsboro facility within its jurisdiction.

Specifically, in the City of Portland additional design specification decisions may include, but are not limited to the following actions: design review approval; land use approval for tracks, transit stations, electrical substations, and/or park-and-ride facility, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; City Engineer order requiring relocation of existing facilities to accommodate construction; City Forester review under the proposed Scenic Resources Protection Plan, if adopted; review and selection of E zone mitigation measures, if applicable; and condemnation of property to accommodate construction, if necessary.

In Washington and Multnomah counties, public utility special use permits may be required for any park-and-ride facilities, transit centers, and relocation of public utilities. Facilities permits may be required for LRT crossings of county roads, drainage pipes or other structures.

In the City of Beaverton, additional design specification decisions may be made following any necessary amendments to the General Plan and Development Code resulting from the adoption of a preferred alignment by one or more of the following actions: review by the Facilities Review Committee, which may include review of easements, street use permits, utilities, electric substations, and related technical issues; design review approval; floodplain alternation approval, land use approval for tracks, park-and-ride lots, and/or stations and related facilities; and the condemnation of property necessary to accommodate construction of the selected preferred alternative.

In the City of Hillsboro, additional design specification decisions may include, but are not limited to the following actions: Development Review approval; floodplain alteration approval, cultural resource alteration approval, land use approval for transit stations, electrical substations, and/or park-and-ride facilities, if required by the underlying zone; the approval of easements, street use permits and/or subsurface leases pertaining to City rights-of-way; relocation of existing facilities to accommodate

construction; and condemnation of property to accommodate construction, if necessary.

- V. Joint Defense of Appeals: All parties hereby agree that the appeal of any party's action to LUBA or the courts based on the regional goal findings in II. above, shall cause the remaining parties who have adopted the Preferred Alternative Reports or a Resolution of Intent to intervene as parties to the appeal with coordinated participation and representation in defense of the recommendation decision. An appeal based on additional plan or land use regulation amendments and findings in III., above, or an implementation action under IV., above, shall be the responsibility of the affected jurisdiction with the cooperation of all remaining parties, as appropriate.

VI. Coordination of Planning and Implementation Actions:

A. Definitions

1. Regional Transportation Plan means the regional functional plan for transportation adopted by Metro pursuant to ORS 268.390(2) containing transportation project recommendations and requirements identified as necessary for orderly and responsible development of the metropolitan area.
2. Comprehensive Plan shall have the meaning set forth in ORS 197.015(5).
3. Land Use Regulation shall have the meaning set forth in ORS 197.015(11).
4. Supplemental Draft EIS is the document being prepared by Tri-Met and ODOT with the concurrence of UMTA and FHWA to comply with the requirements of NEPA.
5. Preferred Alternative Report is the report being prepared to define the preferred alternative of light rail transit and any needed highways for the Westside Corridor Project.
6. Westside Corridor Project is the transit and highway project from downtown Portland to 185th Avenue.

7. Hillsboro Project is the project from 185th Avenue to the Hillsboro Transit Center.

B. Metro, Counties and Cities shall provide all parties with the appropriate opportunity to participate, review and comment on proposed amendments to or adoption of the regional transportation plan, comprehensive plans, or implementing regulations relating to a Westside Corridor project. The following procedures shall be used by these parties to notify and involve all parties in the process to amend or adopt a regional transportation plan, comprehensive plan, or implementing regulation relating to a Westside Corridor project:

1. The party with jurisdiction over a proposed amendment, hereinafter the originating party, shall notify the other parties, hereinafter responding parties, of the proposed action at the time such planning efforts are initiated, but in no case less than forty-five (45) days prior to the final hearing on adoption. The specific method and level of involvement may be finalized by "Memorandums of Understanding" negotiated and signed by the planning directors or other appropriate staff of the respective parties. "Memorandums of Understanding" shall clearly outline the process by which the responding party shall participate in the adoption process.
2. The originating party shall transmit draft recommendations on any proposed actions to the responding parties for review and comment before finalizing. Unless otherwise agreed to in a "Memorandum of Understanding," responding parties shall have ten (10) days after receipt of a draft to submit comments orally or in writing. Lack of response shall be considered "no objection" to the draft.
3. The originating party shall respond to the comments made by the responding party either by a) revising the final recommendations, or b) by letter to the responding party explaining why the comments cannot be addressed in the final draft.
4. Comments from the responding parties shall be given consideration as a part of the public record on the proposed action. If after such consideration, the originating party acts contrary to the position of a responding party, the

responding party may seek appeal of the action through the appropriate appeals body and procedures.

5. Upon final adoption of the proposed action by the originating party, it shall transmit the adopting ordinance to the responding party as soon as publicly available, or if not adopted by ordinance, whatever other written documentation is available to properly inform the responding party of the final actions taken.

VII. Amendments to this Facilities Planning Coordination Agreement

- A. The following procedures shall be followed by all parties to amend the language of this agreement:
 1. The party originating the proposal, shall submit a formal request for amendment to the responding parties.
 2. The formal request shall contain the following:
 - a. A statement describing the amendment.
 - b. A statement of findings indicating why the proposed amendment is necessary.
 - c. If the request is to amend a recommendation of the Preferred Alternative Report, a map which clearly indicates the location of the proposed change and surrounding area.
 3. Upon receipt of a request for amendment from the originating party, responding parties shall schedule a review of the request before the appropriate governing bodies with forty-five (45) days of the date the request is received.
 4. All parties shall make good faith efforts to resolve requests to amend this Agreement. Upon completion of the review, the reviewing body may approve the request, deny the request, or make a determination that the proposed amendment warrants additional review. If it is determined that additional review is necessary, the following procedures shall be followed:
 - a. All parties shall agree to initiate a joint study. Such a study shall commence within thirty (30) days of the date it is determined

that a proposed amendment creates a disagreement, and shall be completed within ninety (90) days of said date. Methodologies and procedures regulating the conduct of the joint study shall be mutually agreed upon by all parties prior to commencing the study.

b. Upon completion of the joint study, the study and the recommendations drawn from it shall be included within the record of the review. The party considering the proposed amendment shall give careful consideration to the study prior to making a final decision.

B. The parties will jointly review this Agreement every two (2) years to evaluate the effectiveness of the processes set forth herein and to make any amendments. The review process shall commence two (2) years from the date of execution and shall be completed within sixty (60) days. All parties shall make a good faith effort to resolve inconsistencies that may have developed since the previous review. If, after completion of the 60-day review period inconsistencies still remain, any party may terminate this Agreement.

METROPOLITAN SERVICE DISTRICT

OREGON DEPARTMENT OF
TRANSPORTATION

TRI-COUNTY
METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON

WASHINGTON COUNTY

MULTNOMAH COUNTY

CITY OF BEAVERTON

CITY OF HILLSBORO

CITY OF PORTLAND

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1326 FOR THE PURPOSE
OF AUTHORIZING ENTERING INTO AN INTERGOVERNMENTAL AGREE-
MENT REGARDING COORDINATION OF DECISION-MAKING FOR THE
WESTSIDE CORRIDOR PROJECT AND HILLSBORO PROJECT

Date: September 17, 1990

Presented by: Andrew Cotugno

PROPOSED ACTION

Authorizing entering into an Intergovernmental Agreement with Tri-Met, Oregon Department of Transportation (ODOT), Portland, Beaverton, Hillsboro, Washington County and Multnomah County regarding decision-making for approvals of the Westside Corridor Project Preferred Alternative.

FACTUAL BACKGROUND AND ANALYSIS

Final approval of the preferred transit and highway alternative for the Westside Corridor Project will involve eight different jurisdictions at several different points in the process. Each decision probably represents a land use decision appealable by individuals and groups not satisfied with the selected alternative. This agreement identifies these decision points, the basis for appeal and procedures to ensure a proper process is followed in approving each decision. Generally, the following major decisions have been identified:

- A. Approval of Preferred Alternative Report. This is the key decision by all eight jurisdictions approving a common preferred alternative for the full length of the project. Findings of consistency with the statewide land use goals as well as findings of consistency with each comprehensive plan will be developed and adopted.
- B. Plan Amendments. Following approval of the preferred alternative, each jurisdiction may be required to amend their comprehensive plans (or the Regional Transportation Plan [RTP]) to reflect the selected preferred alternative.
- C. Design Review. Later in the process, various local approvals will be required for specific design features of the project.

The approval of the Preferred Alternative is the key decision point governing whether or not the project will be built and which option will be built. It is likely to be identified by the courts as the policy decision to build the described project for land use purposes, even though a final construction decision is subject to further review under federal procedure. Individual comprehensive

plan amendments will simply be follow-up actions to implement the preferred alternative approval if the project is not fundamentally changed. Design review approvals will be limited to questions regarding how the project will be built and will not be an opportunity to question whether the project is built.

The intergovernmental agreement also deals with jurisdictional responsibilities for preparation of findings and legal defense. The findings of consistency with the statewide goals will be the responsibility of the project with Metro's coordination. Findings for each comprehensive plan will be the responsibility of that jurisdiction. Similarly, any appeal of the preferred alternative approval will involve intervention by all eight jurisdictions on behalf of any jurisdiction whose decision was appealed. Conversely, appeals of later decisions will be the responsibility of that jurisdiction.

Approval of this intergovernmental agreement is proposed now to ensure that these procedures are properly defined before project approvals begin later this year.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 90-1326.

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT

RESOLUTION NO. 90-1326, FOR THE PURPOSE OF AUTHORIZING ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT REGARDING COORDINATION OF DECISION-MAKING FOR THE WESTSIDE PROJECT AND THE HILLSBORO PROJECT

Date: September 26, 1990

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At the September 25, 1990 Intergovernmental Relations Committee meeting, Councilors Gardner, Hansen and myself voted unanimously to recommend Council adopt Resolution No. 90-1326. Councilors Devlin and McFarland were excused.

COMMITTEE DISCUSSION/ISSUES: Resolution No. 90-1326 approves an Intergovernmental Agreement (IGA) with seven other governmental bodies -- Oregon Department of Transportation (ODOT), Tri-Met, Portland, Beaverton, Hillsboro, Multnomah and Washington Counties -- regarding coordination of decision-making for the Westside Light Rail (LRT) project. The project is comprised of three major pieces: Westside LRT development and construction, Highway 26 and 217 light rail related improvements, and the Hillsboro extension.

The IGA outlines a decision-making process which ensures compliance with State land-use laws. The State Land Conservation and Development Commission is in the process of developing similar guidelines as general "Administrative Rules" but the Westside project is well under way and needs guidelines now for upcoming critical decisions. The main purpose of the decision-making process is to identify major project decision points and the basis for appeal of those points. The Staff Report identifies the three main project decisions: Approval of the Preferred Alternative (essentially the "go/don't go" point), Plan Amendments (follow-up actions by local jurisdictions to amend their comprehensive plans as needed), and Design Review (local approvals for specific design features of the project).

The Committee discussed if the Land Use Board of Appeals (LUBA) had agreed to the decision-making process as defined and whether they would accept the premise that after approval of the Preferred Alternative appeals of the project as a whole would not be applicable. Transportation staff noted Metro Legal Counsel Larry Shaw had reviewed the process as it developed and believed LUBA would support the process because it is consistent with prior LUBA planning interpretations.

It was noted the IGA also provides for jurisdictions' responsibilities for decision appeals. Any appeal of the Preferred Alternative approval will involve intervention by all eight jurisdictions to the IGA on behalf of any jurisdiction whose decision was appealed. Appeals to later "follow-up" decisions -- Plan Amendments and Design Review -- will be the responsibility of the affected jurisdiction.