

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2015-18)	RESOLUTION NO. 15-4646
METROPOLITAN TRANSPORTATION)	
IMPROVEMENT PROGRAM (MTIP) TO)	
REPROGRAM THE CITY OF MILWAUKIE'S)	
OR99E BRIDGE AT KELLOGG LAKE PROJECT)	Introduced by: "Chief Operating Officer
SURFACE TRANSPORTATION PROGRAM (STP))	Martha Bennett in concurrence with
FUNDS OF \$1,055,000 TO THEIR 17 TH AVENUE)	Council President Tom Hughes"
MULTI-USE TRAIL PROJECT FOR)	
CONSTRUCTION)	

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 approved the 2015-18 MTIP on July 31, 2014; and

WHEREAS, JPACT and the Metro Council must approve any subsequent amendments to add new projects or substantially modify existing projects in the MTIP; and

WHEREAS, the development of the 17th Ave Multi-use Trail project through preliminary engineering (PE) and the Plans, Specifications, & Estimates (PS&E) phases resulted in a revised construction estimate increase of approximately \$1 million dollars; and

WHEREAS, the city of Milwaukie attempted but was not successful to fill the construction phase funding shortfall by securing an Oregon Parks and Recreation District (OPRD) grant; and

WHEREAS, the city of Milwaukie has attempted to secure other funding options without success to fill the 17th Ave Multi-use Trail construction phase shortfall; and

WHEREAS, STP funding for the OR99E Bridge at Kellogg Lake project became the fall-back option to resolve the 17th Ave Multi-use Trail construction phase funding shortfall.

WHEREAS, the city of Milwaukie on August 4, 2015 approved the reallocation of \$1,055,000 of STP funds from the OR99E Bridge at Kellogg Lake PE phase to the 17th Ave Multi-use Trail Construction phase; and

WHEREAS, the city of Milwaukie will use local funds for the time being to continue engineering study work on the OR99E Bridge at Kellogg Lake; and

WHEREAS, the city of Milwaukie will provide the corresponding local match against the increase federal STP funds for the construction phase for the 17th Ave Multi-use trail project; and

WHEREAS, the city of Milwaukie has completed the PE and PS&E phases for the 17th Ave Multi-use Trail project and has obligated their Right-of-Way STP funds and is progressing through the Right-of Way Acquisition phase; and

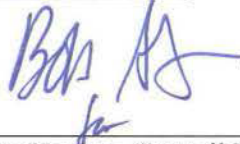
WHEREAS, the construction schedule for the 17th Ave Multi-use Trail project anticipates a construction start during the first quarter of 2016; and

WHEREAS, failure to resolve the construction phase funding shortfall will prevent the 17th Ave Multi-use Trail Project from completing the full trail and result in a significant gap in the trail system; and

WHEREAS, the Metro Joint Policy Advisory Committee on Transportation recommended approval on October 8, 2015; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to formally amend the 2015-18 MTIP to reallocate the OR99E Bridge at Kellogg Lake project STP PE funds of \$1,055,000 and reprogram them to the city of Milwaukie's 17th Ave Multi-use Trail project for the Construction phase to fill the construction phase funding shortfall.

ADOPTED by the Metro Council this 15th day of October 2015.



Tom Hughes, Council President

Approved as to Form:



Alison R. Kean, Metro Attorney

Exhibit A to Resolution No. 15-4646

2015-18 Metropolitan Transportation Improvement Plan Chapter 5 Tables Amendment

Action: Amend MTIP to deprogram the City of Milwaukie’s \$1,055,000 of STP in PE from the OR99 E Bridge at Kellogg Lake and replace with local funds, plus commit and reprogram the \$1,055,000 of STP in the Construction phase for the City of Milwaukie’s 17th Ave Multi-use Trail project.

Existing programming:

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost (all phases, all years)	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local (State) Match	Other Funds	Total Funding
OR99 E Bridge at Kellogg Lake	Design funding for removal of both dam and bridge, with a bridge replacement	15598	City of Milwaukie	Not stated	PE	STP	2015	\$1,055,000	\$ 120,749		\$1,175,749
17 th Ave Multi-use Trail: SE Ochoco to SE McLoughlin	Trail on west side of SE 17 th Avenue between Ochoco St and McLoughlin Blvd and possibly on-street bike lanes. Links two significant regional multi-use trails: The Trolley Trail and the Springwater Corridor Trail.	18018	City of Milwaukie	\$3,308,814	PE	STP	2013	\$1,245,384	\$ 142,540		\$3,308,814
					R/W	STP	2015	\$ 143,568	\$ 16,432		
					Cons	STP	<u>2015</u>	<u>\$1,580,047</u>	<u>\$ 180,843</u>		
							Total	\$2,968,999	\$ 339,815		

Notes:

1. STP = Federal Surface Transportation Program funds.
2. PE = Preliminary Engineering (MTIP programming phase that combine PE (NEPA activities) and Plans, Specifications, & Estimates (PS&E)).
3. R/W = The MTIP Right-of-Way Acquisition programming phase that combines Right-of-Way Acquisition and Utilities relocation into one phase.
4. Cons = The MTIP Construction programming phase.
5. The 17th Ave STP for PE has been obligate. The PE phase (PE + PS&E) is now completed.
6. The 17th Ave STP for R/W has been obligated. The project is currently progressing through the R/W phase.

Exhibit A to Resolution No. 15-4646

Amended programming:

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost (all phases, all years)	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local (State) Match	Other Funds	Total Funding
OR99 E Bridge at Kellogg Lake	Design funding for removal of both dam and bridge, with a bridge replacement	15598	City of Milwaukie	Not stated	PE	STP	2015	\$ 0	\$1,175,749		\$1,175,749
17 th Ave Multi-use Trail: SE Ochoco to SE McLoughlin	Trail on west side of SE 17 th Avenue between Ochoco St and McLoughlin Blvd and possibly on-street bike lanes. Links two significant regional multi-use trails: The Trolley Trail and the Springwater Corridor Trail.	18018	City of Milwaukie	\$3,308,814	PE R/W Cons	STP STP STP	2013 2015 <u>2015</u> Total	\$1,245,384 \$ 143,568 <u>\$2,635,047</u> \$4,023,999	\$ 142,540 \$ 16,432 <u>\$ 301,600</u> \$ 460,572		\$4,484,571

Notes

1. STP = Federal Surface Transportation Program funds.
2. PE = Preliminary Engineering (MTIP programming phase that combine PE (NEPA activities) and Plans, Specifications, & Estimates (PS&E)).
3. R/W = The MTIP Right-of-Way Acquisition programming phase that combines Right-of-Way Acquisition and Utilities relocation into one phase.
4. Cons = The MTIP Construction programming phase.
5. \$1,055,000 of STP is reprogrammed from the OR99 E Bridge at Kellogg Lake project to the 17th Ave Multi-use Trail project for the Construction phase.
6. The 17th Ave Construction phase STP funding increases from \$1,580,047 to \$2,635,047. The Construction phase total funding increases from \$1,760,890 to \$2,936,647.
7. The 17th Ave total project cost increases from \$3,308,814 to \$4,484,571.

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE 2015-18 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO REPROGRAM THE CITY OF MILWAUKIE'S OR99E BRIDGE AT KELLOGG LAKE PROJECT SURFACE TRANSPORTATION PROGRAM (STP) FUNDS OF \$1,055,000 TO THEIR 17TH AVENUE MULTI-USE TRAIL PROJECT FOR CONSTRUCTION

Date: September 28, 2015

Prepared by: Ken Lobeck, 503-797-1785

BACKGROUND:

The MPO and the MTIP:

The Metropolitan Transportation Improvement Program (MTIP) is the federally mandated four-year schedule of expenditures of federal transportation funds as well as significant state and local funds in the Portland metropolitan region. The MTIP represents the first-four year implementation document of the long range Regional Transportation Plan (RTP). Development, management, updates, and amendments to the MTIP are the responsibility of the Metropolitan Planning Organization (MPO). The process of adding, removing, updating, or amending projects and their corresponding funding in the MTIP is called "programming". Guidance governing the process to complete required project programming in the MTIP originates from 23 CFR Part 450, Section 324. The MPO is tasked to complete the periodic full update and needed amendments to the MTIP in accordance 23 CFR Part 450. Additional supplemental programming guidance is also developed between FHWA/FTA, and the MPO over time when programming clarifications are needed. Overall, the approved MTIP provides the following:

- The MTIP provides a financial four-year snapshot of how federal transportation funding is committed to specific projects, and their phases.
- The MTIP includes state and local funding that is committed as matching funds against the federal funds, or to regionally significant transportation projects in the region that may require federal approvals to implement.
- The MTIP provides the regional transportation investment picture and goals identified in the long-range RTP during the RTP's first four years.
- The MTIP provides accountability of the federal transportation funding ensuring that the funds are used for their intended eligibility for the identified projects, phases, and project scope elements.
- The MTIP is the official document validating that the MPO and region has adhered to the programming rules of financial constraint reflecting that the fund programming does not exceed the annual fund apportionments or specific allocations.
- The MTIP provides the picture of unobligated federal funds allowing project lead agencies the ability to obligate and expend their awarded or allocated federal transportation funding.
- The MTIP through its complex programming process provides a confirmation that the region's conformity finding achieved in the RTP is still correctly maintained ensuring that the region can continue receiving federal transportation funds.
- Metro as the MTIP manager acts as the conduit to complete required MTIP programming actions for agencies receiving federal transportation not managed directly by Metro, ensuring they can obligate and expend their funding in timely fashion.
- In air quality nonattainment and maintenance areas (and to a lesser degree in attainment areas), the MTIP is the source validation document as part of the NEPA record of decision (ROD)

process ensuring the conformity requirements were completed, and the estimated project costs as stated in the environmental document are consistent with MTIP programming.

Metro's Management Role with the MTIP:

As the MPO, Metro has the responsibility to correctly develop and maintain the MTIP in accordance with all federal related programming regulations and guidelines. Without Metro's efforts to correctly develop, update, manage, and maintain the MTIP, the financial constraint finding, the conformity finding, or both could be revoked. If this were to occur, all agencies that receive federal transportation funding in the Metro region would not be able obligate and expend the awarded funding. Work to complete NEPA environmental documents for federally funded or federalized projects would stop. Project "Notice to Proceed (NTPs)" also could be halted until the financial constraint or conformity issue was resolved. Finally, under extreme situations, FHWA or FTA can revoke an MPO's or a specific agency's (as the direct recipient of federal transportation funds) ability to receive future federal transportation funding.

MTIP Formal and Administrative Amendments:

Approximately every three years, the MTIP receives a full update that includes system network re-modeling for conformity requirements. The MTIP update provides the next four-year "snap-shot" of how funding committed to the transportation system will be expended. A full MTIP update may occur in conjunction with the MPO's RTP update or separately as a formal amendment to the RTP. The next full MTIP update will occur in conjunction with the development of the 2018 RTP. In between MTIP updates, Metro as the MPO is authorized by FHWA and FTA to complete required project amendments to the MTIP. There are two types of MTIP amendments Metro is authorized to complete: Administrative and Formal Amendments.

MTIP Administrative and Formal Amendments:

Metro's 2015-2018 MTIP, Chapter 6, Table 6.1 outlines the differences between Administrative and Formal amendments that staff uses as a guide to complete the required programming actions. The short summary of Administrative and Formal MTIP amendments is as follows:

Administrative amendments involve minor "administrative-type" changes to projects that clearly demonstrate that no impact to financial constraint or the conformity finding is occurring as a result of the programming changed. Examples of changes allowed within administrative amendments include a minor description change to clarify project scope elements, a change to the lead agency that will obligate and expend the funds, and shifting funding between the project phases if the change is kept within the same programmed year. Since administrative amendments have no impact upon the existing financial constraint and conformity findings, they do not require FHWA approval and formal resolution/approval from Metro Council. Administrative amendments are approved by ODOT acting as the delegated approval arm on behalf of FHWA/FTA.

As the name suggests, Formal MTIP amendments require additional approval steps, documentation, plus formal resolution and approval by JPACT, and Metro Council. Formal amendments also require approval from FHWA/FTA. Formal amendments do not impact the conformity finding or financial constraint. However, Formal amendments must demonstrate through the documentation process and approval process that the conformity finding and financial constraint are maintained correctly. Table 6.1 in the MTIP outlines examples and exceptions between Administrative and Formal amendments. An example is a new preservation project on the Interstate Highway system where the funding exceeds \$5 million dollars. The Administrative or Formal threshold for this project category is \$5 million. If a new project was requested to be added to the MTIP, and the total project cost in this example were \$6.5 million, and

on the Interstate Highway system, then a Formal amendment is required to add the project to the MTIP per Table 6.1.

In the specific case of the city of Milwaukie's OR99E at Kellogg Lake and 17th Ave Multi-use Trail projects, the reprogramming action falls under Table 6.1 as a "Addition or deletion of a project" which requires a formal MTIP amendment. By reprogramming the previously awarded RFFA funds from the city of Milwaukie's OR99E at Kellogg Lake to their 17th Ave Multi-use Trail project for construction, the action effectively de-federalizes and deprograms previously awarded RFFA funds constituting a project deletion.

OR99E Bridge at Kellogg Lake and 17th Ave Multi-Use Trail Projects:

Both the city of Milwaukie's OR99E Bridge at Kellogg Lake and 17th Avenue Multi-use Trail: SE Ochoco to SE McLoughlin were awarded Surface Transportation Program (STP) funds from the Regional Flexible Fund Allocation (RFFA). The OR99E Bridge at Kellogg Lake project was awarded a total of \$1,055,000 of RFFA from the 2010-11 RFFA cycle. The 17th Ave Multi-Use Trail project was awarded \$2,968,999 of RFFA from the 2014-15 RFFA cycle that was applied to all three MTIP phases (PE, R/W, and Construction). A summary of the awarded funding includes the following:

- OR99E Bridge at Kellogg Lake:
 - MTIP ID: 70035.
 - \$1,055,000 of STP supporting the Preliminary Engineering phase activities.
- 17th Avenue Multi-use Trail – SE Ochoco to SE McLoughlin:
 - MTIP ID: 70479.
 - \$2,968,999 of STP supporting all three MTIP phases:
 - \$1,245,384 for Preliminary Engineering.
 - \$143,568 for Right-of-Way Acquisition.
 - \$1,580,047 for Construction.

The OR99E Bridge at Kellogg Lake project is a complex project with multiple goals. The project intends to remove Kellogg dam, address contaminated sediments, re-establish fish passage riparian habitat for endangered salmon and native wildlife, and provide pedestrian access underneath OR99E (SE McLoughlin Boulevard). Determination of whether this could be accomplished with a retrofit of the existing highway structure or a new highway bridge would be needed is also a part of the project scope. The project is intended to achieve five specific goals that include:

1. Habitat Restoration:
By restoring 14 acres of native habitat within the former lakebed, the Kellogg-for-Coho-Initiative will provide crucially needed habitat for native plants, fish, and wildlife including several Endangered Species Act-listed species such as Lower Columbia coho salmon, Spring Chinook salmon, and Steelhead.
2. Fish Passage:
Removing Kellogg Dam will open almost 9 miles of stream habitat. Due to its ecological potential, the KFCI is prioritized in local, regional, and state level recovery and resource management plans.
3. Downtown Revitalization:
The initiative will restore a natural area adjacent to Milwaukie's developing, transit-oriented South Downtown and will be a significant amenity to the community.

4. Public Education:

The restored creek will provide community access to a wealth of public education opportunities. Citizens and visitors alike can learn how urban re-development can support both environmental and economic agendas.

5. Supporting Transportation Options:

A newly constructed bridge over Kellogg Creek would improve Milwaukie's infrastructure while supporting bike and pedestrian options in the vicinity of the creek by adding bike lanes along OR-99E and separated bike/ped access underneath McLoughlin Boulevard between Kronberg and Riverfront Parks.

Unfortunately, the city of Milwaukie has experienced challenges to get the OR99E Bridge at Kellogg Lake project moving forward. The City has not been able to obligate their STP funds. With no short term solution to implement the PE for the project and with the RFFA STP funds being significantly aged as of 2015, the city of Milwaukie and Metro staff evaluated potential alternative options for the RFFA sourced STP funds. One option raised was to reprogram the \$1,055,000 of STP to the 17th Ave Multi-use Trail project.

The 17th Ave Multi-use Trail project has obligated and is completing the Preliminary Engineering phase which includes required studies and activities for Preliminary Engineering (i.e. completion of NEPA), and Plans Specifications, & Estimates (PS&E). The project has obligated their STP funds to complete Right-of-Way Acquisition requirements with a target Right-of-Way phase completion date of October 2015. Construction is scheduled to begin by May of 2016.

During the PS&E phase, more detailed cost estimates become clearer based on the final design alternative for the project. As the 17th Ave Multi-use Trail moved through the PS&E phase, the cost estimate for the Construction phase was identified as being short by about one million dollars from the initial estimate submitted application for RFFA funding. The project needs to identify additional funding to fill the construction funding shortfall. The existing MTIP programming for the project is \$3.3 million. The Construction phase estimate has increased from \$1.58 million to about \$2.64 million. The revised cost estimate for the entire project has increased from its original \$3.3 million estimate to approximately \$4.4 million.

The city of Milwaukie pursued multiple funding options to address the Construction phase shortfall including an Oregon Parks and Recreation District (OPRD) grant. The city was not successful with their OPRD grant application. Without a clear solution present to solve the Construction phase funding gap, the City of Milwaukie evaluated the option of utilizing the OR99E Bridge at Kellogg Lake STP funds to cover the funding gap. On August 4, 2015, the Milwaukie City Council approved this option. The city of Milwaukie then contacted Metro with the formal request to reallocate the \$1,055,000 of STP from the OR99E Bridge at Kellogg Lake and reprogram the funds in the Construction phase for the 17th Avenue Multi-use Trail: SE Ochoco to SE MacLoughlin project. Staff's review of this proposal determined the reprogramming request was an eligible option and allowable use for the STP funds.

The reprogramming request is considered a lateral budgetary adjustment. No new Metro appropriated STP or other allocated federal funds are being committed to either project. The MTIP Financial Constraint requirement is maintained. There is no conformity issue as well as the financial reprogramming has not impact to the Conformity Finding.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:** Amends the 2015-2018 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 14-4532 on July 31, 2014 (For The Purpose of Adopting the Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).
3. **Anticipated Effects:** Enables the project to obligate and expend awarded federal funds to complete the 17th Ave Multi-use Trail Construction phase.
4. **Budget Impacts:** None

RECOMMENDED ACTION:

TPAC recommends the approval of Resolution 15-4646. (TPAC approval on September 25, 2015).

Attachments:

1. Mayor Mark Gamba's STP Reallocation Request to Metro
2. Milwaukie City Council August 4, 2015 17th Ave Trail Funding Staff Report



August 19, 2015

Ted Leybold
Resource Development Manager
Planning Department
Metro
600 NE Grand Ave
Portland, OR 97232

Subject: STP Fund Swap Request between OR99 E Bridge at Kellogg Lake and the 17th Ave Multi-Use Trail Projects

Dear Mr. Leybold:

This letter reaffirms the city of Milwaukie's request and need to reallocate the STP funds (\$1,055,000) currently programmed for the OR99 E Bridge at Kellogg Lake project to the 17th Ave Multi-Use Trail project to fill the existing Construction phase funding gap.

On August 4, 2015, the Milwaukie City Council held a work session and discussed in detail the issues surrounding the OR99 E Bridge at Kellogg Lake project and our available options for the STP funds.

Council members discussed the issues the City faces with federal review agencies and with ODOT to move this project forward. Obligating the STP for PE for the project does not seem a viable option based on the issues we potentially face with this project. We are still committed to the OR99 E Bridge at Kellogg Lake project. However, using the STP for PE activities does not appear to be our best option currently.

Council members also discussed the funding shortfall for the Construction phase for the 17th Ave Multi-use Trail project and the difficulties in securing additional funding to fill the funding gap. Rather than potentially lose the \$1,055,000 on the OR99 E Bridge at Kellogg Lake, we believe the best "Plan B" would be to reallocate the \$1,055,000 of STP to the 17th Ave Multi-use Trail to fill the Construction phase funding gap.

The Council agreed unanimously to this action. Please consider this the Milwaukie City Council's formal authorization to proceed to reallocate the \$1,055,000 of STP funds from the OR99 E Bridge at Kellogg Lake project to our 17th Ave Multi-Use Trail to support the Construction Phase.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gamba", is written over a faint, larger version of the same signature.

The Honorable Mark Gamba
Mayor, City of Milwaukie



**MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY**

Agenda Item: **WS 2.**

Meeting Date: **August 4, 2015**

Title: **17th Avenue Trail Funding**

Prepared By: Brad Albert, Interim Engineering Director

Department Approval: Alma Flores, Community Development Director

City Manager Approval: Bill Monahan

Approval Date: July 22, 2015

ISSUES BEFORE COUNCIL

The 17th Avenue Trail did not receive the Oregon Parks and Recreation District (OPRD) Local Government Grant Program grant. The trail project is anticipating a funding gap of approximately \$1 million to complete the project.

STAFF RECOMMENDATION

Staff recommends re-allocating the Kellogg Dam removal engineering study funds to the 17th Avenue Trail project.

KEY FACTS & INFORMATION SUMMARY

- Funding options to fill the gap in the 17th Avenue Trail project are becoming scarce. As mentioned above, the City applied for an OPRD Grant but did not receive funds.
- The Trail project final plans and specifications are scheduled to be complete January 1, 2016 for a scheduled construction start of spring 2016.
- The engineering study for the Kellogg Dam removal would be invalid if the construction of the bridge replacement did not commence within 5 years of the engineering study.
- Funds for the Kellogg Dam removal engineering study have been in the ODOT STIP for approximately four years. The funds are allocated each year and revolve to the next year. At some point, presumably within the next year or two, the funds will not be reallocated for the engineering study if not used.

OTHER ALTERNATIVES CONSIDERED

Staff continues to search for funding alternatives but the timing of the project is making it difficult to secure funding by the end of the year. If funding is not secured by the end of the year, we will not be able to construct the entire trail. A significant gap in the trail system will remain and funding to finish the trail will have to be secured in the future.

CITY COUNCIL GOALS

Focus community resources on an all-inclusive bike, pedestrian, and street safety program.

FISCAL NOTES

The City would not incur additional match funding needs to re-allocate funds from the Kellogg Dam removal study to the 17th Avenue Trail project.