



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, February 23, 2023

10:30 AM

<https://zoom.us/j/615079992>, or
877-853-5257 (toll free) (Webinar ID:
615079992)

This meeting will be held electronically. You can join the meeting on your computer or other device by using this link: <https://zoom.us/j/615079992>, or 877-853-5257 (toll free) (Webinar ID: 615079992)

1. Call to Order and Roll Call

2. Public Communication

Public comment may be submitted in writing. It will also be heard in person and by electronic communication (video conference or telephone). Written comments should be submitted electronically by emailing legislativecoordinator@oregonmetro.gov. Written comments received by 4:00 p.m. the day before the meeting will be provided to the council prior to the meeting.

Those wishing to testify orally are encouraged to sign up in advance by either: (a) contacting the legislative coordinator by phone at 503-813-7591 and providing your name and the agenda item on which you wish to testify; or (b) registering by email by sending your name and the agenda item on which you wish to testify to legislativecoordinator@oregonmetro.gov. Those wishing to testify in person should fill out a blue card found in the back of the Council Chamber.

Those requesting to comment virtually during the meeting can do so by joining the meeting using this link: <https://zoom.us/j/615079992> (Webinar ID: 615079992) or 888-475-4499 (toll free) and using the "Raise Hand" feature in Zoom or emailing the legislative coordinator at legislativecoordinator@oregonmetro.gov. Individuals will have three minutes to testify unless otherwise stated at the meeting.

3. Consent Agenda

3.1 Consideration of the January 26, 2023 Council Meeting

[23-5825](#)

Minutes

Attachments: [012623c Minutes](#)

- 3.2 Resolution No. 23-5309 For the Purpose of Appointing Two New Members and Reappointing Two Members to the Metro Affordable Housing Bond Measure Program Community Oversight Committee [RES 23-5309](#)
- Attachments: [Resolution No. 23-5309](#)
[Exhibit A](#)
[Staff Report](#)
- 3.3 Resolution No. 23-5313, For the Purpose of Re-Appointing Select Members of the Natural Areas and Capital Program Performance Oversight Committee [RES 23-5313](#)
- Attachments: [Resolution No. 23-5313](#)
[Exhibit A](#)
[Staff Report](#)
- 3.4 Resolution No. 23-5316, For the Purpose of Confirming the Appointments of André Lightsey Walker, Bill Beamer, Danielle Maillard, Indigo Namkoong, Jasia Mosely, and Lee Helfend as Community Representatives to the Transportation Policy Alternatives Committee [RES 23-5316](#)
- Attachments: [Resolution No. 23-5316](#)
[Staff Report](#)
- 4. Resolutions**
- 4.1 Resolution No. 23-5310 , For the Purpose of Authorizing an Exemption from Competitive Bidding and Procurement of Construction Manager/General Contractor Services by Competitive Request for Proposals for Roof Safety Upgrades at the Metro Central Transfer Station [RES 23-5310](#)
- Presenter(s): Julie Hoffman (she/her), Metro
Eric Crandall (he/him), Metro
- Attachments: [Resolution No. 23-5310](#)
[Exhibit A](#)
[Staff Report](#)
[Attachment 1](#)
-

- 4.2 Resolution No. 23-5307, For the Purpose of Delegating Authority to the Chief Operating Officer to Execute Written Employment Agreements

[RES 23-5307](#)

Presenter(s): Joyce Wan (she/her), Metro
Carrie MacLaren (she/her), Metro

Attachments: [Resolution No. 23-5307](#)
[Exhibit A](#)
[Staff Report](#)

5. Chief Operating Officer Communication

6. Councilor Communication

7. Adjourn

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ១ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានការប្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេបកប្រែភាសាសំរាប់លោកអ្នក ។

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Consideration of the January 26, 2023 Council Meeting Minutes

Consent Agenda

Metro Council Meeting
Tuesday, February 23rd, 2023

Metro

600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov



Metro

Minutes

Thursday, January 26, 2023

10:30 AM

Metro Regional Center Council Chamber,
<https://youtu.be/8aVn5HgE0R8>, <https://zoom.us/j/615079992>, or
877-853-5257 (toll free) (Webinar ID: 615079992)

Council meeting

1. Call to Order and Roll Call

Council President Lynn Peterson called the Metro Council Meeting to order at 10:30 a.m.

Present: 6 - Council President Lynn Peterson, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, Councilor Gerritt Rosenthal and Councilor Duncan Hwang

Excused: 1 - Councilor Ashton Simpson

2. Public Communication

Council President Lynn Peterson called the Metro Council Meeting to order at 10:30 a.m.

Council President Lynn Peterson opened the meeting to members of the public wanting to testify on a non-agenda items.

There was no public testimony.

Seeing no further discussion on the topic, Council President Lynn Peterson moved on to the next agenda item.

3. Consent Agenda

3.1 Consideration of the December 15, 2022 Council Meeting Minutes

Attachments: [121522c Minutes](#)

A motion was made by Councilor Gonzalez, seconded by Councilor Nolan, to adopt items on the consent agenda.

The motion passed by the following vote:

Aye: 6 - Council President Peterson, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, Councilor Rosenthal, and Councilor Duncan Hwang

4. Resolutions

4.1 Resolution No. 23-5312 For the Purpose of Confirming the Appointment of David Penilton to the Metropolitan Exposition Recreation Commission

Attachments: [Resolution No. 23-5312](#)
[Staff Report](#)
[Attachment 1](#)

Council President Lynn Peterson called on Steve Faulstick (he/him), Metro, General Manager Visitor Venue, to present to Council.

Faulstick mentioned that in the staff report, the Clackamas County Commission recommended David Penilton as a Metropolitan Exposition Recreation Commissioner following the resignation of John Erickson. Faulstick noted that if confirmed by the Metro Council, Penilton will serve the rest of Erickson's term that ends on January 26, 2024. Faulstick highlighted Penilton's career and experience in the travel and tourism industry.

Council Discussion:

Councilor Lewis shared that she has previously worked with David Penilton and that Penilton would be a great addition to the Metropolitan Exposition Recreation Commission. Councilor Lewis expressed sadness for the passing of John Erickson.

Seeing no further discussion on the topic, Council President Lynn Peterson moved on to the next agenda item.

A motion was made by Councilor Rosenthal, seconded by Councilor Gonzalez, that this Resolution was adopted.

The motion carried by the following vote:

Aye: 6 - Council President Peterson, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, Councilor Rosenthal, and Councilor Duncan Hwang

5. Ordinances (First Reading and Public Hearing)

5.1 **Ordinance No. 22-1487**, For the Purpose of Amending Metro Code Section 2.02.010

Attachments: [Ordinance No. 22-1487](#)
[Exhibit A](#)
[Staff Report](#)

Council President Lynn Peterson called on Marissa Madrigal (she/her), Metro, Chief Operating Officer, to present to Council.

Madrigal stated that the ordinance would affirm the Metro Council's authority to delegate signature authority to the Chief Operating Officer for employment contracts of executive level positions. Madrigal mentioned that there will need to be resolution to delegate this authority to the Chief Operating Officer in the future.

Staff mentioned that the ordinance will clarify the definition of executive level positions and that "Executive Level" replaced the term "Director Level". Staff also emphasized that executive level employment contracts must use the same terms, except for compensation. The Chief Operating Officer may negotiate vacation accruals and salary. The resolution must clearly state the position and the compensation provisions for the delegation. Staff added that the Metro Council will need to approve and authorize amendments to employment agreements. Staff mentioned that the language was changed to be more inclusive and to remove passive voice.

Council Discussion:

Councilor Gonzalez asked if the Chief Operating Officer or the Metro Council would have the authority to terminate or demote employees. He expressed concerns if the Metro Council would have to terminate or demote employees publicly. He also asked how long executive employment agreements are.

Staff stated that current employment agreements allow for

termination and reassignment, so the Chief Operating Officer would not need a resolution to be brought before the Metro Council. Staff mentioned that during the Covid-19 pandemic, all directors were asked to take furlough which changed their compensation and benefits. Staff explained that this would be an example of the amendment that would have to be brought before the Metro Council.

Staff noted that employment agreements go into effect once signed and remain in effect until resignation or termination.

Councilor Rosenthal asked to clarify the phrase “identical except for compensation”. He asked if compensation, including total compensation, was meant in the strict sense or in the broad sense.

Staff clarified that compensation was in the broad sense. Staff stated that compensation included benefits such as vacation.

Public Hearing:

Council President Lynn Peterson opened the meeting to members of the public wanting to testify on Ordinance No.22-1487.

There was no public testimony.

Seeing no further discussion on the topic, Council President Lynn Peterson moved on to the next agenda item.

- 5.2 **Ordinance No. 23-1489** For the Purpose of Annexing to the Metro District Boundary Approximately 11.17 acres located in Wilsonville at the west end of SW Frog Pond Ln and North of SW Brisband St

Attachments: [Ordinance No. 23-1489](#)
[Exhibit A](#)
[Staff Report](#)
[Attachment 1](#)

Council President Lynn Peterson called on Carrie MacLaren (she/her), Metro Attorney to read the procedural requirements for the meeting.

MacLaren stated that land use application that requires an additional hearing. She added that council members must declare any conflicts of interest or ex-parte contact. MacLaren also described the petition process, the appeal process, and the hearing procedure.

Council President Lynn Peterson asked if any Council members must announce any conflicts of interest or ex-parte contact.

There were no conflicts of interest or ex-parte contacts.

Council President Lynn Peterson called on Glen Hamburg (he/him), Metro, to present to Council.

Hamburg stated that the annexation is an important step for urban development. The territory has been approved for a subdivision but need to be annexed to the Metro boundary. Hamburg mentioned that in the staff report it says that the annexation application meets the criteria for annexation to the Metro boundary. The territory is in the city of Wilsonville and urban services will be provided by the city of Wilsonville. Hamburg owners have agreed to the annexation. Staff had notice published in the Oregonian and sent notice to the surrounding property owners and other parties with interest. Staff has received one phone call from a surrounding property owner that supported. Staff recommends approval of the annexation.

Council Discussion:

There was no council discussion.

Public Hearing:

Council President Lynn Peterson opened the meeting to members of the public wanting to testify on Ordinance No. 23-1489.

There was no public testimony.

Seeing no further discussion on the topic, Council President Lynn Peterson moved on to the next agenda item.

6. Other Business**6.1 High Capacity Transit Strategy Update: Readiness Tiers**

Attachments: [Staff Report](#)
[Attachment 1](#)
[Attachment 2](#)
[Attachment 3](#)
[Attachment 4](#)
[Attachment 5](#)

Council President Lynn Peterson introduced Margi Bradway (she/her) and Metro and Ally Holmqvist (she/her), Metro to present High Capacity Transit Strategy Update: Readiness Tiers.

Staff pulled up the *HCT Strategy Update: Vision & Corridor Readiness Tiers Presentation* to present to Council.

The presentation began with an introduction about the update for High-Capacity Transit study was needed to create vision of High-Capacity Transit in region and including Bus Rapid Transit and expansion bus rapid transit. The update was also needed to speak to Federal partners, especially for the FTA, to advocate for more federal funding.

Staff mentioned features of High-Capacity Transit and what it needs to be successful. Staff noted that there is still work to be done such as to make transit more frequent and more reliable. The vision of the network investments is to support regional goals and make connections to regional centers and

major town centers. Through JPAC workshops and tabling events with the public, staff received feedback on the need to support current High-Capacity Transit priorities and focus on where people are riding today for future corridors. Staff also mentioned how staff determined the readiness for corridors by categorizing the corridors by tier. The presentation had several maps, such as a map of where people ride today and future, travel times, and what streets are more transit supportive. Staff also looked at plans and policies transitive already in place that would make High-Capacity Transit successful. Staff also considered the complexity of planning certain corridors.

Staff described the differences between the different tiers. Tier 1 corridors are already regional priorities such as the Interstate Bridge. Tier 2 corridors are ready for investment within the next five years. Staff explained that Tiers 1 & 2 are the scale of investments for the regional transportation plan. Tier 3 corridors have some elements of readiness but need more time or are wait for plans to happening. Tier 4 corridors are important but not showing that they are ready for investment yet.

Staff discussed different ways that they have conducted out outreach such as tabling events and focus groups. For need steps, Staff will work on a report describing what they did and why. Staff mentioned that they will also need additional study to realize the vision.

Council Discussion

Councilor Gonzalez thanked the staff for their work. He added that it was important to use the plan to show the region the plans and what resources are needed for investment. Councilor Gonzalez noted that there is more work to be done to get more people to approve of the plan.

Bradway agreed with Councilor Gonzalez. She described the

differences between corridors of regional important and corridors that would be successful at High-Capacity Transit. Staff expressed that corridors that are lower on the list or not on the list are still important, however, High-Capacity Transit may not be the right tool for those corridors.

Councilor Lewis thanked the staff for their work and for doing community outreach. She agreed that the plan should move forward but noted that there are communities with no transit should not be forgotten. She mentioned that there are other tools like regional shuttles that should not be forgotten.

Councilor Rosenthal thanked the staff for the presentation. He reiterated Bradley's point that there are other priorities for other streets and those not on the defining list. Councilor Rosenthal also commented that he hoped that the districts look at the differences of each of the corridors, instead of thinking that each corridor under the same tier is the same. He asked about the financial resources would be needed. He asked about the funding for the next two years and if there would be enough funding for Tier 1 and Tier 2.

Bradley explained that for the Tier 1 and Tier 2 corridors, staff hoped to receive Federal funding for the new starts or small starts. Tier 1 has new starts such as light rail in the Southwest corridor. Small starts are typically BRT such as 82nd Avenue and TV-Highway. Staff mentioned that there needs to be a local match for federal funding. For the Southwest Corridor, the local match was in the transportation measure that failed. Staff added there was no other funding sources for that project. Staff noted that TriMet and Metro leadership think that \$800 million would be the minimum amount of funding for construction for that project. Staff mentioned that after the study is adopted in the Regional Transportation Plan, then Metro and their partners at TriMet can work together on the work plan.

However, Staff mentioned that it is not clear if there will be enough local match for the federal funding to do everything. Staff noted that the local match can be sourced from anywhere including from Metro.

Council President Lynn Peterson asked if there was a way to show how each transit tool helps to increase accessibility. She asked about a way to show parts of region that meet minimum accessibility and areas of improvement. Council President Peterson mentioned the importance of accessibility especially as the region becomes more unaffordable.

Staff explained that the transit vision maps, and future network maps would be a great start. Staff also mentioned that there are performance measures that look at accessibility.

Council President Lynn Peterson asked if express bus service was included in the conservation. She mentioned that 67% of Clackamas County go to three other counties to go to work, but there is not much accessibility because there are only two bridges.

Bradway mentioned that the express bus service would be under enhanced transit improvements. There have also been successful bus-to-shoulder experiments. Staff also mentioned that Metro was beginning on the second phase of the better bus program and staff is working with locals to identify locations that would improve travel times.

7. Chief Operating Officer Communication

Marissa Madrigal provided an update on the following events or items:

- 10 out of the 92 applications for the Community Placemaking grants were selected. Some of these grants will help to create two pop-up markets and a

celebration of BIPOC construction pioneers.

- The 2023 Investment and Innovation grants pre-proposal applications through February 23rd, 2023

8. Councilor Communication

Councilors provided updates on the following meetings and events:

- **Councilor Hwang** mentioned that new officers were voted into MPAC. He expressed some of the concerns from MPAC members about tier placement of various corridors, garbage and recycling and other concerns. He also gave an update on CORE. He noted there was a presentation on a garbage and recycling facilities plan and they will need to recruit a new DEI director.
- **Councilor Gonzalez** mentioned that he went to a Westside Economic Alliance reception. He expressed their priorities for housing and behavior health. He noted that he looked forward to Metro Council working with the Metro Regional caucus to get the resources for the Supportive Housing Services measure to succeed. Councilor Gonzalez suggested that the Metro Council should continue to work with State Representatives and Senators to make their priorities known.
- **Council President Lynn Peterson** mentioned that she went to the Westside Economic Alliance forum. She stated that it was interesting that developers moved their business prior to Covid to the West side because they wanted to be in jurisdictions that were quicker and easier to work with. However, they are finding it hard because those jurisdictions do not have enough resources.

9. Adjourn

There being no further business, Council President Lynn Peterson adjourned the Metro Council Meeting at 11:44 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jemeshia Taylor".

Jemeshia Taylor, Legislative Assistant

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF January 26, 2023

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
1.0	PowerPoint	1/26/2023	HCT Strategy Update: Vision & Corridor Readiness Tiers	012623c-01

No. 23-5309 For the Purpose of Appointing Two New Members and Reappointing Two Members to the Metro Affordable Housing Bond Measure Program Community Oversight Committee

Consent Agenda

Metro Council Meeting
Tuesday, February 23rd, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING TWO NEW	)	RESOLUTION NO. 23-5309
MEMBERS AND REAPPOINTING TWO MEMBERS TO)	
THE METRO AFFORDABLE HOUSING BOND	)	Introduced by Chief Operating
MEASURE PROGRAM COMMUNITY OVERSIGHT	)	Officer Marissa Madrigal with the
COMMITTEE	)	Concurrence of Metro Council
	)	President Lynn Peterson

WHEREAS, at the general election held on November 6, 2018, the Metro Area voters approved a ballot measure authorizing the issuance of general obligation bonds in an amount not to exceed \$652,800,000.00 for the purpose of funding affordable housing (the “Metro Affordable Housing Bond Measure”); and

WHEREAS, Metro Code Chapter 2.19 establishes the Metro Affordable Housing Bond Measure Program Community Oversight Committee, whose members are appointed by the Metro Council President subject to confirmation by the Metro Council; and

WHEREAS, the Metro Council President has appointed two new members of the Metro Affordable Housing Bond Measure Program Community Oversight Committee to replace members who reached their term limits; and

WHEREAS, the Metro Council President has reappointed two members of the Metro Affordable Housing Bond Committee Oversight Committee; and

WHEREAS, the Metro Council desires to confirm those appointments and reappointments; now therefore

BE IT RESOLVED that the Metro Council confirms the appointments and reappointments to the Metro Affordable Housing Bond Community Oversight Committee as set forth on Exhibit A, attached hereto.

ADOPTED by the Metro Council this ____ day of February 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren Metro Attorney

Exhibit A to the Resolution No. 23-5309

**Affordable Housing Bond Community Oversight Committee
Committee Member Appointments, Reappointments and Terms**

The following two persons will each serve an initial term of two years starting retroactively on February 1, 2023 through January 31, 2025, and thereafter will each be eligible for one additional two-year term:

Scott Greenfield
Willie Poinsette

The following two persons will each serve one additional term of two years starting retroactively on February 1, 2023 and ending on January 31, 2025.

Juan Ugarte Ahumada
Nicole Stingh

IN CONSIDERATION OF RESOLUTION NO. 23-5309 FOR THE PURPOSE OF
APPOINTING TWO NEW MEMBERS AND REAPPOINTING TWO MEMBERS TO THE
METRO AFFORDABLE HOUSING BOND MEASURE PROGRAM COMMUNITY
OVERSIGHT COMMITTEE

Date: February 6, 2023
Department: Housing
Meeting date: February 23, 2023

Prepared by: Emily Lieb

ISSUE STATEMENT

In January 2019, Metro Council established and appointed the Metro Affordable Housing Bond Measure Program Community Oversight Committee, charged with providing independent and transparent oversight of affordable housing bond implementation.

Metro Council Ordinance No. 19-1430, which established the Oversight Committee, states that the Committee will be composed of no fewer than 7 and no more than 15 members, to be appointed by the Metro Council President subject to Metro Council confirmation. The Committee's members must represent a diversity of perspectives, geographic familiarity, demographics, and technical expertise, including finance, housing development, housing policy, and experience working with impacted communities.

Current and past committee members

In January 2019, the Metro Council President worked with Metro councilors and staff to identify 13 appointees who would represent the region and bring diverse expertise to the role. In 2019, one member stepped down (Shannon Singleton), in 2020, two of the original committee members (Serena Cruz, and Manuel Castaneda) stepped down, and in 2021, four more members (Ed McNamara, Bandana Shrestha, Dr. Steven Holt, and Andrew Tull) stepped down. In January 2021, two new members (Juan Ugarte Ahumada and Nicole Stingh) were appointed to ensure representation of people who lived/worked in Washington County. In January of 2022, seven new members (Andrea Sanchez, Brandon Culbertson, Karen Shawcross, Mara Romero, Ann Leenstra, Kira Cador and Trinh Tran) were appointed to increase representation:

- People with lived experience with homelessness or living in affordable housing
- People who are Black, Indigenous or other persons of color, or from another oppressed group
- People with technical expertise in housing development and affordable housing finance
- People who live or work in Clackamas or Washington counties

Metro Code Chapter 2.19 only allows advisory committee members to serve 2 two-year terms. However, when the Metro Council adopted the Ordinance founding the Affordable Housing Bond Measure Community Oversight Committee, it assigned the co-chairs three two-year terms each, in recognition that the co-chairs would develop and sustain extensive knowledge and program background during a longer tenure. Under Metro Code Chapter 2.19, the co-chairs cannot be appointed to a third term, but they may continue to serve (the equivalent of a third term) until their successors are appointed by the Council President. Co-chairs Jenny Lee and Steve Rudman, who have been members of the committee since its inception, have agreed to continue serving on the Committee through 2024, or until the Metro Council President determines to appoint successors.

Below is a summary of current members and their terms.

Committee members	Appointment	Final term ends
Jenny Lee, Co-Chair	Appointed to a two-year year term in 2019; stepped into Co-Chair role when Shannon Singleton stepped down in 2019; second term expired January 2023, expected to serve pending a replacement to be appointed no later than January 2025	January 2023
Steve Rudman, Co-Chair	Appointed 2019 to a two-year term; reappointed in 2021; second term expired January 2023, expected to serve pending a replacement to be appointed no later than January 2025	January 2023
Nicole Stingh	Appointed 2021 to a two-year term; eligible to be reappointed in 2023 for an additional two-year term	January 2025
Juan Ugarte Ahumada	Appointed 2021 to a two-year term; eligible to be reappointed in 2023 for an additional two-year term	January 2025
Kira Cador	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
Brandon Culbertson	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
Ann Leenstra	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
Mara Romero	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
Andrea Sanchez	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
Karen Shawcross	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026

Trinh Tran	Appointed 2022 to a two-year term; eligible to be reappointed for an additional two-year term	January 2026
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Term-outs and evaluation

Three of the original committee members (Melissa Erlbaum, Mitch Hornecker and Tia Vonil) termed out after four years on the committee on January 31, 2023. In November 2022 in preparation for the upcoming departure of three members we ran an analysis of what the committee makeup would look like without Melissa, Mitch and Tia. We based the analysis on the requirements stated in Metro Council Ordinance No. 19-1430, stating that the committee must represent a diversity of perspectives, geographic familiarity, demographics, and technical expertise, including finance, housing development, housing policy, and experience working with impacted communities. The results were clear that our largest gap would be a lack of membership from Clackamas County.

Recruitment

Given capacity limitations, housing department staff first evaluated potential appointees from a previous oversight committee recruitment in 2021, which resulted in 29 applications representing a diversity of professional and lived experience, geographic familiarity, and demographics. Candidates were evaluated for individual experience and expertise and the pool of recommended candidates was evaluated for demographic diversity. From that pool of candidates, seven individuals were appointed by Metro Council in January 2022. There was an additional candidate, Scott Greenfield, who was not recommended for appointment in 2022, but was identified as a strong candidate for a potential future appointment, based on his technical expertise in affordable housing finance and his residence in Clackamas County. Staff are recommending that Scott Greenfield be appointed to the committee in 2023.

An additional unique recruitment opportunity presented itself in late 2022. Through the community engagement process that the Affordable Housing Bond Site Acquisition Program (SAP) supported in Lake Oswego in 2022, staff were introduced to Willie Poinsette. Willie spoke to the Metro Council on November 10, 2022 during a work session update on the program, speaking to the value of creating affordable housing opportunities in places like Lake Oswego. Staff were impressed by Ms. Poinsette's depth of experience advocating for anti-racism in Lake Oswego and are recommending her appointment in 2023 on the basis of her unique qualifications to bring these perspectives to the Affordable Housing Bond oversight committee.

New member appointments and reappointments

Resolution No. 23-5309 appoints two new members to the Oversight Committee and reappoints four members who were asked to continue for an additional term. In accordance with Metro Code Section 2.19.030(c), the two new members will serve for a two-year term, with potential for one additional two-year term:

- Scott Greenfield
- Willie Poinsette

Resolution No. 23-5309 also appoints two other members whose terms end on January 31, 2023. Each was asked and have agreed to serve a final two-year term:

- Juan Ugarte Ahumada
- Nicole Stingh

ACTION REQUESTED

Adopt Resolution No. 23-5309, appointing two new members and reappointing two members to the Affordable Housing Bond Community Oversight Committee.

IDENTIFIED POLICY OUTCOMES

The Community Oversight Committee performs the following duties as charged by the Metro Council:

- Reviewing local implementation strategies for alignment with the expectations set forth in the Housing Bond Program Work Plan;
- Monitoring program expenditures and outcomes and providing an annual report and presentation to Metro Council;
- Recommending changes to implementation strategies as necessary to achieve Unit Production Targets and other priority outcomes, such as advancing racial equity.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The proposed Resolution is based on numerous policies previously adopted by the Metro Council, including but not limited to:

- Ordinance No. 19-1430 amending Metro Code Chapter 2.19 to establish the Community Oversight Committee, and describing the committee makeup, terms and charge
- Resolution No. 19-4957 confirming 13 members and co-chairpersons initially appointed by the Council President to serve on the Affordable Housing Bond Community Oversight Committee

**Resolution No. 23-5313, For the Purpose of Re-Appointing Select Members of the Natural
Areas and Capital Program Performance Oversight Committee**

Consent Agenda

Metro Council Meeting
Tuesday, February 23rd, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING	)	RESOLUTION NO. 23-5313
MEMBERS TO THE NATURAL AREAS AND)	
CAPITAL PROGRAM PERFORMANCE	)	Introduced by Chief Operating Officer Marissa
OVERSIGHT COMMITTEE	)	Madrigal with the Concurrence of Metro
	)	Council President Lynn Peterson

WHEREAS, at the general election held on November 5, 2019, Metro Area voters approved the 2019 Parks and Nature Bond Measure (“Bond Measure”), authorizing the issuance of general obligation bonds in an amount not to exceed \$475,000,000.00 for the purpose of funding natural area and water quality protection and to connect people to nature close to home; and

WHEREAS, the Bond Measure calls for community oversight and states that an independent community oversight committee will review bond expenditures and provide annual reports; and

WHEREAS, Metro Code Chapter 2.19.220 creates and governs the Natural Areas and Capital Program Performance Oversight Committee, which consists of 9 to 21 members, appointed by the Metro Council President and subject to confirmation by the Metro Council; and

WHEREAS, in Resolution No. 21-5155, the Metro Council confirmed the Council President’s appointment of 19 members to the Committee; and

WHEREAS, the Metro Council President has reappointed 6 members to the Committee to serve an additional two-year term, as set forth in Exhibit A; and

WHEREAS, the Metro Council desires to confirm the Metro Council President’s appointments; now therefore,

BE IT RESOLVED that the Metro Council confirms the appointments to the Natural Areas and Capital Program Performance Oversight Committee as set forth on Exhibit A.

ADOPTED by the Metro Council this ___ day of _____ 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

Exhibit A to the Resolution No. 23-5313

**Natural Areas and Capital Program Performance Oversight Committee
Committee Member Re-appointments for 2023**

The following persons will be appointed to a two year term beginning in 2023 and eligible to serve one additional two-year term thereafter:

Tana Atchley Culbertson	Co-Director, Willamette River Network
Burt Edwards	Director of programs at ReThink Media
Martita Meier	Digital strategist and project manager, Nike
Georgena Moran	Accessibility specialist, ACCESS recreation
Cary Watters	Contract Equity Manager, Portland Bureau of Transportation
Owen Wozniak	Land Transactions Program Manager, the Land Trust Alliance

IN CONSIDERATION OF RESOLUTION NO. 23-5313 FOR THE PURPOSE OF RE-APPOINTING MEMBERS TO THE NATURAL AREAS AND CAPITAL PROGRAM PERFORMANCE OVERSIGHT COMMITTEE

Date: February 7, 2023
Department: Parks and Nature
Meeting Date: February 23, 2022

Prepared by: Beth Cohen

ISSUE STATEMENT

Independent community oversight has been essential to Metro's accountability and delivery on promises made to voters in its funding measures. In February 2021, the Metro Council established the Natural Areas and Capital Program Performance Oversight Committee, charged with providing independent and transparent oversight Metro's use of capital funds from the \$475 million 2019 parks and nature bond, the parks and natural areas levy and remaining funds from the 2006 natural areas bond, and confirmed the appointment of a slate of 19 members.

Metro Council Ordinance No. 21-1460, which established the oversight committee in Metro Code section 2.19.222, states that the Committee will be composed of no fewer than 9 and no more than 21 members and that committee members can serve up to three two-year terms. In order to ensure continuity in the committee and to avoid having the entire committee membership turn over at the same time, half the committee members were appointed to an initial one-year term and half the members were appointed to an initial two-year term.

The purpose of Resolution No. 23-5313 is to re-appoint individuals appointed for a two-year term in 2021 to serve on the Natural Areas and Capital Program Performance Oversight Committee for a second term.

ACTION REQUESTED

Staff requests approval of Resolution No. 23-5313 to re-appoint individuals to serve on the Natural Areas and Capital Program Performance Oversight Committee.

IDENTIFIED POLICY OUTCOMES

The current makeup of the oversight committee reflects the Metro Council's direction for members to bring a deep understanding of conservation values and racial equity as well as multiple complementary backgrounds and knowledge across a range of topics including conservation, habitat and biodiversity, finance, working lands, understanding of the disability community and the urban Indigenous community and of issues around tribal sovereignty.

The Metro Council has asked the oversight committee to monitor how bond implementation activities are meeting the direction in the bond measure, to monitor financial aspects of program administration and to share with the Metro Council related concerns or recommendations to help adjust work moving forward.

STAFF RECOMMENDATIONS

Staff recommends that the Metro Council approve Resolution No. 23-5313 to re-appoint individuals to serve on the Natural Areas and Capital Program Performance Oversight Committee.

BACKGROUND

In February 2021, the Metro Council amended the Metro code to establish the Natural Areas and Capital Program Performance Oversight Committee and approved a slate of 19 members to serve on the committee to represent the region and bring diverse expertise.

The oversight committee has been meeting since April 2021 and has been focused on building the foundations for oversight work through affirmation of bylaws and group agreements, focused discussions on the 2019 parks and nature bond and programs within, and the three bond criteria. The committee presented its year one report back to the Metro Council in May 2022 and is beginning to work on its year two report back to the Metro Council.

In March 2022, the Metro Council approved re-appointment of 9 members initially appointed to a one-year term. Of the 19 members initially appointed, 14 are electing to continue to serve into 2023. Staff are planning to advance a targeted recruitment of new members in 2023 based on direction from Metro Council and reflection from existing committee members.

ATTACHMENTS

Exhibit A to Resolution No. 23-5313 (list of members for re-appointment)

Resolution No. 23-5316, For the Purpose of Confirming the Appointments of André Lightsey Walker, Bill Beamer, Danielle Maillard, Indigo Namkoong, Jasia Mosely, and Lee Helfend as Community Representatives to the Transportation Policy Alternatives Committee

Consent Agenda

Metro Council Meeting
Tuesday, February 23rd, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE APPOINTMENTS OF ANDRÉ LIGHTSEY WALKER, BILL BEAMER, DANIELLE MAILLARD, INDIGO (INDI) NAMKOONG, JASIA MOSLEY AND LEE HELFEND AS COMMUNITY REPRESENTATIVES TO THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE.

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RESOLUTION NO. 23-5316

Introduced by: Chief Operating Officer Marissa Madrigal in concurrence with Council President Lynn Peterson

WHEREAS, Metro Code Sections 2.19.030(b) and 2.19.180(b)(6), and the Transportation Policy Alternatives Committee (TPAC) bylaws, provide that the Metro Council President shall appoint community members of TPAC, subject to confirmation by the Metro Council; and

WHEREAS, TPAC coordinates and guides the regional transportation planning program and makes recommendations to the Joint Policy Advisory Committee on Transportation (JPACT) in accordance with the policy of the Metro Council; and

WHEREAS, TPAC has six vacant regular seats for community representatives for the 2023-25 term and

WHEREAS, the Metro Council President has made the following appointments to fill the TPAC vacancies:

Appointment, TPAC Community Members 2023-25 Three-Year Term:

1. André Lightsey Walker (The Street Trust representative) André is the Policy Transformation Manager at The Street Trust. André is a transportation planning professional who is working in communities across the greater Portland region.
2. Danielle Maillard (Oregon Walks representative) is the Walking Programs Manager at Oregon Walks. At Oregon Walks she hosts a variety of programs including Dementia Walks, to support older adults with Alzheimer’s and Black to Nature, a walking series focused on Black Portlanders reclaiming recreational spaces while connecting with nature.
3. Lee Helfend (OPAL Environmental Justice Oregon) Lee is the Executive Director of OPAL. OPAL works primarily with transit dependent community members across greater Portland.

Appointment, TPAC Community Members 2023-24 Two-Year Term:

1. Bill Beamer (Community member at large) Bill is a community-focused entrepreneur with extensive experience in public health and climate justice.
2. Indigo (Indi) Namkoong (Verde representative) is the Transportation Justice Coordinator at Verde. Verde works with people with low incomes and communities of color to develop creative solutions to addressing energy, transportation and climate issues that draw from community members’ lived experiences.
3. Jasia Mosley (Community member at large) Jasia has experience in Political Organization training with Oregon AFSCME and serving as a civic action organizer at NextUp Oregon. At NextUp Oregon her focus is on community engagement and youth development.

BE IT RESOLVED THAT the Metro Council hereby confirms the Metro Council President's appointment of the foregoing individuals to serve as TPAC community members, for the terms noted above.

ADOPTED by the Metro Council this 23rd day of February 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

Resolution No. 23-5316



Memo

Date: January 18, 2023
To: Metro Council President Peterson
From: Margi Bradway, Deputy Director, Planning, Development and Research Dept.
Subject: Recommendation for Transportation Policy Alternatives Committee (TPAC)

Introduction

In May 2022, Metro Council approved a new approach to recruiting TPAC community representatives (see Attachment A). This approach, based on feedback from past community representatives and in consultation with Metro's Diversity, Equity and Inclusion and Communications staff, is aimed at increasing community member participation in TPAC. Metro recruited for six community member representatives with the expectation (but not a requirement) that they represent a community-based organization that aims to improve equitable outcomes, transportation, land use or livability within the greater Portland region. The following is staff's recommendation for six community representatives.

Recruitment

Metro opened the TPAC community-member recruitment in October 2022. It was posted to the Metro website, newsfeed and distributed to Metro's TPAC, MTAC and JPACT interested parties lists as well as fifty-seven local community-based organizations (see Attachment B).

Nine applicants responded to Metro's first round of recruitment. The recruitment was re-opened with additional outreach to increase awareness of the opportunity, especially among business, land use and environmental organizations. Metro received two additional applications through the second round of recruitment. Although, there is a small applicant pool, the applicants bring a depth and diversity of knowledge and experiences that will strengthen the committee.

Recommended community member representatives

Staff is recommending the following six community representatives to serve on TPAC during 2023 to 2026. Four of the six recommended representatives are staff at community based organizations. Three of these representatives will serve for two years and another three will serve for three years, based both on availability and the strength of their applications.

André Lightsey Walker (The Street Trust representative) André is the Policy Transformation Manager at The Street Trust. André is a transportation planning professional who is working in communities across the greater Portland region. The Street Trust partners with community based organizations to understand barriers to accessing transportation and to deliver transportation programming. André would bring to TPAC perspectives from the marginalized communities that The Street Trust is focused on engaging which includes, Black, Indigenous and People of Color, people who are LGBTQIA2S+ and people with low incomes. André is recommended for a three-year appointment.

Bill Beamer (Community member at large) Bill is a community-focused entrepreneur with extensive experience in public health and climate justice. Since coming to Portland from Washington DC twenty years ago, Bill has worked as the communications director at the African American Health Coalition, at the Multnomah County Health Department on the Department's Health Equity Initiative and at the Portland Bureau of Planning and Sustainability, connecting Black, Indigenous and People of Color community organizations to the bureau's climate action work. He is

now working to create wealth-building opportunities for communities of color, via climate action. Bill would bring to TPAC deep knowledge of environmental justice issues, strong community relationships and an interest in advancing “safe, affordable, efficient, accessible, low-carbon transportation options for BIPOC and low-income communities and other people who do not see themselves represented in ‘the environmental community.’” Bill is recommended for a 2-year appointment.

Danielle Maillard (Oregon Walks representative) is the Walking Programs Manager at Oregon Walks. In her role at Oregon Walks she hosts a variety of programs including Dementia Walks, to support older adults with Alzheimer’s and Black to Nature, a walking series focused on Black Portlanders reclaiming recreational spaces while connecting with nature. Danielle will bring to TPAC the diverse experiences of the community members she works with to inform TPAC’s discussions and decisions. In addition to bringing community perspectives to TPAC, Danielle is committed to sharing the issues and decisions discussed at TPAC with community members. Danielle is recommended for a 3-year appointment.

Indigo (Indi) Namkoong (Verde representative) is the Transportation Justice Coordinator at Verde. Verde works with people with low incomes and communities of color to develop creative solutions to addressing energy, transportation and climate issues that draw from community members’ lived experiences. In addition to bringing the perspectives of Verde community members, Indi will bring her experience in clean energy and climate justice to TPAC. She has a deep understanding of the connections between housing affordability and transportation for the communities Verde serves. Indi is recommended for a 2-year appointment.

Jasia Mosely (Community member at large) Jasia has worked with employees across the greater Portland region, as a political organizer trainee with Oregon AFSCME. She is knowledgeable about worker needs and priorities and has experience in community outreach and story collection on issues related to transportation and racial and economic inequality. Jasia is a Civic Action Organizer at Next Up. She is active in her communities, which includes Gresham and the greater region. She volunteers with community organizations to address the climate crisis, houselessness and infrastructure investments. She would bring a unique perspective developed through her professional, volunteer and lived experience. Jasia is an up-and-coming community leader who is eager to both contribute to and learn from TPAC. Jasia is recommended for a 2-year appointment.

Lee Helfend (OPAL Environmental Justice Oregon) Lee is the Executive Director of OPAL. OPAL works primarily with transit dependent community members across greater Portland. Lee will bring to TPAC the perspective of community members for whom affordable and safe transportation are daily concerns and people who have been displaced from areas with transit service. Additionally, Lee will bring the issues and topics at the TPAC table back to OPAL members who advocate in their communities for transportation, housing and environmental justice, among other issues. OPAL’s diverse membership includes people with disabilities, youth, refugees and immigrants among other under-represented community members. Lee is recommended for a 3-year appointment.

Recommend for other Metro involvement

The five other candidates who applied to serve as community representatives on TPAC will be encouraged to become involved with Metro in other ways that align with their interests, with the support of community engagement staff.

**Resolution No. 23-5310 , For the Purpose of Approving Issuance of Request for Proposals
(RFP) for Construction Manager/General Contractor (CM/GC) Services for Roof Safety
Upgrades at the Metro Central Transfer Station**

Resolutions

Metro Council Meeting
Tuesday, February 23rd, 2023

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 23-5310
EXEMPTION FROM COMPETITIVE)
BIDDING AND PROCUREMENT OF)
CONSTRUCTION MANAGER/GENERAL)
CONTRACTOR SERVICES BY)
COMPETITIVE REQUEST FOR) Introduced by Chief Operating
PROPOSALS FOR ROOF SAFETY) Officer Marissa Madrigal in
UPGRADES AT THE METRO CENTRAL) concurrence with Council President
TRANSFER STATION) Lynn Peterson

WHEREAS, Metro intends to design and construct roof safety systems for the Metro Central Transfer Station’s main waste transfer building, to provide OSHA compliant roof safety for Metro employees and contractors needing safe and protected access to the roof (the “Metro Central Transfer Station Roof Safety Upgrades”); and

WHEREAS, ORS 279C.335 and Metro Local Contract Review Board Administrative Rule ("LCRB Rule") 49-0130 require that all Metro public improvement contracts be procured based on competitive bids, unless exempted by the Metro Council, sitting as the Metro Contract Review Board; and

WHEREAS, Metro's LCRB Rule 49-0620 authorizes the Metro Contract Review Board to exempt a public improvement contract from competitive bidding and direct the appropriate use of alternative contracting methods that take account of market realities and modern innovative contracting and purchasing methods, so long as they are consistent with the public policy of encouraging competition, subject to the requirements of ORS 279C.335; and

WHEREAS, ORS 279C.335(2) and (5)(a), and LCRB Rules 49-0630 through 49-0690 require that the Metro Contract Review Board hold a public hearing and adopt written findings establishing, among other things, that the exemption of a public improvement contract from competitive bidding is unlikely to encourage favoritism or substantially diminish competition for public improvement contracts; and that said exemption will likely result in substantial cost savings to Metro; now therefore,

BE IT RESOLVED THAT THE METRO CONTRACT REVIEW BOARD:

1. Exempts from competitive bidding the procurement and award of a Construction Manager/General Contractor (“CM/GC”) public improvement contract for the construction of the Metro Central Transfer Station Roof Safety Upgrades; and
2. Adopts as its findings in support of such exemption the justification, information and reasoning set forth on the attached Exhibit A, which is incorporated herein by reference as if set forth in full; and

3. Authorizes the Chief Operating Officer to:

3.1 Prepare a form of Request for Proposals for CM/GC Contractor services that includes the following evaluation criteria for contractor selection:

- Contractor's proposed fees for pre-construction services
- Contractor's proposed overhead and profit for construction services
- Contractor's Project understanding and proposed project approach
- Contractor's record of completion of projects of similar type, scale and complexity, including demonstrated public improvement CM/GC project experience and expertise
- Contractor's record of coordinating multi-disciplinary approaches to value engineering challenges
- Contractor's experience with occupied, operational sites, limited staging space and phased construction
- Contractor's Proposed milestone dates, including but not limited to substantial completion
- Contractor's demonstrated quality and success with compressed schedules
- Contractor's Financial capacity
- Contractor's experience in incorporating sustainability construction practices and design into projects
- Contractor's demonstrated commitment to workforce diversity and record of use of subcontractor businesses certified by the Certification Office of Business Inclusion and Diversity
- Any other criteria that ensure a successful, timely, and quality project, in the best interest of Metro and in accord with ORS 279C.335(4)(c) and LCRB Rule 49-0640(2)(a) and (b);

3.2 Following the approval of said form of Request for Proposals and Contract by the Office of the Metro Attorney, to issue said form, and thereafter to receive responsive proposals for evaluation; and

3.3 Following evaluation of the responses to the Request for Proposals, authorizes the Chief Operating Officer to execute a CM/GC contract with the most advantageous proposer to construct the Metro Central Transfer Station Roof Safety Upgrades.

ADOPTED by the Metro Council this _____

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

**Resolution 23-5310: Exhibit A
Roof Safety Upgrades at the Metro Central Transfer Station**

Findings in Support of an Exemption from Competitive Bidding and Authorizing the Procurement by Request for Proposals of Construction Manager General Constructor (CM/GC) Services for roof safety upgrades at the Metro Central Transfer Station

Pursuant to ORS 279C.335(2) and (4), and Metro Code Section LCRB 49-0620 through 49-0660, and 49-0690, the Metro Contract Review Board makes the following findings in support of exempting the procurement of roof safety upgrades at the Metro Central Transfer Station from competitive bidding, and authorizing use of a Request for Proposal (RFP) process for a Construction Manager General Contractor (CM/GC) public improvement construction contract:

A. The exemption is unlikely to encourage favoritism or substantially diminish competition.

The Metro Contract Review Board finds that exempting the procurement of roof safety upgrades at the Metro Central Transfer Station from competitive bidding is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows: The RFP will be formally advertised with public notice and disclosure of the alternative contracting method and will be made available to all qualified contractors. Award of the contract will be based on the identified selection criteria, and dissatisfied proposers will have an opportunity to protest the award. Full and open competition based on the objective selection criteria set forth in the Metro Contract Review Board resolution will be sought, and the contract will be awarded to the most advantageous proposer. Competition for the RFP will be encouraged by: Posting on Bid Locker (Metro Procurement’s online procurement site); public advertisements placed in the Portland Business Tribune and other minority business publications; performing outreach to local business groups representing minorities, women, and emerging small businesses; and by contacting contractors known to Metro to potentially satisfy the RFP criteria. The subcontractor selection process will be a low bid competitive method for contracts by requiring a minimum of three bids per scope, unless there is an approved exception. Competition among subcontractors will be encouraged by contacting local sub-contractors, including COBID firms, and notifying them of any opportunities within their area of expertise and by performing outreach to local business groups representing minorities, women, and emerging small businesses.

B. The exemption will likely result in substantial cost savings to Metro.

The Metro Contract Review Board finds that exempting the procurement of roof safety upgrades at the Metro Central Transfer Station from competitive bidding will likely result in substantial costs savings to Metro, considering the “type, cost and amount of the Contract,” the 14 factors required by ORS 279C.335(2)(b), and the “additional findings” per Metro Local Contract Review Board (LCRB) Administrative Rule 49-0630(3)(B) as follows:

Type, Cost and Amount of the Contract:

Public Works, rough-order-of-magnitude estimated construction contract amount \$600,000.

The CM/GC project delivery model is a common public improvement procurement practice. Area agencies such as City of Portland, Multnomah County, Tri-Met, and Port of Portland utilize the CM/GC process for their large, complex public improvement projects. In CM/GC projects the General Contractor becomes a part of the project team during the design process in order to provide constructability, logistics and value engineering expertise to the construction

Resolution 23-5310: Exhibit A

Roof Safety Upgrades at the Metro Central Transfer Station

documentation process. CM/GC offers a distinct advantage to Metro over traditional design-bid-build (low bid) method in its ability to obtain enhanced participation by COBID contractors.

Statutory Factors

1. Number of entities available to bid:

This factor is unaffected by the exemption from competitive bidding. Regardless of procurement method, there are numerous firms interested in participating in the procurement, many of which would have bid on the project in the absence of the exemption from competitive bidding.

2. Construction budget and future operating costs:

Using an RFP to select a General Contractor will allow Metro to obtain cost reductions through pre-construction services by the contractor during the design phase, including a constructability review, value engineering, and other services. Involving the contractor early in the design process fosters teamwork that results in a better design, fewer change orders, and faster progress with fewer unexpected delays, resulting in lower costs to Metro. The potential for faster progress and an earlier completion date will also help Metro avoid the risk of inflationary increase in materials and construction labor costs. Contractor constructability review also allows for an ongoing review of the long-term operating costs of design options, allowing for midcourse design changes, leading to a project having lower long-term operating, maintenance, and repair costs.

3. Public Benefits:

The procurement of a CM/GC construction contract through the RFP process will help realize Metro's goal of obtaining COBID participation by enabling a qualitative review of proposers' approach to COBID subcontractor outreach and mentoring partnerships.

4. Value Engineering:

The process will enable the General Contractor to work with the Professional Design Team and Metro staff to help reduce construction costs by providing early input and constructability review to designers, avoiding costly redesign and change orders, and providing opportunities for the Professional Design Team and General Contractor to work together on both practical and innovative solutions to meeting the project budget. This type of contract will allow the designers to explore with the contractor the feasibility of innovative roof upgrade design solutions more easily and incorporate ongoing value engineering principles.

Examples of roof safety upgrade elements include:

- Exterior stairs with lockable gate and non-climbable fencing to prevent un-wanted access
- Catwalks with guard railings
- Personal fall arrest systems (I.e. tie-off locations attached to roof structure)
- Non-slip walking surfaces and working platforms adjacent to existing roof equipment
- Horizontal life-lines (i.e. structural horizontal cabling for workers to tie-off to)
- Designated safe work areas on low-slope portions of the roof

5. Specialized Expertise Required:

The Metro Central Transfer Station roof-space is an amalgamation of structures, built between 1920 and 2000, with each constructed using materials from their respective era's. For instance, Metro Central's Bay 3 original 1920 addition is composed of heavy, hot-dipped galvanized steel

Resolution 23-5310: Exhibit A
Roof Safety Upgrades at the Metro Central Transfer Station

members that were riveted and later seismically upgraded by welding the riveted connections. Bay 1 was assembled in 1973 using a prefabricated and bolted steel structure. See Attachment 1 to Staff Report for additional information.

Because of varied building structures, the project seeks to apply value engineering principles and utilize standardized construction details across all roof structure types. Specialized expertise is required of the contractor to achieve this. Contractor expertise will help designers configure the best approach for standardized construction details, ensure the constructability of the design and deliver roof safety upgrades at the greatest value to Metro.

The contractor and subcontractors must be able to demonstrate in their proposal that they have experience with CM/GC project delivery, roof safety construction and the myriad of associated Federal and State roof safety regulations and jurisdictional requirement. The contractor and subcontractors must also have demonstrated successes with subcontractor equity, have successfully completed public improvement projects, and understand the logistics of general public and staff traffic control, site access, removing demolished materials, etc. The selection of a contractor with such expertise to perform the project will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on or ahead of schedule, resulting in lower costs and increased benefit to the community. The ability to factor expertise and experience into contractor selection is inherent in the RFP process but is not part of the traditional low bid process.

6. Public Safety:

The CM/GC contracting process will enable the contractor to work with the Professional Design Team and Metro Central Transfer Station staff to plan for minimizing safety hazards and conflict between the project and ongoing facility operations by providing early input into issues of project phasing, equipment and material staging areas, construction access and scheduling. Such integrated early planning efforts are expected to limit risks of interruption to public customers and private garbage haulers while increasing site safety for all. The ability to factor safety performance on similar projects into contractor selection is inherent in the RFP process but is not part of the traditional low bid process.

7. Reduces risk to Metro and the public:

The risk of disruption to Metro Central's daily operations, posed by the inability of the contractor to meet the schedule deadlines, will be reduced by the selection of the contractor based on the demonstrated ability to perform the work as specified and based on successful prior experience working safely, effectively and efficiently in or near a similar environment where Metro staff, private contractors and the public are present, rather than awarding the project to the low bidder.

8. Exemption's effect on funding:

Does not apply.

9. Better Control of Impact of Market Conditions on Cost and Time to Complete:

Does not apply.

10. Technical complexity:

The exemption will allow Metro to select a General Contractor and subcontractors that have

Resolution 23-5310: Exhibit A
Roof Safety Upgrades at the Metro Central Transfer Station

demonstrated technical expertise, knowledge, and experience with the logistical challenges of construction in a similar setting, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with demonstrated experience and success in implementing similar projects will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on budget, with fewer construction delays and change orders, resulting in lower costs. The RFP process will take into account each contractor's past performance and technical knowledge.

11. New construction, renovation, or remodel:

There are opportunities—if Metro engages a Contractor early in the process—to coordinate and co-design a phased solution that meets the operational needs of Metro Central staff, Metro Central's contracted operator, public customers, and private garbage haulers, at no additional cost. A large cost of this project is the logistics of getting construction materials onto the roof near the least-accessible, and highest roof slope, portions of the roof. There is an opportunity to work cooperatively with the Metro Central Operations, Metro Central's contracted operator, Contractor and Professional Design Team to create a plan for material delivery and storage on-site, staging of cranes in non-disruptive areas of the site and schedule crane lifting work to minimize disruption to daily facility operations and maintain normal access by public customers and private garbage haulers.

12. Occupancy during construction:

Metro Central Transfer Station is open 363 days a year, operational 24 hours a day, and will be occupied and operational during construction.

The CM/GC contracting process will enable the contractor to work collaboratively with the Metro project manager, Professional Design Team and Metro Central staff to minimize conflict between facility operations, public customers and private garbage haulers, by providing early input into issues of project phasing, equipment and material staging areas, construction access and scheduling. Such integrated early planning efforts are essential to maintaining normal facility operations and expected to limit conflicts and thus reduce the risk of construction delays and costly change orders.

13. Phased Construction Work:

Part of the CM/GC's pre-construction work will be determining whether the project can be conducted in phases and which phases can be completed during regular day-time hours, on weekends, or over-night, allowing for early work amendments to start on some phases while finalizing overall design, which ultimately saves time on the overall project and mitigate impacts to ongoing operations. Early work phases are expected to uncover latent conditions at the project site that, once exposed, will then be addressed efficiently and less expensively during ongoing design, avoiding costly redesigns and change orders.

Due to existing roof conditions, it is necessary for construction to occur solely during the dry summer months with construction on the least accessible, and steepest, portions of the roof occurring in the driest months. Doing so reduces the risk of project delays as the as the dry summer transitions to rainy fall season, increases construction worker safety throughout the project and allows the contractor more flexibility in strategic project phasing.

Resolution 23-5310: Exhibit A
Roof Safety Upgrades at the Metro Central Transfer Station

Additionally, a separate project to replace existing roof exhaust fans will begin concurrently with the construction of roof safety upgrades. The delivery of new roof fans is expected to take 4-6 months, with on-site fan work lasting 4-6 weeks. In order to phase construction of both projects in this manner, working closely with the CM/GC tie-off contractor will be essential to understanding the construction schedule and determining when on-site roof exhaust fan replacement work can occur.

14. Availability of personnel, consultant and legal counsel with CM/GC expertise:

The Office of Metro Attorney, Project Manager, and Professional Design Team have the necessary qualifications and expertise to negotiate, administer, and enforce the terms of Metro's CM/GC public improvement contract, including prior experience governing large CM/GC projects and managing them to a successful completion.

Additional Findings:

1. Industry practices, surveys, trends.

The industry-accepted benefits of the CM/GC method include:

- Results in a better design that meets the owner's objectives
- Encourages competition, especially for COBID subcontractors
- May be completed in a faster time frame
- When skillfully managed, costs less than a design-bid-build project that is designed and constructed in the traditional manner due to higher likelihood of constructability of design and opportunities for value engineering early in the design process.
- Reduces the risks of delays, cost overruns, and disputes
- Limits the number of change orders for unforeseen conditions

2. Past experience and evaluation of Metro CM/GC projects.

- 2022 – Blue Lake Park Demolition of Fishing Pier
- 2021 – Oregon Zoo Boardwalk and Gate J Security Improvement Project
- 2021 – Arlene Schnitzer Concert Hall City Sewer Connection Project
- 2000 – Oregon Convention Center VIP Suite B and Prefunction A & C Restrooms
- 2019 – Oregon Convention Center Plaza & Renovation Project
- 2019 – Lone Fir Cemetery Design and Construction of a Retaining Wall
- 2018 – Antoinette Hatfield Hall Roof Replacement and Parapet Repair

3. Benefits and drawbacks of CM/GC to roof safety upgrades at the Metro Central Transfer Station.

The CM/GC method provides an invaluable means of addressing the risks to Metro presented by the project's site conditions and timeline.

By involving the contractor extensively during the design process, Metro will be able to better account for, plan around, and address the above factors prior to and during construction. This avoids project delays and expensive change orders, helps to reduce liability and revenue risks to Metro, and provides a foundation of cooperation upon which a high-quality result may be achieved on schedule and on budget. Pre-construction services provided during the process include a constructability review, value engineering, and other services during design. Involving

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Roof Safety Upgrades at the Metro Central Transfer Station

a contractor during the design fosters teamwork that results in a better design, faster progress with fewer delays and lower risk of costly change orders.

Given Metro's favorable experience with CM/GC, staff foresees no drawbacks to adopting the CM/GC method for roof safety upgrades at the Metro Central Transfer Station.

Resolution 23-5310: Staff Report Roof Safety Upgrades at the Metro Central Transfer Station

IN CONSIDERATION OF RESOLUTION NO. 23-5310 OF THE METRO COUNCIL ACTING AS THE METRO CONTRACT REVIEW BOARD FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE BIDDING PROCEDURES AND AUTHORIZING PROCUREMENT OF CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES BY COMPETITIVE REQUEST FOR PROPOSALS FOR ROOF SAFETY UPGRADES AT THE METRO CENTRAL TRANSFER STATION

Date: February 23, 2023
Department: Capital Asset Management
(CAM) - Construction Project Management
Office (CPMO)
Meeting Date: February 23, 2023

Prepared by: Eric Crandall
Eric.Crandall@oregonmetro.gov
Presenter(s): Julie Hoffman, Eric Crandall
Length: 30 min

ACTION REQUESTED

Approve the recommendation to authorize the alternative procurement of Construction Manager General Contractor services by a competitive Request for Proposals, for roof safety upgrades at the Metro Central Transfer Station.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

- **Known Opposition:** None
- **Legal Antecedents:** LCRB Rule 49-0620(1), 49-0130, and 49-0690; Oregon Revised Statutes 279C.335 and ORS 279C.337.
- **Anticipated Effects:** Public procurement process will be open and competitive, but items other than cost will be considered in the awarding of the contract. Increased use of COBID subcontractors is anticipated.
- **Budget Impacts:** The RFP process offers safeguards for schedule and cost control of the project, including early involvement by construction contractor in the design process, as well as limited change orders.

BACKGROUND

The Metro Central Transfer Station's main transfer building is composed of four "bays" that were constructed in a series of five additions between 1920 and 2000 (See Attachment 1 to Staff Report). The additions are constructed using exposed steel beams and columns, but do not share common construction techniques since building technologies varied greatly from one decade to the next. For instance, Metro Central's Bay 3 original 1920 addition is composed of heavy, hot-dipped, galvanized steel members with riveted connections, that were later seismically upgraded via welding the riveted connections, while Bay 1 was assembled in 1973 using a prefabricated and bolted steel structure.

Considering that the last major addition to Metro Central was in 1990 - and the Occupational Health and Safety Administration (OSHA) began implementing fall protection requirements in 1994 - Modern roof safety systems (i.e. personal fall restraints, ladder or stair access, roof tie-off's, walking platforms, etc.) were not included as part of Metro Central's additions.

Resolution 23-5310: Staff Report

Roof Safety Upgrades at the Metro Central Transfer Station

Due to these conditions, Metro and the contracted facility operator have not been able to perform routine/regular maintenance work on existing roof equipment and new roof projects have delayed until roof safety upgrades are completed.

Metro Construction Project Management Office (CPMO) staff met with Waste Prevention and Environmental Services' (WPES) Metro Central Superintendent, WPES Metro Central staff, Metro Integrated Pest Management (IPM), WPES Environmental Compliance team, WPES Safety Specialists, and Metro Central's contracted private operator, to determine the work needs of these groups on the main transfer building roof. All expressed a direct need to have safe and compliant roof access to address a broad range of work needs:

- Equipment maintenance
- Perform regulated environmental compliance inspections
- Complete pest management duties and address roof pest residency that is currently inaccessible
- Fulfill Metro operator contractual obligations such as roof gutter cleaning, gutter repairs and down-spout clearing, etc.
- Install new pest management devices via private contractor
- Replace thirty-one roof exhaust fans to meet building permit obligations, increase air flow and better air-quality work conditions
- Clean (pressure wash) transparent roofing panels to remove organic growth and greatly increase natural daylighting in the facility

These groups also expressed a need to develop and implement routine maintenance schedules to ensure roof work needs are regularly monitored, documented, and addressed in a timely manner.

There are also challenges when working to coordinate roof work by external contractors. External contractors have either declined work opportunities, or bids were received well over expected amounts because contractors are required to supply their own safe roof access. In turn, Metro incurs the added costs of contractor supplied safe roof access.

Metro staff met with the Professional Design Team to review options to construct OSHA compliant roof safety upgrades. The conclusion at the meeting was that due to the varied construction methods, lacking documentation of historic construction plans, risk of the constructability of design solutions, higher risk of increased cost due to unforeseen structural conditions in Bay 3 1920 and 1940 additions, as well as significant constraints and complexity in construction staging/phasing that minimally impact facility operations – Use of a traditional design and build procurement method was not the optimal approach.

A Construction Manager/General Contractor (CM/GC) project delivery method, wherein the General Contractor partners with the Professional Design Team and Metro project manager, is beneficial by providing early input into design constructability, permitting, project phasing, equipment and material staging areas, construction access, and scheduling.

The CM/GC project delivery method also helps Metro staff better understand construction costs early in the design process and refine estimates throughout design with all parties agreeing upon a

Resolution 23-5310: Staff Report
Roof Safety Upgrades at the Metro Central Transfer Station

Guaranteed Maximum Price (GMP) prior to the start of construction. The use of CM/GC's GMP avoids project delays and expensive change orders, helps to reduce liability and revenue risks to Metro, and provides a foundation of cooperation upon which a high-quality result may be achieved, on schedule and on budget.

For this project the Metro procurement manager believes that a value-based selection process for a Construction Manager General Contractor is more appropriate than a traditional, design-bid-build process (which solely considers lowest bid price). An alternative qualifications-based procurement method, a Request for Proposals, enables Metro to specifically request and qualitatively evaluate proposers' prior experience with the unique parameters of the project including experience with occupied, operational sites; demonstrated successes with compressed schedules; cost control; limited staging space and phased construction. Metro can also evaluate proposers' approach to Certification Office of Business Inclusion and Diversity (COBID) subcontractor outreach and partnership as well as workforce diversity. This delivery method offers a better ability for public agencies to increase the use of COBID firms in sub-contracting opportunities.

The attached resolution and findings in Exhibit A to Resolution No. 23-5310 further describe the specialized nature of this project and advantages of Construction Manager General Contractor delivery method. Metro Central operations, CPMO staff, and the Office of the Metro Attorney concur with these findings.

Therefore, staff seeks Council authorization to pursue the alternative procurement of CM/GC services by a competitive Request for Proposals, for roof safety upgrades at the Metro Central Transfer Station. This will allow Metro to consider cost as well as experience and expertise in completing similar projects and in selecting the most advantageous contractor for this project.

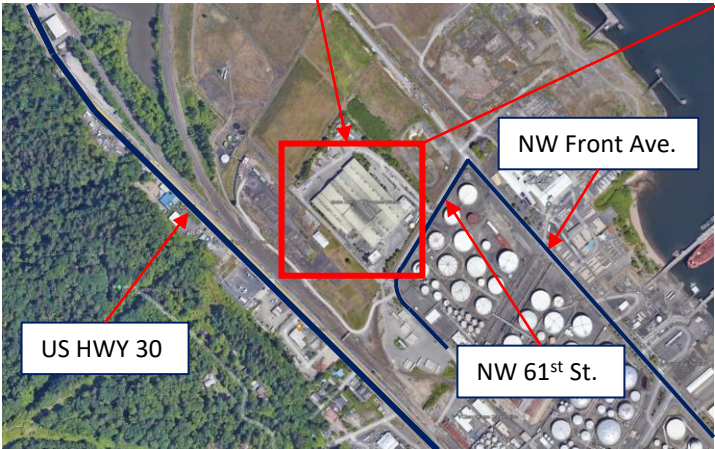
ATTACHMENTS

Attachment 1: Satellite image of Metro Central Transfer Station with "bay" names and year constructed

Metro Central Transfer Station: 6161 NW 61st St., Portland



Regional Overview



NW Portland Overview



Site Overview

Resolution No. 23-5307, For the Purpose of Delegating Authority to the Chief Operating Officer to Execute Written Employment Agreements

Resolutions

Metro Council Meeting
Tuesday, February 23rd, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DELEGATING	)	RESOLUTION NO. 23-5307
AUTHORITY TO THE CHIEF OPERATING)	
OFFICER TO EXECUTE WRITTEN	)	Introduced by Chief Operating Officer
EMPLOYMENT AGREEMENTS	)	Marissa Madrigal in concurrence with
	)	Council President Lynn Peterson

WHEREAS, Metro Code Section 2.02.010 (the Personnel Code) provides that the Metro Council may delegate by resolution to the Chief Operating Officer (“COO”) authority to execute employment agreements on a case-by-case basis, or as a group, for Director-level positions, where all terms in those employment agreements are identical except salary; and

WHEREAS, the amendments made to Metro Code Section 2.02.010 by Ordinance No. 22-1487 are for the purpose of clarifying ambiguities and do not change the substance or scope of the Metro Council’s power to delegate to the COO the authority to execute employment agreements in certain situations; and

WHEREAS, the amendments made to Metro Code Section 2.02.010 by Ordinance No. 22-1487 are not effective until May 10, 2023; and

WHEREAS, the Metro Council believes it is in the best interest of Metro for the COO to directly negotiate and execute written employment agreements for the new Deputy Chief Operating Officer, as well as other director-level positions before the effective date of Ordinance No. 22-1487; now therefore,

BE IT RESOLVED that the Metro Council hereby delegates authority to the Chief Operating Officer to execute written employment agreements in a form approved by the Office of Metro Attorney and identical to the one attached as Exhibit A with the following positions: (1) the new Deputy Chief Operating Officer; (2) the Director of Housing; (3) the Director of Diversity, Equity and Inclusion; (4) the Director of Planning, Development and Research; (5) the Director of Information Services/Chief Information Officer; (6) the Executive Director of the Expo Center; (7) the Executive Director of the Oregon Convention Center; and (8) the Executive Director of Portland’s Centers for the Arts.

ADOPTED by the Metro Council this ____ day of February 2023.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney

AT-WILL EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into by and between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter (herein referred to as “Metro”) and <Name of Employee> (herein referred to as “Employee”).

RECITALS

1. Metro requires the services of a <Position Title>.
2. Employee has the qualifications and the desire to serve Metro as its <Position Title>.
3. This Agreement will be referred to as “At-Will Employment Agreement” (herein referred to as “Agreement”).

NOW, THEREFORE, IN CONSIDERATION of the compensation Metro will pay to Employee as specified in this Agreement, and in consideration of the mutual promises in this Agreement, the parties agree as follows:

AGREEMENT

1. **Engagement.** Subject to the parties’ right to terminate this Agreement as specified below, Metro hereby employs, and Employee hereby accepts employment from Metro for Employee’s services as <Position Title>.
2. **Term of Agreement.** The terms of this Agreement apply to Employee’s employment upon execution and continue until terminated as provided in this Agreement.
3. **Services.** Employee will faithfully, industriously and to the best of Employee’s ability serve as the <Position Title>, and will perform all duties as may be required of the Employee by the Metro Charter, the Metro Code, the Chief Operating Officer (“COO”), and any designee of the COO.
4. **Exclusivity.** Unless reassigned under Section 8, Employee will primarily devote their business efforts, time, attention, knowledge, and skills to Metro as the <Position Title>. Employee may engage in outside business or professional activities, provided that:
 - (1) Employee obtains the COO’s written consent before engaging in any outside business or professional activities; and
 - (2) the COO determines in the COO’s sole discretion and after consultation with the Metro Attorney that the activities: (a) do not impair performance of Employee’s duties under this Agreement, (b) do not make use of

Metro resources, (c) are not substantially similar to the services Employee renders to Metro under this Agreement, and (d) do not violate or are otherwise inconsistent with the requirements of Metro policies, Metro Charter, Metro Code, or with any other applicable rules, regulations or legal requirements (as amended from time to time).

5. **Employment At-Will.** Metro and Employee understand and acknowledge that Employee serves at the COO's pleasure. Metro and Employee understand and acknowledge that Employee's employment with Metro is "at-will" employment. Subject to Metro's obligation to provide severance benefits as specified in this Agreement, Employee and Metro acknowledge that either party may terminate this employment relationship at any time, upon written notice to the other party, with or without cause or good reason and for any or no cause or reason. The parties further understand and agree that neither this Agreement, nor any service provided under this Agreement, creates a property interest of any kind.

6. **Compensation.**
 - A. **Salary.** As compensation for Employee's services, Metro will pay Employee the sum of \$XXX,000.00 per year, payable in the same frequency and manner as other Metro employees. The COO or the COO's designee will annually review Employee's performance as provided below, and thereafter the COO may adjust Employee's salary consistent with the Metro pay plan, including any cost-of-living adjustments and merit increases provided for non-represented employees. Employee's compensation is subject to customary withholdings and other taxes as required with respect to compensation paid by Metro to an employee.

 - B. **Benefits.** The COO will determine Employee's benefits package, consistent with Metro's employment policies. For the purposes of this section, "benefits" means health insurance (including dental and vision care), life insurance, disability insurance, paid leave, employee assistance, retirement benefits pursuant to the Public Employees Retirement System ("PERS"), and any other benefits which are routinely provided to Metro's non-represented employees. Metro will pay the six percent employee contribution required by PERS. Except as otherwise expressly provided in this Agreement, the employee benefits provided to Employee under this section are subject to any additions, reductions or other changes made by the Metro Council to the benefits provided to Metro's non-represented employees.

 - C. **Annual Vacation Leave.**
 - (1) Employee will accrue annual vacation leave as provided in the Metro Personnel Rules, as those Rules may be amended from time

to time, except that Employee may exceed the annual 350-hour limit on accrued leave and accrue up to 750 hours of leave.

- (2) Employee will annually forfeit any vacation leave that both (a) exceeds the 350-hour limit; and (b) is accrued in a fiscal year in which Employee has not taken at least 80 hours of vacation leave (“minimum leave”). The COO or the COO’s designee may waive the “minimum leave” requirement under extraordinary circumstances.
- (3) If Employee voluntarily resigns or Metro terminates for cause as defined in Section 9(C), Employee is only entitled to payment for accrued and unused vacation leave up to a maximum of 350 hours. If the COO terminates Employee without cause, Metro will compensate Employee as provided in Section 9(B).

7. **Performance Reviews.** The COO or the COO’s designee and Employee will mutually agree on an annual work plan for Employee. In evaluating Employee’s performance, the COO or designee may consider how Employee’s performance is consistent with standard management practices, personnel policies and performance measures adopted by the COO or the COO’s designee.

8. **Reassignment.** Upon written notice by the COO or the COO’s designee, the COO may temporarily or permanently reassign Employee to another Metro position or reassign Employee to another entity pursuant to Metro’s “Loaned Executive” policy. If a temporary reassignment results in Employee receiving a higher salary during the reassignment period, Metro will return Employee in good standing to Employee’s previous position and salary range upon completion of the reassignment. Performance reviews covering periods while Employee is temporarily reassigned or on loan to another entity will reflect all work during the period, and compensation adjustments will be commensurate with performance during the entire period under review.

9. **Termination.**

A. **Termination by the Parties.**

- (1) **Termination by Metro:** Employee understands and agrees that Employee serves at the pleasure of the COO and that the COO may terminate Employee’s employment with Metro at any time, with or without cause, by giving Employee a written notice of termination. If the written notice of termination does not specify the effective date of termination, the effective date of termination is the date on which the COO gave the written notice. Cause is defined in section 9(C).

- (2) Termination by Employee: Employee may terminate employment with Metro at any time by giving the COO a written notice of termination specifying the effective date of termination. To terminate in good standing, Employee must provide at least thirty days written notice of termination. If the written notice of termination does not specify the effective date of termination, the effective date of termination is the date that is thirty days after the date on which Employee gave the written notice.
 - (3) Upon termination, Metro will pay accrued leave as provided by the terms of this Agreement.
- B. Termination Without Cause. The COO may, at their sole election, may terminate this Agreement without cause and without prior notice to Employee. Upon termination of employment without cause, Employee will receive severance pay and benefits in exchange for a signed release of any and all claims as follows:
- (1) Severance pay of three months' salary. Severance pay is subject to usual and customary withholdings and taxes under applicable local, state, and federal law.
 - (2) Upon the effective date of termination, Employee is eligible for continued health insurance as established by law ("COBRA"). Metro will pay an amount equivalent to six months of the premium cost of Employee's health insurance at the level utilized by Employee at the time of termination. This payment is subject to usual and customary withholdings and taxes under applicable local, state, and federal law.
 - (3) Metro will pay Employee for all accrued and unused vacation leave up to a maximum of 750 hours. This payment is subject to usual and customary withholdings and taxes under applicable local, state, and federal law.
- C. Termination for "Cause." The COO may terminate this Agreement for "cause" by giving Employee written notice of intent to terminate for "cause." The written notice will set forth the reasons for cause and provide an opportunity for Employee to respond. In the event that the COO elects to terminate this Agreement for "cause," none of the payments identified in Section 9(B) are due to Employee. At any time before the effective date of a termination for cause, the COO may provide written notice withdrawing the notice of proposed termination for cause. Following this withdrawal, the COO may elect to terminate this Agreement pursuant to the provisions of Section 9(B). "Cause" includes one or more of the following:

- (1) Commission of any act specified as a basis for disciplinary action in the Metro Personnel Policies (as it may be amended from time to time), the nature of which would tend to bring discredit or embarrassment to Metro or the Council, as determined by the COO in their reasonable discretion.
 - (2) Violation of the Oregon Government Ethics and Practices Act.
 - (3) Violation of the Code of Ethics for Metro Officials. Metro Code Chapter 2.17.
10. **Non-Disclosure of Confidential Information.** To the extent allowable under Oregon public records law, Employee agrees that during employment and following separation, Employee will not disclose confidential information obtained during the scope of employment at Metro.
11. **Termination Authority.** The COO has the sole authority to terminate this Agreement on behalf of Metro. The COO may terminate this Agreement in writing pursuant to any provision of Paragraph 9.
12. **Disability or Death.**
 - A. If, as the result of any physical or mental disability, Employee fails or is unable to perform Employee's duties for more than twelve consecutive weeks, the COO may terminate Employee's employment under this Agreement. The COO will provide written notice to Employee. The termination of Employee's employment will be effective as of the date of the notice and Metro will not be obligated to make any further payment or furnish any benefit under this Agreement (other than accrued and unpaid salary and accrued benefits), subject to compliance with all applicable laws and regulations including the Americans with Disabilities Act.
 - B. Employee's employment term terminates upon Employee's death. In the event of Employee's death, Metro will pay all accrued salary and benefits, but will not furnish any of the benefits designated under Section 9(B).
13. **Successorship.** This Agreement inures to and is binding upon Metro's successors, assigns, trustees, executors, and administrators.
14. **Modification.** Only a written amendment signed by Employee and the COO can modify this Agreement. The Metro Council must approve the amendment. No oral or written statements, promises, or course of conduct modifies the Agreement in any way. No practices or customs which may arise between Employee and Metro modifies this Agreement or affects its meaning in any way.

- 15. **Waiver.** Failure of either party at any time to require performance of any provision of this Agreement does not limit the parties' rights to enforce the provision, nor will any waiver of any breach of any provision be a waiver of any succeeding breach of the provision itself or of any other provision.
- 16. **Construction.** This At-Will Employment Agreement is the final, entire agreement between the parties, is to be construed as having been drafted jointly by the parties, is intended to be a complete and final expression of the agreement between the parties, and supersedes all prior discussions or agreements.
- 17. **Severability.** If any court of competent jurisdiction determines that one or more portions of this Agreement are invalid or unlawful, the remaining portions remain in full force and effect.
- 18. **Governing Law.** This Agreement is governed by and construed in accordance with the laws of the State of Oregon. Employee consents to the personal jurisdiction of the state and federal courts located in Multnomah County, Oregon for any action or proceeding arising from or relating to this Agreement.

EMPLOYEE

METRO

<Name of Employee>

Marissa Madrigal
Chief Operating Officer

Dated: _____

Dated: _____

APPROVED AS TO FORM:

Carrie MacLaren
Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 23-5307, FOR THE PURPOSE OF DELEGATING AUTHORITY TO THE CHIEF OPERATING OFFICER TO EXECUTE WRITTEN EMPLOYMENT AGREEMENTS

Date: February 7, 2023
Department: Office of the COO
Meeting Date: February 23, 2023

Prepared by: Summer Beanland
summer.beanland@oregonmetro.gov

ISSUE STATEMENT

On January 26, 2023, the Office of the Chief Operating Officer (“COO”) and the Office of Metro Attorney presented Ordinance No. 22-1487 to the Metro Council for its first reading. This ordinance, which amends code language to clarify certain ambiguous terms relating to employment agreements, will not become effective until May 10, 2023. The COO would like to execute written employment agreements for certain positions now (i.e., before Ordinance No. 22-1487 becomes effective). Incumbents in a number of positions are working without any employment agreement in place, and the COO would like to remedy this issue as soon as possible.

Pursuant to current Code Section 2.02.010, the Metro Council may delegate by resolution to the COO the authority to execute written employment agreements on a case-by-case basis, or as a group for Director-level employment agreements where all terms in those employment agreements are identical except salary. Resolution No. 23-5307 delegates authority to the COO to execute written employment agreements consistent with existing code language for the following positions: (1) the new Deputy Chief Operating Officer; (2) the Director of Housing; (3) the Director of Diversity, Equity and Inclusion; (4) the Director of Planning, Development and Research; (5) the Director of Information Services/Chief Information Officer; (6) the Executive Director of the Expo Center; (7) the Executive Director of the Oregon Convention Center; and (8) the Executive Director of Portland’s Centers for the Arts.

After Ordinance No. 22-1487 becomes effective, the COO will return to the Metro Council for approval of the use of a form employment agreement that is consistent with new code language.

ACTION REQUESTED

The Office of the COO requests approval of Resolution 23-5307 delegating authority to the COO to execute written employment agreements in a form approved by the Office of Metro Attorney and identical to the one attached as Exhibit A to the Resolution with the eight positions identified above.

IDENTIFIED POLICY OUTCOMES

This would allow the COO to provide an employment agreement to the newly created Deputy COO position as well as to others and thus establish consistency amongst director-level positions. This also allows Metro to be a more competitive employer and supports the agency goal of being an “Employer of Choice.”

POLICY QUESTION(S)

N/A

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Approve Resolution No. 23-5307

- The approval of this resolution will allow Metro’s COO to enter into employment agreements for specified positions at Metro using the form employment agreement approved by the Office of Metro Attorney.

Do not approve Resolution No. 23-5307

- If Metro Council does not approve this resolution, COO Madrigal will not be able enter into employment agreements with specified positions.

STAFF RECOMMENDATIONS

Staff recommends that Council approve the resolution delegating authority to the COO to execute written employment agreements with eight specific positions.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Legal Opposition: None

Legal Antecedents: Metro Code Section 2.02.010; Ordinance No. 22-1487

BACKGROUND

In response to the Employment Agreements audit and the recommendations in it, in March 2020 and on December 13, 2022 the COO came before Council to receive direction on the following questions:

- Does Metro Council wish to continue to delegate authority to the COO to enter into employment agreements with certain employees?
- Should OMA clarify language in Code Section 2.02.010 to ensure consistent and transparent execution of employment agreements?

At the December 2022 work session, Council indicated its assent to both questions and instructed staff to proceed with clarification of language in Code Section 2.02.010 and an update to the Employment Agreement Template that the COO is authorized to use when delegated authority by Council. After additional discussion with the Metro Auditor, the Office of Metro Attorney and Chief Operating Officer agreed to propose mutually acceptable updates to Council. On January 26, 2023 Ordinance No. 22-1487 clarifying language in Code Section 2.02.010 was brought before Council for its first reading. On February 9, 2023, Ordinance No. 22-1487 came before Council for second reading and vote. Because Amendments made to Code Section 2.02.010 will not be effective until April 18, 2023, the resolution before you (Resolution No. 23-5307) is based on current Code Section 2.02.010. It delegates authority to the COO to execute written employment agreements with specified positions using the attached form employment agreement. After Ordinance No. 22-1487 becomes effective, the COO will return to the Metro Council for approval of the use of a form employment agreement that is consistent with new code language.

ATTACHMENTS

Ordinance No. 23-5307

Exhibit A - Form Employment Agreement

Materials following this page were distributed at the meeting.

Legislature Needs to Act Now and Pause ODOT on Tolling the Interstates

The Oregon Transportation Commission and the Department of Transportation are now on a fast track to charge tolls at the Interstate 205 Abernethy Bridge in Oregon City and the Tualatin River Bridge near Tualatin and Lake Oswego. Tolling all lanes of these bridges could be operational in 2025.

ODOT describes the project as adding a third lane and providing seismic improvements to bridges on I-205 from Stafford Road to OR 213. Tolls will be the primary source of revenue to complete what ODOT is calling the I-205 Toll Project. Project information indicates tolls could range from \$0.60 to \$2.20 for each trip.

An assessment of project impacts now being prepared by ODOT will be released this month. The assessment is required by the Federal Highway Administration. Tolls could be in effect in late 2024 or 2025 should FHWA agree the project has no significant impacts.

Several cities in the project area are worried that tolling will increase traffic diversion through their cities. City officials say, and most of us would agree, that traffic diversion from a freeway to avoid tolls harms livability and worsens traffic safety. ODOT also agrees with this, concluding that traffic diversion will be “moderate.” They also say diversion can be “miti-

gated.” City officials feel there isn’t mitigation that can fix the traffic diversion problem.

After a public review period, if FHWA finds there are no significant social, economic or environmental impacts caused by the project or tolls, the project will proceed to construction. This could happen this spring.

Users of I-205 facing tolls may want to know why other funding sources aren’t used. After all, for decades freeways and highways have been improved without being tolled. We’ll get to that in a moment.

Estimates indicate that monthly toll charges could cost these users over \$1000 a year just to use I-205. \$500 dollars is about what the average driver pays annually in gas taxes and vehicle registration and title fees to drive on all roads, streets and highways in the state.

So, what’s going on? The legislature, in 2017 and 2021 mandated that ODOT study using tolls. This legislation also raised the gas tax, but these increases sunset in 2024. There appears to be enough money being deposited in the State Highway Fund to at least consider a non-toll revenue source for the project.

Gas taxes and related taxes on heavy trucks approved by the legislature in 2017 now raise \$500 million per year. This revenue is shared with cities and counties. County and city elected officials are grateful as their roads and streets are safer and in better condition than ever. Tolls will not be part of this revenue sharing formula.

Isn't it inherent upon ODOT in its project assessment to compare tolling with a project funded with revenue that has been used historically? Further, why isn't ODOT looking at express lane tolls? 13 other states toll express lanes to add traffic capacity and deal with traffic congestion.

Express lanes give drivers a choice to pay a toll for a faster trip. These lanes, according to traffic studies done by ODOT over four years ago, will result in less traffic diversion than tolling all lanes of the bridges. Perhaps ODOT dropped this alternative since only one lane is tolled and toll collections would be only 25% of what bridge tolling collects.

ODOT has not stated publicly that faster travel times on freeway will be due to the new lanes increasing freeway capacity by 50%. Mandatory tolling will have very little to do with moving vehicles faster. Express lanes do.

Tolling has its place. But ODOT's first variable price tolling project on I-205 is the wrong solution in the wrong place. After five years of study has ODOT blundered into mandatory tolling because it raises the most revenue?

If so, this is more than a mere public relations mistake. Toll revenue comes with a price. Just ask the cities who will take the brunt of unwanted traffic, decreased road safety, and not gain any benefit from the generated toll revenue.

Once the legislature becomes more informed of the true social and economic cost of tolling all lanes, let's hope they will renew the bill they passed in 2017 with a bipartisan vote. This will ensure ODOT will have enough revenue to do the I-205 Project without imposing tolls.

If you don't want the tolls, get in contact with your legislators. It's a very good way to start.

We all know that Oregon is moving forward with plans to toll major Portland area roads. What they've largely kept secret is how high these tolls will be. We've obtained Oregon DOT documents showing that they plan to charge tolls that would be as high as \$15 for a one-way, peak hour trip between Vancouver and Portland, due to a combination of tolls for a new I-5 bridge over the Columbia (\$5.60), tolls for crossing two bridges on I-205 (\$4.40), and per mile charges of as much as 38 cents per mile for driving on I-5 or I-205 in the Portland area.

You can read about this in the Oregonian article here:

<https://www.oregonlive.com/commuting/2023/02/tolls-are-coming-to-portland-area-freeways-and-even-tolling-fans-worry-theyll-stack-up.html>

Here are the details as compiled by City Observatory.

<https://cityobservatory.org/driving-between-vancouver-and-wilsonville-at-5pm-odot-plans-to-charge-you-15/>

Under ODOT's toll plans, A driving from Wilsonville to Vancouver will cost you as much as \$15, each-way, at the peak hour.

Drive from Vancouver to a job in Wilsonville? Get ready to shell out as much as \$30 per day.

Tolls don't need to be nearly this high to better manage traffic flow and assure faster travel times. The higher tolls are necessitated by the need to finance ODOT's multi-billion dollar highway spending spree.

ODOT is telling everyone to get ready for tolls, but they're being close-mouthed about how much tolls will be. Here's what they're planning, according to documents obtained by City Observatory.

- Tolls on the I-205 Abernethy and Tualatin River Bridges will be \$2.20 each at the peak hour. (Orange)
- Tolls on the I-5 Interstate Bridge will be up to \$5.69 (Green)
- In addition to these tolls, drivers on I-5 and I-205 will pay tolls of 17 cents to 38 cents per mile during peak hours. Twenty miles of driving on I-5 or I-205 will cost you between \$3.40 and \$7.60. (Blue)
- People who don't have transponders will also pay a \$1.77 processing fee per transaction

ODOT's planned tolls for Portland area bridges and highways

Here's what your bill could look like for a trip from Wilsonville to Vancouver in just a few years.

Of course, you have the option of taking I-5, rather than I-205, but if you do, your bill will be pretty similar:

Why are the tolls so high? ODOT claims that the tolls are needed to manage congestion, but actually they're planning on charging toll rates that are vastly higher, and that are poorly designed to actually manage traffic. The reason: ODOT is planning to go deeply in to debt to spend billions widening area freeways, and high tolls will be needed to pay back the bonds ODOT issues. ODOT has already decided to issue \$600 million in short term debt (a kind of bureaucrat's pay-day loan) to get the I-205 projects started. In the case of the IBR, ODOT and WSDOT will need a huge amount of toll revenue to pay for their super-sized \$7.5 billion project.

If the tolls are set at levels that would just manage traffic they could be much lower at the peak hour, and could be **zero** in off-peak hours. The purpose of tolling should be to encourage people to travel at times when the highway system has adequate capacity. Most peak hour travelers don't have alternatives, but a good proportion (20 to 30 percent, at least) do have the option of taking their trip at a different time, taking a different route, or using transit. Moving just a small portion of peak hour traffic off the freeway system means we'll get much better service and travel times. But tolls could be much lower than those that would be required to pay off billions of dollars in bonds. There's actually no reason to charge tolls overnight, and during most off-peak periods; freeways could still be "free" then, to encourage people to shift their trips to these less busy times, lowering peak hour congestion and avoiding the need for expensive road-widening projects.

Lower tolls would work better and be more equitable. Some people are concerned that tolling is inequitable to the poor. Research has shown that because higher income people drive more, drive farther, and are more likely to drive at the peak hour, that tolls fall more heavily on high income households. And even that low level of inequity can be lessened by setting toll levels at the lowest rates consistent with getting free traffic flow (and not high enough to fund super-sized highways). In addition, very low or zero off-peak tolls make the system more equitable because lower income people are much less likely than high income people to drive at peak hours. Finally, we ought to use toll revenues to fund a "transportation wallet" for low income households to offset their transportation costs however they choose to travel. Toll exemptions require you to buy a car to get any benefit, and do nothing to help those who don't own cars or can't drive.

Joe Cortright
City Observatory
www.cityobservatory.org
1424 NE Knott St, Portland, Or 97212

These, Editorial Comments: [Opinion: Legislature needs to act now and pause ODOT on I-205 tolling | Opinion | clackamasreview.com](#) are being forwarded on to you by the Leadership Team of the Initiative Petition, IP-4, "Vote Before Tolls" as they reflect the injustice that result, with indiscriminate use and errors in judgement within the proposed Tolling of the I-205 Corridor and it's subsequent negative impacts on local communities and safety. The diversion realities in this first planned implementation of Tolling in the I-205 Corridor and I-205 Abernethy acknowledge in Cam Gilmour's attached Editorial Comments, published in the Clackamas Review tells us:

Tolling has its place. But ODOT's first variable price tolling project on I-205 is the wrong solution in the wrong place. After five years of study has ODOT blundered into mandatory tolling because it raises the most revenue?

If so, this is more than a mere public relations mistake. Toll revenue comes with a price. Just ask the cities who will take the brunt of unwanted traffic, decreased road safety, and not gain any benefit from the generated toll revenue.

Once the legislature becomes more informed of the true social and economic cost of tolling all lanes, let's hope they will renew the bill they

passed in 2017 with a bipartisan vote. This will ensure ODOT will have enough revenue to do the I-205 Project without imposing tolls.

The Legislature, Oregon Transportation Commission, Oregon Department of Transportation and Metro Transportation Planning, Needs to Act Now and Pause ODOT on Tolling the Interstates, and if that is not done, expect Oregon Voters to approve Initiative Petition IP-4, "Vote Before Tolls", to get passed by the voters, which makes it mandatory to have a "Vote of the People" to approve or disapprove any attempt to Toll any roads, highways, bridges and tunnels, in the State of Oregon.

[Vote Before Tolls](#)

Cam Gilmour

Former, Deputy Secretary and Chief Operating Officer, Washington Department of Transportation

Best known for his leadership in directing large governmental departments, and in-depth knowledge of finance, budget, program and project management, and skill in negotiating complex transportation issues in the state of Oregon and Washington.

He is a member of the Oregon Highway Users Association, the American Public Works Association, and was a member of the Special Committee on Environment, Archeology, and Historic Preservation, as well as the Committee on Environmental Analysis In Transportation for the Transportation Research Board (TRB).

Gilmour was honored with the Oregon Department of Transportation's Excellence Award, as well as the 3E Award from the Oregon State Highway Division.

Deputy Secretary/Chief Operating Officer Washington Department of Transportation
Washington Department of Transportation

May 2013 - Jul 2015 - 2 years 3 months

Olympia, Washington

The Deputy Secretary/COO leads a team of executive managers in developing and executing plans, policies, strategic initiatives and projects aimed at continuous improvement in the performance of the state transportation system. This includes, but it not limited to, financial and fund programming systems, strategic planning, and project reporting and performance systems. These responsibilities focus on adding value to the users of the state transportation system and communities whose vitality...

Director, Department of Transportation & Development, [Clackamas County, Oregon](#)

Jan 1999 - 2013 - 14 years

Director, February, 2001 to 2013.

Responsible for the administration and policy direction of the Department. The Department consists of eight divisions, 300 FTE and an annual budget of \$110 million. The divisions are Land Use and Environmental Planning, Building Codes, Transportation Engineering, Transportation Maintenance, Community Environment, Business Services, Dog Control and Surveyor. The director is also the appointed executive of the Clackamas County Development Agency, which is...



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[Oregon Department of Transportation](#)

[24 years 8 months](#)

Deputy Director of Finance & Administration

Jan 1997 - Dec 1998 - 2 years

Salem, Oregon

Assistant to the Department Director

Jan 1996 - Jan 1997 - 1 year 1 month

Manager, Program and Engineering Services Section, Technical Services Branch
Jul 1994 - Jan 1996 - 1 year 7 months

Manager, Program Services Section, Technical Services Branch
Sep 1987 - Jun 1994 - 6 years 10 months

Manager, Environmental Section, Project Development Branch
May 1983 - Sep 1987 - 4 years 5 months

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