



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, December 7, 2023

10:30 AM

Metro Regional Center, Council Chamber,
<https://www.youtube.com/live/ZGdk0IYjZlc>
?si=CZNLUO64QgwanidV,
<https://zoom.us/j/615079992> Webinar ID:
615 079 992 or 888-475-4499 (toll free)

This meeting will be held electronically and in person at the Metro Regional Center Council Chamber. You can join the meeting on your computer or other device by using this link:
<https://www.youtube.com/live/ZGdk0IYjZlc?si=CZNLUO64QgwanidV>

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. Testimony on non-agenda items will be taken at the beginning of the meeting. Testimony on agenda items generally will take place during that item, after staff presents, but also may be taken at the beginning of the meeting.

3. Presentations

3.1 Affordable Housing Bond Audit Results [23-5974](#)

Presenter(s): Brian Evans (he/him), Auditor, Metro

Attachments: [Attachment 1](#)
[Attachment 2](#)

4. Consent Agenda

4.1 Resolution No. 23-5365 For the Purpose of Amending and [RES 23-5365](#)

Adding New Federal Discretionary Plus Metro TSMO

Program Awards to the 2024-27 MTIP (consent)

Attachments: [Resolution 23-5365](#)
[Exhibit A](#)
[Staff Report](#)

- 4.2 Resolution No. 23-5363 For the Purpose of Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Republic Services of for Transport of Commercial Food Waste and Yard Debris Mixed with Residential Food Waste to the Pacific Region Compost Facility [RES 23-5363](#)
- Attachments: [Resolution No 23-5363](#)
[Exhibit A](#)
[Staff Report](#)

5. Resolutions

- 5.1 Resolution No. 23-5361 For the Purpose of Metro Council’s Acceptance of the Results of the Independent Audit for Financial Activity During Fiscal Year Ending June 30, 2023 [RES 23-5361](#)
- Presenter(s): Brian Evans, Metro Auditor
Brian Kennedy, Metro Chief Financial Officer
Ashley Osten, Moss Adams, LLC
- Attachments: [Resolution 23-5361](#)
[Exhibit A](#)
[Exhibit B](#)
[Exhibit C](#)
[Staff report](#)

6. Local Contract Review Board Consent Agenda

- 6.1 Resolution No. 23-5360 For the Purpose of Amending Metro's Contracting and Procurement Administrative Rules [RES 23-5360](#)
- Attachments: [Resolution No. 23-5360](#)
[Exhibit A](#)
[Exhibit B](#)
[Exhibit C](#)
[Redline Procurement LCRB Rules 2024](#)
[Redline Personal Services Rules 2024](#)
[Redline Equity in Contracting Rules 2024](#)
[Staff Report](#)

- 7. Councilor Communication**
- 8. Chief Operating Officer Communication**
- 9. Adjourn**

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានការប្រឹក្សាស្តីពីការរើសអើងសូមទូរស័ព្ទទៅលេខ 503-797-1700 ។ www.oregonmetro.gov/civilrights ។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃច័ន្ទ) ។ ប្រសិនបើលោកអ្នក មានប្រសិទ្ធភាពស្តីពីការរើសអើងសូមទូរស័ព្ទមកលេខ 503-797-1700 ។

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**Affordable Housing Bond Audit
Results**
Presentation

Metro Council Meeting
Thursday, December 7, 2023

Affordable Housing Bond: Continue progress to inform future efforts

Why this audit is important

The purpose of the audit was to conclude on the status of prior audit recommendations and determine if there were gaps or redundancies in administrative controls to deliver on Affordable Housing Bond values.

Voters approved a \$652.8 million general obligation bond measure in 2018 to create 3,900 affordable units over five to seven years. A January 2021 audit evaluated Metro's preparedness to implement the bond measure.

Although progress has been made, the need for affordable housing continues to outpace availability. With the deficit of affordable units in the region, reducing duplicate efforts and filling potential monitoring gaps will be critical.

Bond-funded homes became available to eligible residents



Source: Metro Website

What we found

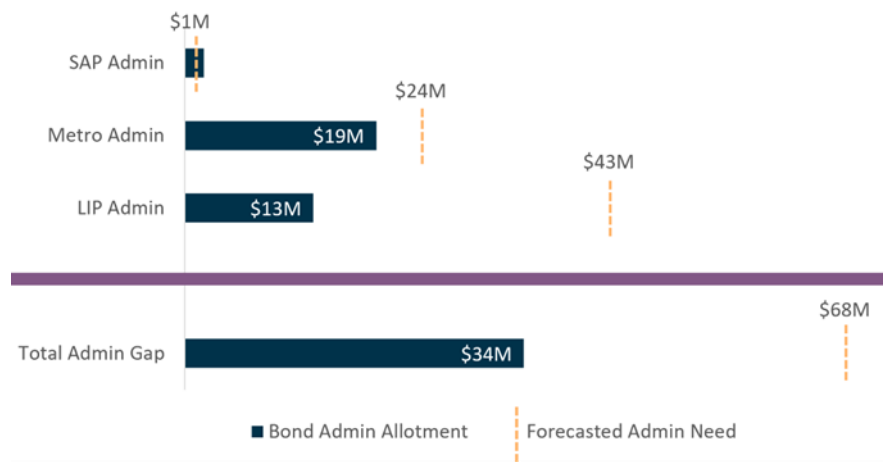
Metro made significant progress on prior audit recommendations. Seven out of nine recommendations were fully implemented and two were in process.

While progress was made, there were opportunities for improvement. Reporting processes were sufficient but could be strengthened to help Metro capture lessons learned. Metro also had project monitoring rights, but it was unclear how ongoing project information would be used or reported. This was important to sustain the bond's commitments to racial equity, creating opportunity for those in need, and good use of public investments.

The number of parties involved, and long project timelines increased the chance for gaps and inefficiency. Some duplication was necessary to provide appropriate oversight of projects. However, Metro is in a unique position to work with local and state partners to identify inefficient duplication and unintended gaps.

Additional work in several following areas will help Metro as it prepares for the future of its affordable housing program. The bond's administrative allocations will not cover administrative needs. This means Metro and local partners will need funding from other sources. Although this was expected when the bond was being developed, it presents a challenge for understanding the actual cost of implementing the bond.

Administrative expenses are funded by other sources of revenue



Source: Auditor's Office analysis of Affordable Housing Bond workplan and FY23-24 to FY27-28 forecast as of June 2023

What we recommend

The audit included eight recommendations. Five recommendations were designed to strengthen bond oversight and prepare for the future. To ensure bond activities are sufficiently funded, we made three additional recommendations to develop a long-term affordable housing plan, identify sources of funds to support Metro's ongoing roles and responsibilities, and use actual administrative spending data to inform potential future bonds.



Affordable Housing Bond:

Continue progress to inform future efforts

November 2023
A Report by the Office of the Auditor

Brian Evans
Metro Auditor

Angela Owens
Principal Management Auditor

Mason Atkin
Senior Management Auditor

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File an online report at www.metroaccountability.org



Brian Evans

Metro Auditor

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Portland, OR 97232-2736

TEL 503 797 1892, FAX 503 797 1831

MEMORANDUM

November 20, 2023

To: Lynn Peterson, Council President
Ashton Simpson, Councilor, District 1
Christine Lewis, Councilor, District 2
Gerritt Rosenthal, Councilor, District 3
Juan Carlos Gonzalez, Councilor, District 4
Mary Nolan, Councilor, District 5
Duncan Hwang, Councilor, District 6

From: Brian Evans, Metro Auditor

Re: Audit of Metro's Affordable Housing Bond Program

This report covers the second audit of the Affordable Housing Bond Program. The purpose of the audit was to conclude on the status of prior audit recommendations and determine if there were gaps or redundancies in administrative controls to deliver on Affordable Housing Bond values.

Metro made significant progress on past audit recommendations and developed the foundational structures for its housing work. Seven recommendations were implemented. Two were in process.

The audit identified several areas where additional work will help Metro prepare for the future. As bond work moves to its next phase, the Housing department will shift to outcome reporting and other oversight processes to ensure the region's investments in affordable housing are sustained. The region continues to have a shortage of affordable housing. As a result, even with successful implementation of the 2018 bond a significant number of new units will be needed.

We have discussed our findings and recommendations with Marissa Madrigal, COO; Patricia Rojas, Housing Director; Liam Frost, Housing Deputy Director; Emily Lieb, Housing Bond Program Manager; Alison Wicks, Housing Program Supervisor; and Rachael Lembo, Finance Manager, Finance and Regulatory Services. I would like to acknowledge and thank all the employees who assisted us in completing this audit.

Summary

Voters approved a \$652.8 million general obligation bond measure in November 2018. The goal was to create 3,900 affordable units over five to seven years. As of August 2023, about 1,600 units were under construction and 981 units were completed.

This audit was designed to follow up on previous recommendations and assess the potential for administrative gaps or duplication due to the complex governance structure of the bond. Metro made significant progress on past recommendations. Seven were implemented. Two were in process. Some in-process recommendations will continue to be important as Metro prepares for the future.

While progress has been made, we identified several opportunities for improvement. We evaluated the review processes and timelines for ten projects. Reporting processes were sufficient but could be strengthened to help Metro more systematically capture some lessons learned.

Metro lacked a long-term plan for fulfilling some of the oversight and administrative commitments of the bond. For example, long-term monitoring is needed to sustain the bond's commitments of racial equity, creating opportunity for those in need, and good use of public investments.

Inconsistent requirements and goals across local partners and project funders increased the potential for inefficient processes. Expectations for perfect alignment across funding sources may be unreasonable. However, Metro is in a unique position to work with local and state partners to identify ways to simplify the project approval and funding process.

Our analysis found that the bond's administrative allocations will not cover administrative needs. This means Metro and local partners will need funding from other sources. Although this was expected when the bond was being developed, it presents a challenge for understanding the actual cost of implementing the bond.

Based on current estimates, the need for affordable housing in the region will likely continue to outpace the availability. A need of about 90,000 units was estimated for those making 50% or less of the area median income in the greater Portland area. Metro needs a regional housing plan that considers new construction, preservation of existing units, and integration with the Supportive Housing Services program and other funds, to sustain progress.

The audit included eight recommendations. Five were intended to strengthen bond oversight and prepare for the future. Three were designed to ensure bond administrative activities are sufficiently funded.

Background

Voters passed a \$652.8 million general obligation bond measure (bond) in November 2018 to build affordable housing. Bond funds were targeted to households making less than 60 percent of area median income, or \$55,260 for a family of four in 2020. Most of the bond funding would go to city and county housing authorities (local partners), who would work with developers to build units.

There were targets for deeply affordable units (for households earning 30 percent of area median income or below) and family-sized units. Family-sized was defined as a unit with two or more bedrooms. The bond established four outcomes:

- Lead with racial equity
- Create opportunity for those in need
- Create opportunity throughout the region
- Ensure long-term benefits and good use of public dollars

Exhibit 1 The bond work plan included goals for deeply affordable and family-sized units

Deeply affordable units	Family-sized units
1,600	1,950

Source: Affordable Housing bond work plan

A January 2021 audit took an early look at Metro’s preparedness to implement the bond measure. A letter to management included three early recommendations to ensure responsible stewardship of bond funds and strengthen independent oversight. The audit included six recommendations to address procedural gaps. This audit was designed to follow up on the previous recommendations and assess the potential for administrative gaps or duplication due to the complex governance structure of the bond.

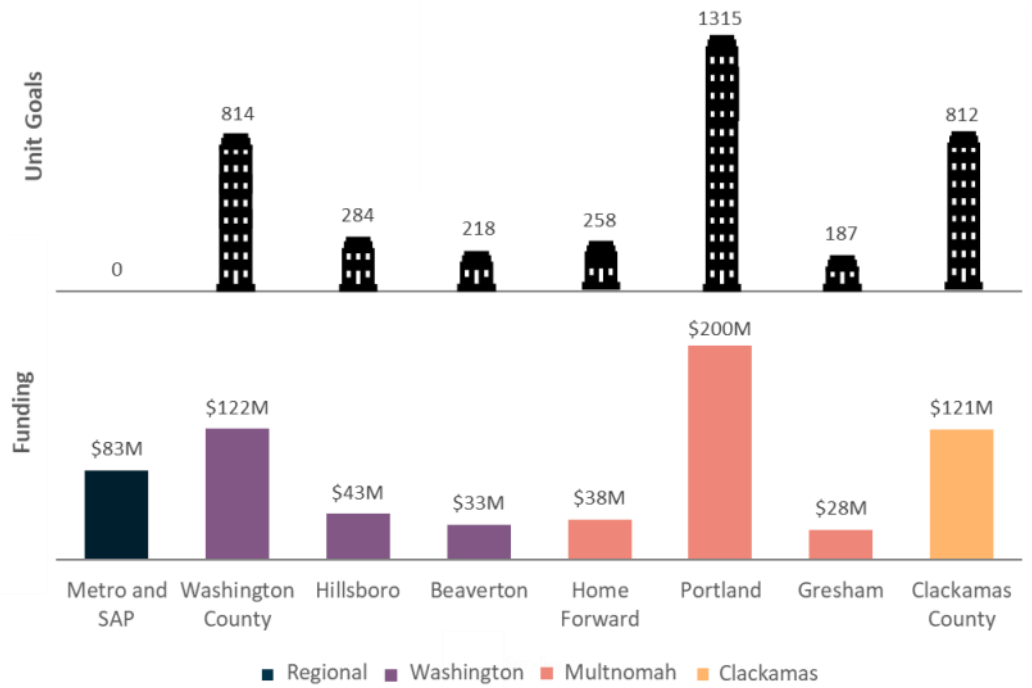
Metro’s role in bond administration is to authorize funding for projects and purchase sites for the jurisdictions to use for development. An independent community oversight committee reviews bond expenditures and provides annual reports to Metro Council. Administrative costs were capped at five percent of total bond proceeds.

Seven local partners received bond funds and each was expected to meet unit production targets. Local partners included four cities (Beaverton, Gresham, Hillsboro, and Portland) and two counties (Clackamas and Washington). Home Forward—Multnomah County’s housing authority—would develop housing in the cities east of Gresham. Each local partner was expected to obtain additional sources of funding to develop housing, such as tax credits or loans.

Local partners would work with private sector developers to build units. Local implementation strategies outlined how each local partner would select and complete projects. Those strategies were to be included in intergovernmental agreements (IGAs) between Metro and each local partner.

As of March 2023, about 3% of bond funds were set aside for Metro administrative activities (\$19 million). Metro also set aside about 9% of bond funds (\$64 million) for the Site Acquisition Program (SAP). SAP is a program managed by Metro designed to support local partners reaching their unit production goals. Metro can purchase an estimated one to three sites in each local partner area. Metro would also be involved in developing properties on these sites. Through SAP, Metro had an opportunity to emphasize community engagement and encourage building on regionally significant sites.

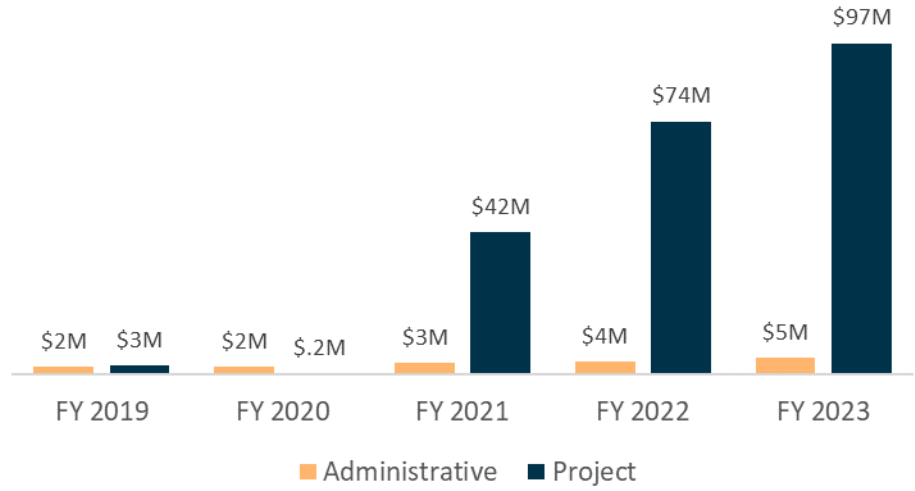
Exhibit 2 Bond funding was allocated to Metro and seven local partners



Source: Auditor's Office analysis of Affordable Housing bond work plan

The bond is administered by Metro's Housing department. As of June 30, 2023, about 34% of bond proceeds (\$232 million) had been spent. Most expenditures (93%) were for project costs. The other 7% was for administrative costs.

Exhibit 3 Bond expenditures have increased over time



Source: Auditor’s Office analysis of PeopleSoft data

As of August 2023, about 1,600 units were under construction and 981 units were completed. Completed units included three multi-family apartment buildings in Portland, four in Washington County, two in Clackamas County, two in Gresham, and one in Beaverton. No units had been completed in Hillsboro or through Home Forward in east Multnomah County.

Exhibit 4 Bond-funded homes became available to eligible residents



Source: Metro website

Results

Metro made significant progress on past audit recommendations and developed the foundational structures for its housing work. Seven recommendations were implemented. Two were in process. As more projects are completed, bond work is moving to its next phase. This will require the housing department to focus its efforts on outcome reporting and oversight processes to ensure the region's investments in affordable housing are sustained.

At the same time, the region continues to have a shortage of affordable housing. As a result, even with successful implementation of the 2018 bond a significant number of new units will be needed. During the audit, discussions were taking place about the need for another affordable housing bond measure. Additional work in the following areas will help Metro as it prepares for the future of its affordable housing program:

- Strengthening regional oversight processes to reduce gaps and avoid duplication
- Learning from past projects
- Developing a plan to track affordability over time
- Standardizing requirements to improve efficiency
- Improving clarity about the cost to administer programs
- Developing a long-term plan for Metro's role in affordable housing

Although progress has been made, the need for affordable housing continues to outpace availability. The State of Oregon estimated a loss of about 4,100 affordable units in Clackamas, Multnomah, and Washington counties by 2032. This was because existing affordability restrictions expire after a certain number of years. The bond is expected to deliver as many as 4,700 new units. This emphasizes the importance of building new, and preserving existing, affordable housing to increase the overall supply.

**Most
recommendations
were
implemented**

Our 2021 audit found weaknesses in Metro's preparedness to implement the bond. Early bond efforts focused on helping local partners develop implementation strategies. This meant there was reduced focus on developing internal procedures. The audit included six recommendations to support fair and consistent consideration of bond funding requests, provide timely and complete information to monitor bond progress, and support continuous improvement in bond operations. Three other recommendations were included in a separate management letter to strengthen perceptions of the community oversight committee's independence and ensure responsible stewardship of bond administrative funds.

Exhibit 5 Seven out of nine recommendations were fully implemented

Recommendation	Status
<p>To ensure responsible stewardship of bond administrative funds:</p> <ol style="list-style-type: none"> 1. Develop written guidance to help employees determine which administrative costs are bond-eligible 2. Provide training on written guidance to the employees responsible for making and coding expenditures 	<p>Implemented</p> <p>Implemented</p>
<p>To strengthen perceptions of the community oversight committee’s independence:</p> <ol style="list-style-type: none"> 3. Ensure that disclosures are accurate and complete by: <ol style="list-style-type: none"> a. Reminding committee members at each meeting to follow guidance Metro provided to disclose any conflicts of interest (potential or actual) verbally and to update disclosure forms if circumstances affecting their independence change. b. Documenting how potential threats to independence were reduced. 	<p>In Process (In Process)</p> <p>(In Process)</p>
<p>To support fair and consistent consideration of bond program funding requests:</p> <ol style="list-style-type: none"> 4. Clarify and use procedures for evaluating requests and proposed changes to approved projects, including the use of Site Acquisition Program funds on sites owned by Metro 5. Communicate procedures to staff, the community oversight committee, and participating jurisdictions 	<p>Implemented</p> <p>Implemented</p>
<p>To provide timely and complete information to monitor bond progress:</p> <ol style="list-style-type: none"> 6. Complete and use guidance for reporting on project and program outcomes, including: <ol style="list-style-type: none"> a. Annual progress and financial report templates b. Processes for reporting information to the community oversight committee, including sites acquired for the Site Acquisition Program c. Metrics to address gaps in program outcomes, including the impact of housing units on neighborhood-level changes for communities of color d. Targets for all metrics to assess whether performance meets expectations e. Protocol to ensure reliable performance information is provided for each metric 	<p>In Process</p> <p>(Implemented)</p> <p>(Implemented)</p> <p>(Implemented)</p> <p>(In Process)</p> <p>(In Process)</p>

7. Communicate guidance to staff, the community oversight committee, and participating jurisdictions	Implemented
To support continuous improvement in bond operations:	
8. Evaluate and assign bond administration responsibilities to balance workloads	Implemented
9. Increase the accuracy and transparency of the bond administration budget by:	Implemented
a. Developing a long-term budget for bond administration	(Implemented)
b. Tracking actual hours worked on the bond to inform FTE calculations	(Implemented)
c. Providing budget vs. actuals reports to the community oversight committee	(Implemented)

Source: Auditor's Office analysis of status of recommendations from August 2020 management letter and January 2021 Audit: Affordable Housing Bond Preparedness: Develop clear and consistent guidance to improve bond operations

The Auditor's August 2020 management letter found Metro's guidance for managing regional administrative costs was not specific enough to determine which costs were bond eligible. We recommended Metro develop written guidance and train employees on that guidance. Since that time, Metro implemented these recommendations by establishing more specific guidance for tracking bond expenditures and developing tools to help management and staff meet expectations.

The January 2021 audit found that additional guidance was needed to ensure fair consideration of program funding requests. There was also a lack of clarity about how changes to approved projects would be managed. Metro has since developed procedures and clarified them in guidelines that were communicated to staff, the oversight committee, and local partners. While related recommendations were fully implemented, there was an opportunity to provide more specificity about SAP projects during the acquisition and project solicitation phase in the guidelines.

Additional guidance was also needed to establish clear standards for reporting on program outcomes. We recommended that Metro complete, communicate, and use this guidance. Metro made improvements in these areas. Some parts of that recommendation were implemented, and some were in process.

Reporting templates were developed, communicated, and being used. These included templates for financial reporting, annual progress reporting, and post-construction and post-lease-up reporting. Processes were in place to report information to the community oversight committee. Several metrics were in place to evaluate bond outcomes. These included location-based metrics, such as the percentage of new housing where communities at risk of displacement live. Metro also identified data sources and developed a methodology to ensure reliable performance information was provided for some metrics.

During our prior review, there were several responsibilities assigned to two employees which created high workloads. We recommended that Metro evaluate and assign bond administration responsibilities to balance workload among staff. This recommendation was implemented but will need to be continuously revisited through the life of the bond. This is because staff responsibilities are expected to evolve over time, from focusing on project reviews to oversight and monitoring functions.

Finally, our prior audit raised concerns about the lack of detail that was used to develop the bond’s administrative budget. We recommended that Metro develop a long-term budget for bond administration and that staff track actual time worked on the bond. Our follow-up work found these things were implemented.

Address gaps and strengthen processes to prepare for the future

While progress has been made, we identified several opportunities for improvement. We evaluated the review processes and timelines for ten projects. Data from past projects provides helpful lessons that can be applied to future housing work.

The level of project oversight varied by local partner. For one local partner, about 11 different groups were responsible for selecting, reviewing, managing, and reporting on projects. Some duplication is necessary to provide an appropriate level of scrutiny to these projects. However, it took between three and four years for the first bond projects to go from solicitation to full occupancy. The number of parties involved, and long project timelines, increased the chance of gaps and inefficiency due to duplication. Metro’s involvement in projects across seven local partners provides a unique opportunity to identify places where there may be inefficient duplication and unintended gaps.

Our review found an increased potential for inefficiency during project review and approvals. There is also a potential for gaps in oversight once affordable housing units reach full occupancy. Units were expected to be affordable for 30, 60, or 99 years. This means that monitoring roles and responsibilities need to be clearly assigned to ensure units remain affordable as intended. Bond funds cannot be used for ongoing monitoring activities so other resources must be used for this work.

Exhibit 6 Oversight was potentially over covered for some processes and potentially under covered for others

	Review and Approval	Ongoing Monitoring
Potentially over covered	✔	
Potentially under covered		✔

Source: Auditor’s Office review of project files and oversight processes

Additional attention needed to ensure commitments are met

With the deficit of affordable units in the region, reducing duplicate efforts and filling potential monitoring gaps will be critical. Metro estimated a shortage of almost 90,000 affordable housing units for low-income households. Recently the Oregon Governor set a goal of creating 36,000 units of housing per year. To meet the goals, affordable housing development will need to be as efficient as possible.

Some of the in-process recommendations from the prior audit will continue to be important as Metro prepares for the future. Specifically, the Housing department should continue to develop quality control procedures and ensure transparency in reporting conflicts of interest. Fully implementing the prior audit recommendations related to developing metrics and targets would require modifying procedures or IGAs. It may not be feasible to undergo these changes at this point in the bond but could serve as lessons learned for future efforts.

Collecting workforce data is an example of an in-process recommendation that would require modifying existing agreements to implement. Workforce data was being collected for some, but not all projects because it was not a requirement in the IGAs. Workforce data includes the percentage of hours women, people of color, and apprentices work on bond projects. These data points are important to help evaluate how well bond expenditures aligned with Metro's commitments. Although this information was not tracked for all projects, the Housing department was gathering what data was available to better understand workforce activity and establish a baseline and future workforce goals.

Guidance for home-ownership programs is another example where existing procedures may need to be modified. Bond funds could be used to develop affordable housing, which was mainly in large apartment complexes. Bond funds could also be used for home-ownership programs. This provided an opportunity to build wealth among those who may otherwise not have the chance. Metro's procedures did not include detailed guidance for home-ownership programs. We were informed that a few home-ownership projects were expected and that they would serve as a pilot to inform future guidelines.

Targets were not in place for some metrics that Metro used to assess bond outcomes. Metro expected the data collected from this bond would be used to establish baselines and targets for future efforts. This was reasonable, but also limited Metro's ability to ensure current performance was meeting expectations. For example, Metro wanted to invest in areas that have limited affordable housing. Metro also wanted to increase housing in areas where communities at risk of displacement live. This information was being tracked across the bond portfolio, but no targets were set. Creating targets could help Metro balance these potentially competing goals.

Metro had not identified metrics for housing quality. In response to heat waves in the summer of 2021, Metro issued a policy statement requesting jurisdictions to incorporate cooling strategies for bond projects. Energy efficiency and sustainability strategies also appeared to be a consideration across some bond projects. However, metrics for quality housing were undefined. Developing metrics for housing quality will be important to ensure projects facing increased construction costs continue to provide quality units.

Quality control processes to ensure the accuracy of reported information could also be improved. During our review of project documents, we found several minor errors and inconsistencies in reported information. For instance, some documents included the housing unit reserved for the building manager as part of the total unit counts, while others did not. Formal quality control processes could help ensure reliable information is reported by all program partners. In July 2023, Metro hired a reporting and evaluation coordinator responsible for this task.

Conflict of interest disclosures for the oversight committee were not updated, and verbal disclosures were documented inconsistently. Our prior review found that processes for disclosing potential or actual conflicts of interest did not ensure accuracy or completeness of the information that was reported. This was a risk because committee members were selected based on their expertise related to developing and providing affordable housing. Transparency about how their expertise or work duties may overlap with their duties of providing independent bond oversight are important for increasing public trust.

Verbal disclosures were inconsistently documented in meeting minutes and agendas. We also noted two examples where committee members were involved in project selections at the local level, but conflict of interest forms did not appear to be updated to reflect this involvement. Metro can increase transparency and strengthen the perception of the committee's independence by ensuring disclosure forms are up-to-date and more consistently documenting how potential threats to independence were reduced.

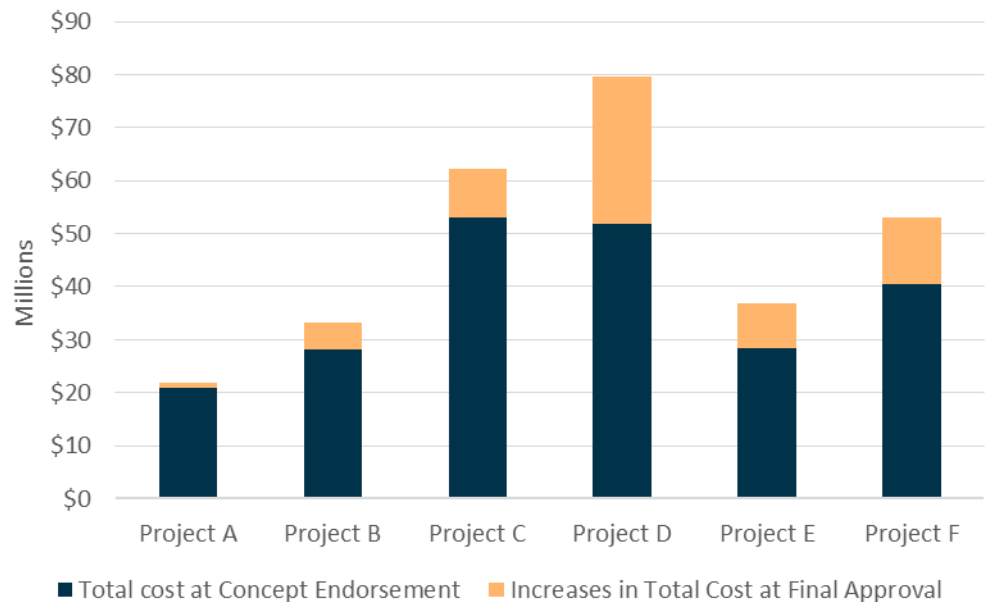
Use reports to track lessons learned

Current reporting processes were sufficient but could be strengthened to help Metro more systematically capture some lessons learned. Learning more about challenges and opportunities for each project during the pre-construction and construction phases could help Metro, local partners, and the oversight committee spot regional trends.

It is important to understand what challenges projects face before construction because they can have a large impact on total project cost. Before construction, projects go through a series of pre-development activities to ensure safety and financial feasibility. Examples include environmental assessments, permitting, and evaluation of existing utilities or street access. For bond projects, some of these activities took place between concept endorsement and final approval.

Six out of seven projects that had reached final approval in our review increased in cost during this time. Increases ranged from \$890,000 to \$27.6 million. Metro and local partners provided some explanation for delays and cost increases during the final approval process. However, detailed project reporting between concept endorsement and final approval was not required. Additional project detail during this time could help the Housing department understand the cause of these cost increases. These lessons could inform future project selection criteria or identify areas for policy advocacy.

Exhibit 7 Capturing more information about projects could help identify the reasons for cost increases



Source: Auditor’s Office analysis of reported information in project documents

Local partners are responsible for managing project construction. They are also required to provide updates to Metro about events during construction that materially affect the project. Examples include changes to the project schedule or increases in the project budget. However, materiality was not defined. This reduced clarity about what changes needed to be reported and limited Metro’s ability to learn more about the potential causes for delays or cost increases.

Additionally, Metro developed reporting tools, but they were not consistently used. A tool to track the timeliness of post-construction and post-occupancy reports was important to ensure local partners reported bond outcomes in a timely manner. Tracking reporting trends could help Metro identify reporting requirements that should be included in future IGAs.

The Office of the Metro Attorney reviews drafts of each project’s priority and subordination agreements and regulatory agreements. However, some of the project files we reviewed did not include the final agreements. Priority and subordination agreements are used to establish the order that debts are repaid in the event of foreclosure, for example. Without documentation, Metro cannot be certain about its legal rights as one of the project’s funders.

Regulatory agreements document each project’s specific levels of affordability per unit and the amount of time the unit is required to remain affordable. They also outline Metro’s ongoing monitoring rights over the period of affordability. Without documentation, Metro cannot be certain unit affordability expectations have been met or that it has ongoing monitoring rights.

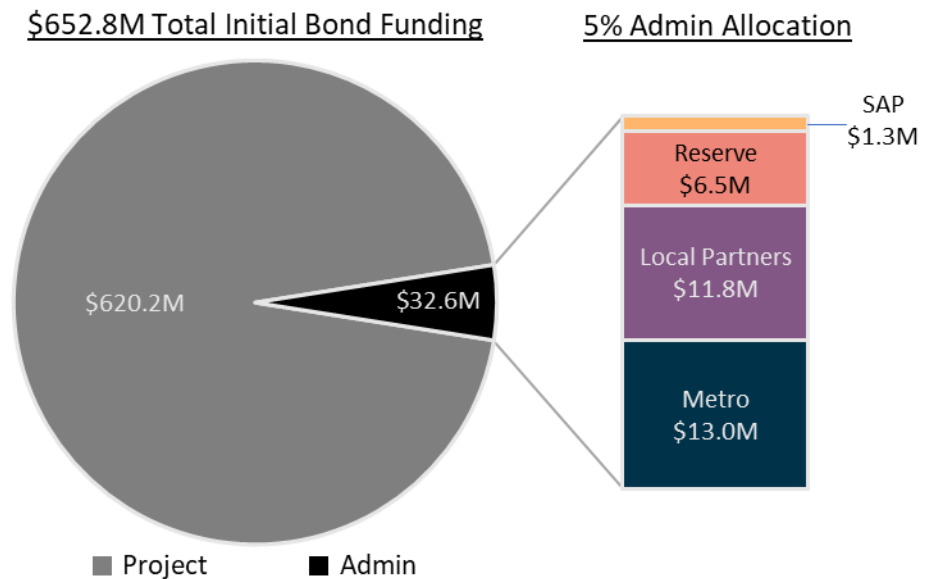
We were informed staff capacity impacted the Housing department’s ability to actively update its reporting tools. Metro hired a reporting and evaluation coordinator in July 2023 to lead this work.

Administrative cap does not cover all expenditures

Our analysis found that the bond’s administrative allocations will not cover administrative needs. This means Metro and local partners will need funding from other sources. Although this was expected when the bond was being developed, it presents a challenge for understanding the actual cost of implementing the measure. If another regional housing bond is pursued in the future, it will be important to understand the cost of administration to set realistic expectations among regional partners and the public.

The bond stated that administrative costs would not exceed 5% (about \$32.6 million) of bond funds. The initial bond workplan allocated 2% to Metro, 2% to project partners (including SAP projects), and 1% to reserves. Some additional administrative funds were recently allocated from the contingency fund to cover higher costs.

Exhibit 8 No more than 5% of bond funding can be spent on administrative costs

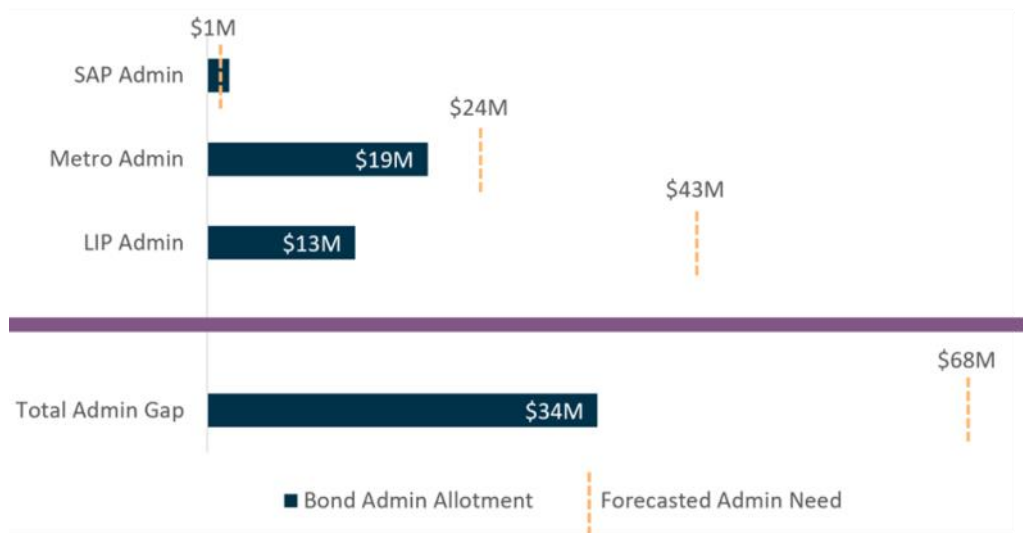


Source: Auditor’s Office analysis of Affordable Housing Bond authorizing resolution and workplan

During development of Metro’s FY2023-24 budget, staff determined an additional \$700,000 in administrative funds was needed to avoid exceeding the bond limit. This meant staff predicted spending the entire \$13 million administrative allotment in year six of the bond. The bond is estimated to last about 10 years.

Local partners were also concerned about the amount of administrative funding. One of the program partners, the Portland Housing Bureau, stated that their current administrative costs were closer to 7% of bond project funds, which meant other sources of funding were being used to cover about 5% of their costs. If administrative costs for regional bond projects are similar to administrative costs reported by the Portland Housing Bureau, it is possible about \$34 million in administrative costs are covered by other funding sources.

Exhibit 9 Administrative expenses are funded by other sources of revenue



Source: Auditor’s Office analysis of Affordable Housing Bond workplan and FY23-24 to FY27-28 forecast as of June 2023

On March 30, 2023 the bond work plan was amended by Council to provide more administrative funding to Metro, SAP and local partners. The amendment distributed unallocated administrative funds, which kept the total administrative amount to 5% (in alignment with bond requirements). However, additional funds may be needed in the future.

Actual administrative costs for bond projects were not reported. Quarterly reports showed how much bond funding had been expended or dispersed for administrative costs to each partner. Those reports were limited to bond disbursements and did not include administrative spending that may have been covered by other sources. The community oversight committee is not required to monitor the use of outside funds for administrative expenses. However, more information about actual local partner administrative costs may be useful for informing future bonds.

Metro's reports included administrative expenditures but compared them to the overall administrative budget, not an annual one. Without this information, it was difficult to know if Metro was meeting or exceeding expectations for fiscal responsibility. Further, annual budget to actual reports could help the oversight committee monitor financial aspects of program administration.

In some instances, SAP and Metro administrative expenses were reported together. This could make it hard to determine how much it costs to administer the bond versus how much it costs to administer the SAP program. For example, in a March 30, 2023 Council meeting, staff reported a Metro administrative gap of \$4 million. This appeared to refer to the combined gap of both Metro and SAP administrative costs. The five-year forecast showed the Metro administrative expense gap was closer to \$5 million and there was a surplus for the SAP program. Combining the two could limit the ability to understand true costs for SAP and for Metro.

Learning from the current bond presents an opportunity to use data to inform future decisions. When the bond was being developed, Metro Council reduced the administrative cap before it was referred to voters. A draft of the bond's ballot language had the administrative cap set at 7%. In a work session two days before the resolution passed, a short discussion was held by Council, which resulted in lowering the cap to 5%. Several justifications for lowering the cap were mentioned during the meeting, but they did not appear to be data driven.

In the meeting Metro staff stated that lowering the cap would require Metro to use other sources of revenue, likely the general fund, to administer the program. The discussion noted that lowering the administrative cap could impact local partner funding as well. While an administrative cap of 7% would not have covered all forecasted costs, based on our estimations it would have lowered the estimated gap from \$34 million to \$20 million.

Develop a plan for long-term monitoring

Metro lacked a long-term plan for fulfilling some of the oversight and administrative commitments of the bond. For example, long-term monitoring is needed to sustain the bond's commitments of racial equity, creating opportunity for those in need, and good use of public investments. However, long-term monitoring is not a capital expenditure, so bond funds cannot be used.

Responsibilities for ongoing monitoring after construction were not fully assigned. Post-occupancy reporting is one way Metro monitors commitments related to community engagement and racial equity. However, this information is gathered at one point in time for each project, which may not provide a true picture over the decades-long life of these units.

It was also unclear how Metro would use and report ongoing project information or how those responsibilities would be funded. Project regulatory agreements give Metro and local partners the right to access certain property information and to enter properties for inspection. This includes information about tenant recertifications, tenant demographics, and building conditions. For projects that also received state funding, Metro had an agreement in place with the State of Oregon to collect the information on Metro's behalf.

The affordability of bond-funded units was not guaranteed over the life of the affordability period. This could result in fewer units than what the bond pays to build. In some cases, unit prices were allowed to increase if resident income increased. In other cases, property managers could increase rents if certain rental vouchers become unavailable or if the property experienced financial challenges. Evaluating tenant recertification data could be one way for Metro to determine the extent to which voters are getting what they paid for over the long term.

Standardize requirements to improve efficiency

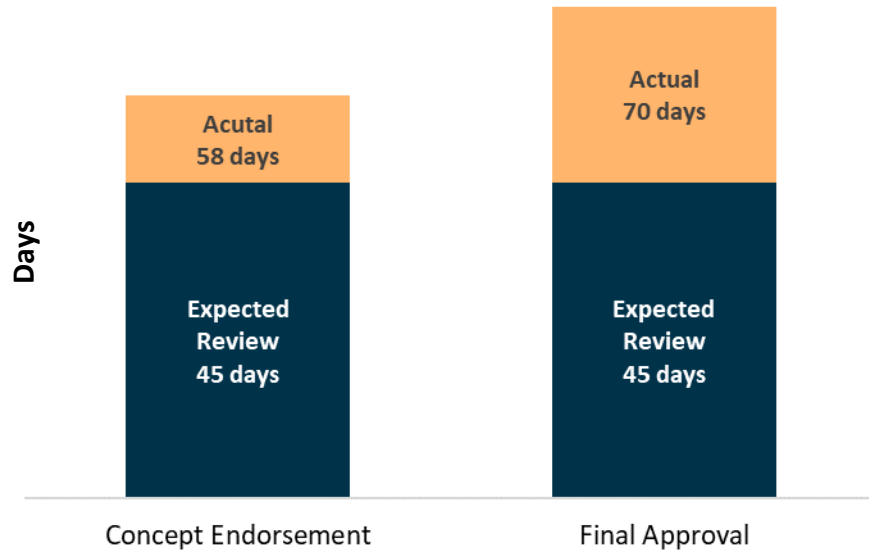
Inconsistent requirements and goals across local partners and project funders increased the potential for inefficient processes. Variation in project requirements and goals was created because bond funds were intended to be flexible to meet local needs and projects were funded by several sources. Expectations for perfect alignment across funding sources may be unreasonable. However, Metro is in a unique position to work with local and state partners to identify ways to simplify the project approval and funding process.

A lack of consistent standards for developer fees is one example of a flexible requirement leading to additional oversight involvement. Metro's reviews for several projects were delayed in part because there were different opinions about developer fees. These fees are paid to developers to cover development costs. Some funders allow larger fees than others. This created confusion among local partners and increased the amount of time it took Metro to provide concept endorsements and final approvals. As a result, Metro developed regional guidelines for bond-funded projects in March 2022 to clarify expectations about developer fees.

The project review process could also increase the potential for inefficiency. Projects required review at the local level, at Metro, and often at the state level. Metro's involvement at the project level was to ensure bond commitments were met, but there was some overlap among the project information reviewed at the local, Metro, and State levels.

Metro informed local partners that reviews for concept endorsement and final approval would take place within 30 to 45 days. This assumed Metro did not identify issues during its review and require follow-up. Projects we reviewed appeared to be under review for longer than originally anticipated. This suggested more consistency, coordination, and clarity could increase the efficiency of the review process.

Exhibit 10 Projects were under review for longer than expected



Source: Auditor's Office analysis of project narratives and signed concept endorsements and final approvals

For instance, Metro's expectations for overall project funding were unclear. Metro developed an average per-unit bond subsidy. We saw examples where Metro followed-up during the review process with some projects that planned to spend under the per-unit subsidy. This indicated Metro had expectations about overall project funding. Identifying these expectations and documenting them in future requirements could be one way to clarify the project review process.

A long-term plan for regional affordable housing is needed

Based on current estimates, the need for affordable housing in the region will likely continue to outpace the availability. A need of about 90,000 units was estimated for those making 50% or less of the area median income in the greater Portland area. Another regional housing bond may increase the supply of affordable housing, but it is likely to be only one part of a long-term solution. Metro needs a regional housing plan that considers new construction building, preservation of existing affordable units, and integration with the Supportive Housing Services program and other funds, to sustain progress.

The bond workplan indicated that Metro's roles and responsibilities were limited to project reviews, funding approvals, reporting, and compliance. However, Metro's involvement appears to have been much more robust during bond implementation. Examples included:

- Coordinating technical assistance
- Convening stakeholders
- Surveying local partners to identify best practices
- Responding to and advocating for policy changes

The absence of a long-term housing plan made it difficult to understand the level of involvement Metro staff was expected to have in these activities. This could also cause confusion among local partners about what Metro will or will not do during or after bond implementation.

Recommendations

To strengthen bond oversight and prepare for the future, the Housing department should:

1. Identify and track metrics for housing quality.
2. Provide information to the community oversight committee about how Metro's annual administrative spending compares to the annual budgeted amount.
3. Document conflict of interest disclosures consistently and require committee members to update their disclosures if circumstances change.
4. Strengthen reporting requirements to capture lessons learned from each project.
5. Identify ways to simplify project review and approval processes.

To ensure bond administrative activities are sufficiently funded, the COO, FRS and the Housing department should:

6. Develop a long-term affordable housing plan that clarifies Metro's roles and responsibilities for ensuring compliance, providing technical assistance, advocacy, convening regional partners and ongoing asset management.
7. Identify sources of funds to support Metro's ongoing roles and responsibilities.
8. Use actual administrative trend data to inform potential future bonds.

Scope and methodology

The purpose of our audit was to determine if there were gaps or redundancies in administrative controls to deliver on Affordable Housing Bond (bond) values and conclude on the status of prior audit recommendations. We had two objectives:

- Conclude on the status of prior recommendations.
- Identify gaps and redundancies in administrative controls.

To familiarize ourselves with Metro's implementation of prior recommendations, we interviewed Housing department staff and management, Metro leadership, and members of the Bond Oversight Committee (committee). We reviewed program documents to learn more about requirements. Examples included the bond workplan, local implementation strategies, intergovernmental agreements, and relevant Metro legislation. To better understand bond progress we reviewed Metro's website, quarterly reports, and annual reports.

To address the audit objectives we conducted additional interviews of Metro staff, developed project flowcharts, evaluated a selection of projects, and analyzed bond financial data. We used criteria from the local implementation strategies, Metro's implementation guidelines, and the U.S. Government Accountability Office (GAO) to identify administrative controls and develop project flowcharts.

We judgmentally selected ten bond projects to evaluate the potential for gaps and redundancies. As a result, our conclusions may not apply to all bond projects. To complete our evaluation, we reviewed project files which included project documentation, correspondence, and Metro's review processes. Our assessment was based on criteria identified in developing the project flowcharts and guidance from the Government Finance Officers Association related to long-term monitoring.

We conducted financial analyses to determine the status of prior recommendations related to bond administrative spending. This included evaluating information from Metro's financial system, local partner budget documents, bond reports and workplans, and Metro's budget forecasts.

This audit was included in the FY 2022-23 audit schedule. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Management response

Memo



Date: November 15, 2023
To: Brian Evans, Metro Auditor
From: Marissa Madrigal, Chief Operating Officer
Patricia Rojas, Housing Director
Subject: Management Response to Affordable Housing Bond Audit

Auditor Evans:

Thank you for the opportunity to respond to the audit of Metro’s Affordable Housing Bond. As the second audit that has been conducted on this bond, we appreciated the recognition of progress towards addressing the original audit’s findings, with seven of the nine recommendations successfully implemented, and notable strides towards implementing the remaining two recommendations (strengthening community oversight and providing more timely and complete information to monitor the bond process).

As the first ever regional bond for affordable housing, a continued commitment to assessing opportunities for improvement is paramount. We are confident that the actions set forth to respond to the latest audit’s recommendations demonstrate our commitment to continuous improvement.

First, we’d be remiss to not acknowledge the incredible progress and success of this bond. To date, the Metro Affordable Housing Bond has exceeded every goal set by the measure and workplan adopted by Metro Council. We are on track to build at least 4,700 affordable housing units, exceeding the original goal of 3,900 units. We expect to exceed the goal of producing 1,800 0-30% AMI by over 200 units, and the goal of 1,950 family-sized units, two-bedroom or more units by 580 units.

In addition to unit production goals, the Affordable Housing Bond program continues to prioritize solutions to address racial housing disparities by increasing access to affordable housing in communities of color, creating affordable housing across the region and creating opportunities for minority owned businesses.

45% of bond funded units are in areas historically inaccessible to communities of color and 42% of units are in areas that have historically lacked affordable housing. In addition, more than \$39 million in construction costs have been paid to COBID-Certified MWESB firms. On November 6th of this year, we reached the milestone of opening the 1000th bond funded unit.

Even more encouraging are the innovative solutions we're seeing across the region; an example of this is the long-term affordability in homeownership proposed in the City of Portland, Gresham and Clackamas County. These initiatives will build more than 80 homes with long term affordability requirements that will create homeownership pathways and opportunities for wealth creation for individuals and families who have experienced historic and contemporary systemic barriers to homeownership.

The bond also reinforced Metro's unique role in the region, providing our agency an opportunity to lead the development of a regional solution to collectively solve complex problems, like the housing crisis, that extend beyond jurisdictional boundaries.

An example of this is the alignment of the Affordable Housing Bond with the Supportive Housing Service (SHS) program, which was established in 2020. The Metro Affordable Housing Bond has created 568 specialized units, exceeding the goal of 555 units, that utilize SHS resources and other sources to fund critical wrap-around services and long-term rent assistance. This creative approach of resource and program integration will provide the safety and stability of a home for thousands of residents across the region who have experienced homelessness.

While the Affordable Housing Bond has been a success, it alone cannot end our housing crisis, nor was it intended to. All Affordable Housing Bond dollars will be fully committed in 2024. The affordable housing gap across our region continues to grow, and the economy and housing landscape have changed in large part due to a global pandemic. Ending this housing crisis will require continued investments in housing at all levels and leveraging government resources (including resources from State of Oregon, the city of Portland and HUD) for the deepest levels of affordability.

The affordable housing bond also offers many learnings and opportunities for improvement when considering future affordable housing efforts, and many of these are noted in the audit recommendations and findings. Implementation with seven jurisdictional partners, including cities, counties and housing authorities led to the creation of new jurisdictional capacity and infrastructure for the development of affordable housing and added affordable housing in areas of the region where it didn't exist before. At the same time, this structure also brought complexity in governance and implementation processes which limited Metro's ability to ensure that opportunities to accomplish regional goals were being maximized. We thank the Auditor for continuing to support the implementation of the Affordable Housing Bond with audits that highlight areas for improvement.

Below, please find responses to the findings and recommendations in the audit. Proposed actions reflect constraints that have been created by limitations in the measure, intergovernmental agreements with implementation partners, insufficient resources to fund administrative functions, the complexity and limitations of the broader affordable housing funding system and the fact that most funds have already been committed.

We appreciate your guidance and recommendations for improving the implementation of the Affordable Housing Bond and we look forward to continued improvement.

To strengthen bond oversight and prepare for the future, the Housing department should:

Recommendation 1. Identify and track metrics for housing quality.

Response: Management agrees that ensuring high quality housing for those we serve is critical. That said, given the stage of implementation of the current bond, Metro is unable to require new reporting metrics, as this would require renegotiating existing agreements with seven jurisdictional partners and numerous project sponsors. Due to constrained administrative funding, Metro has been thoughtful and intentional in aligning our current program with existing structures that define housing quality. The Housing department will continue to work with partner jurisdictions to ensure that cost escalation is not negatively impacting construction quality across our portfolio, and to gather and document lessons learned for the future.

Proposed Plan: Program staff will continue to implement the final approval amendment program guidelines, which include the demonstration that value engineering strategies have not compromised livability elements. As a part of the 2023 annual report process staff will ask jurisdictions to report on overall themes on cost escalation and housing quality. Staff will gather information, document notes and summarize themes.

Timeline:

- Continue to rely on existing applicable safety and quality standards in place at the state and local level (ongoing)
- Continue to utilize program guidelines for final approval amendment when jurisdictions request an increase in bond funds (ongoing)
- Ask jurisdictions to report on overall themes on cost escalation and housing quality as a part of 2023 Annual Report (June 2024)

Recommendation 2. Provide information to the community oversight committee about how Metro’s annual administrative spending compares to the annual budgeted amount.

Response: Management agrees with this recommendation. While the reports currently provided include administrative budget and actual spending on a total program basis, which provides a more complete picture of program spending than a single fiscal year, staff will add a report of Metro annual administrative spending as compared to the annual budgeted amount.

Proposed Plan: Metro staff will update the quarterly reporting to include Metro annual administrative spending as compared to the annual budgeted amount.

Timeline:

- Quarterly reporting will be updated in the next report (December 2023)

Recommendation 3. Document conflict of interest disclosures consistently and require committee members to update their disclosures if circumstances change.

Response: Management agrees with this recommendation. The Metro Housing department has been in the process of improving and aligning all housing department committee processes including standardizing the disclosure and documentation of conflicts of interest. While there is an existing practice where the meeting facilitator asks committee members to disclose actual or perceived conflicts of interest as a standing committee meeting agenda item, there have been some inconsistencies in how the responses were documented in the meeting minute notes.

Proposed Plan: Moving forward, the meeting minute review process will ensure that conflicts of interest discussions and disclosures are consistently documented. Additionally, Metro staff will provide all members with updated written guidance on expectations for managing conflicts of interest, examples of actual and perceived conflicts of interest, processes and opportunities for reporting conflicts of interest and information about the personal liability associated with conflicts of interest including language from the Ethics Commission. Lastly, Metro staff will update and issue a survey to committee members annually to better understand and document life changes and barriers relevant to committee membership and participation, including new conflicts of interest. The survey will include information about the personal responsibility associated with conflicts of interest, outline the process for disclosing conflicts of interest and include examples of real or perceived conflicts of interest to provide additional clarity.

While many of the above steps have been implemented at an ad-hoc level the following timeline documents the proposed systemization of this process.

Timeline:

- Facilitator requests conflict of interest disclosures as a standing agenda item (ongoing)
- Staff review all meeting minutes for consistent documentation of conflict of interest as an agenda item and disclosures. (November 2023)
- Create an SOP (Standard Operating Procedure) that clearly outlines the process to notify and record conflicts of interest (December 2023)
- Written guidance provided to committee members (December 2023)
- Annual survey of community members to understand and document life changes and barriers relevant to committee membership and participation. (June 2024)

Recommendation 4. Strengthen reporting requirements to capture lessons learned from each project.

Response: Management agrees with the auditor's recommendation of strengthening Metro's ability to capture lessons learned, to ensure that we can support continuous improvement and future planning. As highlighted in the audit report, affordable housing bond projects have experienced significant cost increases between concept endorsement and final approval, in part due to the unprecedented economic challenges impacting the construction industry more broadly. As stated in responses to previous recommendations, due to constraints of existing IGAs and staff capacity due to limited administrative funding, we plan to request local reporting on lessons learned as part of the annual review process, rather than the funding approval process.

Proposed Plan: As a part of the 2023 annual report process, staff will ask jurisdictions to report overall lessons learned from the implementation of the bond, including any lessons learned from specific projects, on cost escalation and housing quality, and ways to simplify the project review and approval process. Staff will gather information on what is going well and what could be improved, document notes and summarize themes.

Timeline:

- Jurisdiction reporting on lessons learned as part of 2023 Annual Report (June 2024)
- Housing department to compile all lessons learned and capture themes (July 2024)

Recommendation 5. Identify ways to simplify project review and approval processes.

Response: Management agrees that there are opportunities to simplify and streamline the project review and approval process for affordable housing, both at a systems level and within Metro's processes. Because of the stage of implementation of the affordable housing bond, with a majority of projects already through the review and approval process, this recommendation cannot be completed within this bond. That said, there is an opportunity to streamline project review and approval processes in future housing bonds.

Proposed Plan: As a part of the 2023 annual report process, staff will ask jurisdictions to report opportunities to simplify the project review and approval process. Housing department staff will then create an inventory of opportunities to improve the project review and approval process. Staff will gather information on what is going well and what could be improved, document notes and summarize themes. Metro will also continue to participate in conversations being convened by OHCS to support coordination across state and local funding processes.

Timeline:

- Participate in state engagement process (Fall 2023) and beyond to support coordinated funding processes (ongoing)
- Ask jurisdictions to report on ways to simplify project review and approval process as a part of 2023 Annual Report (June 2024)

To ensure bond administrative activities are sufficiently funded, the COO, FRS and the Housing department should:

Recommendation 6. Develop a long-term affordable housing plan that clarifies Metro’s roles and responsibilities for ensuring compliance, providing technical assistance, advocacy, convening regional partners and ongoing asset management.

Response: Management agrees with this recommendation.

Proposed Plan: In partnership with the Office of the COO and FRS, the Housing department will complete an assessment of asset management roles and responsibilities, risks, opportunities and gaps for the 2018 affordable housing bond. Additionally, with the support of an external consultant, they will develop recommendations to support ongoing stewardship of affordable housing funded by Metro, including ongoing staffing or funding needs, as well as lessons learned and considerations for future funding.

Timeline:

- Define goals and scope and secure consultant contract (July 2024)
- Draft assessment findings (October 2024)
- Draft recommendations (December 2024)

Recommendation 7. Identify sources of funds to support Metro’s ongoing roles and responsibilities.

Response: Management agrees with this recommendation. Bond funding is limited to capital costs and may not be used to support ongoing monitoring, so other funding sources need to be identified.

Proposed Plan: As part of the FY25 five-year forecast, Metro staff will review future expected administration and oversight costs and propose potential funding to continue that work.

Timeline:

- Based on the recommendations of the assessment noted above, propose budget requests to support implementation (January 2025)

Recommendation 8. Use actual administrative trend data to inform potential future bonds.

Response: Management agrees with this recommendation.

The audit flagged challenges because of the 5% administrative cap. Now that we have actual data on the cost to administer and oversee a regional housing bond program, we can use it to forecast costs for potential future bonds.

Proposed Plan: The plan depends on the Council direction regarding a future bond. Staff will prepare estimated administrative and oversight costs for a future bond if requested by Council.

Timeline: The timeline depends on Council direction regarding a future bond.

I want to express my gratitude to you and your team for performing this audit and for the opportunity to submit a management response.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Madrigal". The signature is fluid and cursive, with the first letter of the first name being a large, stylized capital 'M'.

Marissa Madrigal, Chief Operating Officer



Office of the Metro Auditor
600 NE Grand Avenue
Portland, Oregon 97232
503-797-1892
www.oregonmetro.gov

**Resolution No. 23-5365 For the
Purpose of Amending and Adding
New Federal Discretionary Plus
Metro TSMO Program Awards to
the 2024-27 MTIP**
Consent Agenda

Metro Council Meeting
Thursday, December 7, 2023

BEFORE THE METRO COUNCIL

**FOR THE PURPOSE OF AMENDING AND
ADDING NEW FEDERAL DISCRETIONARY
PLUS METRO TSMO PROGRAM AWARDS
TO THE 2024-27 MTIP**) RESOLUTION NO. 23-5365
)
) Introduced by: Chief Operating
) Officer Marissa Madrigal in
) concurrence with Council President
) Lynn Peterson

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

WHEREAS, the U.S. Department of Transportation requires federal funding for transportation projects located in a metropolitan area to be programmed in an MTIP; and

WHEREAS, in July 2023, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved Resolution No. 20-5335 to adopt the 2024-27 MTIP; and

WHEREAS, the 2024-27 MTIP includes Metro approved RTP and federal performance-based programming requirements and demonstrates compliance and further progress towards achieving the RTP and federal performance targets; and

WHEREAS, pursuant to the U.S. Department of Transportation's MTIP amendment submission rules, JPACT and the Metro Council must approve any subsequent amendments to the MTIP to add new projects or substantially modify existing projects; and

WHEREAS, Metro manages and provides funding support to the regional Transportation Systems Management and Operations (TSMO) program strategy which prioritizes optimization of the existing transportation system by improving business practices and collaboration, encouraging behavior changes through travel demand management, and using technology to understand and manage how the system operates; and

WHEREAS, the 2021 Metro TSMO project solicitation resulted in multiple project funding approval recommendations on April 28, 2023; and

WHEREAS, six of the approved projects are being added to the 2024-27 MTIP through the November FFY 2024 Formal Amendment; and

WHEREAS, the federal funding commitment for the seven new TSMO totals \$9,626,964 which will be secured from three existing project revenue buckets already programmed with committed federal funding supporting the TSMO program; and

WHEREAS, Multnomah County received a new federal discretionary grant award of \$1,430,480 from the National Culvert Removal Replacement and Restoration program for their Beaver Creek Fish Passage Restoration at Troutdale Rd project to support required preliminary engineering and right-of-way phase scope activities and requirements; and

WHEREAS, ODOT's OR8 - SE Brookwood Ave - OR217 Intelligent Transportation System upgrade project has experienced cost issue impacts resulting in limits adjustments and cost increases that exceed the allowable administrative change thresholds and trigger the need for the project updates to occur through a formal/full amendment; and

WHEREAS, completing the MTIP programming actions will enable subsequent required federal approval steps to occur for all of the amended projects; and

WHEREAS, the programming requirements to the twelve projects in the October FFY 2024 Formal MTIP Amendment to the 2024-27 MTIP are stated in Exhibit A to this resolution; and

WHEREAS, on November 3, 2023, Metro's Transportation Policy and Alternatives Committee recommended that JPACT approve this resolution; and

WHEREAS, on November 16, 2023, JPACT approved and recommended the Metro Council adopt this resolution; now therefore

BE IT RESOLVED that the Metro Council adopts this resolution to add or amend the eleven projects as described in Exhibit A to complete the required programming updates to the 2024-27 Metropolitan Transportation Improvement Program.

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

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

October FFY 2024 Formal/Full MTIP Amendment Summary
Formal Amendment #: NV24-02-NOV

The November Federal Fiscal Year 2024 Formal MTIP Amendment continues the transition and clean-up from the 2021-24 MTIP that began with the October FFY 2024 Formal MTIP Amendment. A FHWA discretionary project award along with new Metro awarded Transportation Systems Management and Operations (TSMO) funding awards included in the amendment bundle. The new projects need to be added now to allow follow-on federal requirements to occur. These include the assignment of the ODOT project identifier code or Key as it is stated in the MTIP, development of the intergovernmental agreement (IGA), and later obligation of the federal funds allowing expenditures to occur. The summary of projects included in the November FFY 2024 Formal Amendment Bundle include the following:

- Amending the scope, limits, and costs to ODOT’s OR8: SE Brookwood Ave - OR217 project in Key 22617
- Adding a new FHWA discretionary grant award to Multnomah County for the Beaver Creek Fish Passage Restoration at Troutdale Rd
- Adding several new Metro TSMO awarded projects to the 2024-27 MTIP.
- Splitting approved TSMO funds from multiple TSMO project grouping buckets to be committed and reprogrammed to the new TSMO awarded projects.

The Exhibit A tables to Resolution 23-5365 (or MTIP Worksheets) follow and provide the specific details about the changes and programming levels for the included projects.

2024-2027 Metropolitan Transportation Improvement Program
Exhibit A to Resolution 23-5365

November FFY 2024 Formal Transition Amendment Bundle Contents
 Amendment Type: Formal/Full
 Amendment #: NV24-02-NOV
 Total Number of Projects: 12

Key Number & MTIP ID	Lead Agency	Project Name	Project Description	Amendment Action
(#1) ODOT Key # New MTIP ID TBD New Project	Beaverton	Leading Pedestrian Intervals & Smart Detections - Beaverton Citywide	Implement leading pedestrian interval (LPI) at traffic signals running SCATS (Sydney Coordination Adaptive Traffic System) code in transit priority at traffic signals and upgrade existing traffic detections at up to 31 sites for added pedestrian safety.	<u>ADD NEW PROJECT:</u> Add the new Metro 2023 TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.

<p>(#2) ODOT Key # New MTIP ID TBD-New New Project</p>	<p>Clackamas County</p>	<p>Clackamas Countywide Traffic Signal Safety Upgrade</p>	<p>Identify and upgrade selected traffic signals across Clackamas County with the new signal hardware and install protected pedestrian and bicycle crossings to provide added safety and accessibility for pedestrian and bicyclists</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p>
<p>(#3) ODOT Key # New MTIP ID New Project</p>	<p>Metro</p>	<p>CANCELED PROJECT AMENDMENT SUBMISSION TSMO Program Investments and ITS Architecture Update</p>	<p>Complete TSMO program update activities including the ITS Architecture update, standardized equipment (switches, SFP/lasers) purchase, Next Gen TSP coordination standard, & a progress evaluation made on the 2021 TSMO Strategy and system completeness</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p> <p>11-3-2023 Cancellation Note: A project pre-review with ODOT determined the project needs to be split into two projects with the equipment procurement portion being split-off as a separate project from the other scope activities. As a result, the existing project amendment submission is being canceled from the November FFY Formal MTIP Amendment. The split projects will return as part of the December FFY 2024 Formal MTIP Amendment bundle.</p>
<p>(#4) ODOT Key # New MTIP ID New Project</p>	<p>Multnomah County</p>	<p>Beaver Creek Fish Passage Restoration at Troutdale Rd</p>	<p>Complete design, right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge.</p>	<p><u>ADD NEW PROJECT:</u> Add the new FHWA discretionary grant award from the Beaver Creek Fish Passage Restoration at Troutdale Rd</p>

<p>(#5) ODOT Key # 21617 MTIP ID 71171</p>	<p>ODOT</p>	<p>OR8: SE Brookwood Ave - OR217 OR8: SE 198th Ave - OR217</p>	<p>Install fiber optic cable where gaps exist in order to operate traffic control and monitoring systems and rapidly respond to incidents.</p>	<p><u>CANCEL PHASE:</u> The formal cancels the ROW phase, reduces the project limits resulting in an overall scope change that requires an updated project name and description plus milepost reference adjustments. The main project scope activities remains unchanged. However, the project limit changes are greater than 1 mile threshold limit for administrative limits changes and triggers the need for a formal/full amendment. The project's total cost also increases by \$553,056, or by 14.1%</p>
<p>(#6) ODOT Key # NEW MTIP ID TBD New Project</p>	<p>Portland</p>	<p>Portland TSMO Regional Central Network Upgrade</p>	<p>Evaluate and upgrade the Regional Central System network, architecture design, configuration and installed equipment to bring it up to the same standards for traffic signal communications as performed by the ITS network for increased traffic mobility.</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p>
<p>(#7) ODOT Key # NEW MTIP ID TBD New Project</p>	<p>Portland</p>	<p>Portland Local Traffic Signal Controller Replacement Phase II</p>	<p>Purchase and install up to 160 Advance Transportation Controllers (ATC) for PBOT and 79 for the City of Gresham and Multnomah County at selected signalized locations to improve the reliability of signal communications and pedestrian safety at intersections.</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p>

<p>(#8) ODOT Key # NEW MTIP ID TBD New Project</p>	<p>Portland</p>	<p>Stark/Washington St Signal ATC Upgrades: 76th Ave – 257th Ave</p>	<p>Design, construct, and complete traffic signal interconnect actions plus upgrade Advance Transportation Controllers (ATC) on SE Stark Street for improved signalized intersection efficiency and added motorist and pedestrian safety.</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p>
<p>(#9) ODOT Key # NEW MTIP ID TBD-NEW New Project</p>	<p>Portland</p>	<p>E Burnside Transit Signal Priority Upgrades: 97th - Powell Blvd</p>	<p>Design, construct, and upgrade traffic signal ATCs for priority timing involving the interconnect of ITS equipment including traffic signal controller conversions providing added speed management safety and pedestrian head starts.</p>	<p><u>ADD NEW PROJECT:</u> Add the new Metro TSMO awarded project to the 2024-27 MTIP enabling required follow-on federal actions to commence.</p>
<p>(#10) ODOT Key # 20886 MTIP ID 70875</p>	<p>Metro</p>	<p>Transportation System Mgmt Operations/ITS (2021)</p>	<p>Provide strategic and collaborative program management including coordination of activities for TransPort TSMO committee. (FY 2021 allocation year)</p>	<p><u>COMBINE PROJECT:</u> All funds are being split of the TSMO project grouping bucket (PGB) and committed to the new TSMO awarded projects included in this amendment. As a result, Key 20886 is “zero programmed” with all funds reprogrammed to the new TSMO awarded projects.</p>
<p>(#11) ODOT Key # 22168 MTIP ID 71117</p>	<p>Metro</p>	<p>TSMO Program Sub- allocation Funds (Remaining 2022-2024)</p>	<p>Regional Transportation System Management & Operations (TSMO) remaining funding from 2022-24 allocation cycles which will support Metro awarded TSMO/ITS capital and operations projects to increase highway system operational efficiency and motorist safety</p>	<p><u>COMBINE PROJECT:</u> All funds are being split of the TSMO project grouping bucket (PGB) and committed to the new TSMO awarded projects included in this amendment. As a result, Key 22168 is “zero programmed” with all funds reprogrammed to the new TSMO awarded projects.</p>

(#12) ODOT Key # 23209 MTIP ID	Metro	TSMO Program Sub-allocation Funds (FFY 2025-27)	Regional Transportation System Management & Operations program for capital and system improvements. (RFFA Step 1 FFY 2025-27 allocation years)	SPLIT FUNDS: Split 3,829,474 from Key 23209 and reprogram to the new TSMO awarded projects in this amendment bundle. Remaining STBG-U in Key 23209 is \$2,476,696
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Proposed Amendment Review and Approval Steps:

- Wednesday, October 31, 2023: Post amendment & begin 30-day notification/comment period.
- Friday, November 3, 2023: TPAC meeting (Required Metro amendment notification)
- Thursday, November 16 19, 2023: JPACT meeting.
- Thursday, December 1, 2023: End 30-day Public Comment period.
- Thursday, December 7, 2023: Final approval from Metro Council anticipated.
- Mid-January 2024: Estimated final USDOT amendment approvals occur.



Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #1

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The TSMO Leading Pedestrian Intervals and Smart Detections is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March.

Project Name:	Leading Pedestrian Intervals & Smart Detections - Beaverton Citywide		
Lead Agency:	Beaverton	Applicant:	Beaverton
Administrator:	ODOT		

Short Description:
 Implement leading pedestrian interval (LPI) at traffic signals running SCATS (Sydney Coordination Adaptive Traffic System) code in transit priority at traffic signals and upgrade existing traffic detections at up to 31 sites for added pedestrian safety.

MTIP Detailed Description (Internal Metro use only):
 Implement leading pedestrian interval (LPI) at traffic signals currently running SCATS (Sydney Coordination Adaptive Traffic System), code in transit priority, at traffic signals and upgrade existing traffic detections at approx. 31 site locations in Beaverton on SW Cedar Hills Blvd, SW Jenkins Rd, SW Millikan Way, OR8/SW Canyon Rd, and OR10/Farmington Rd/SW Beaverton Hillsdale Hwy.

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming										
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total	
Federal Funds										
STBG-U	Y230	2025						\$ 1,938,940	\$ 1,938,940	
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,938,940	\$ 1,938,940	
State Funds										
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total	
									\$ -	
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Local Funds										
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total	
Local	Match	2025						\$ 221,921	\$ 221,921	
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 221,921	\$ 221,921	
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total	
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,160,861	\$ 2,160,861	
Total Estimated Project Cost									\$ 2,160,861	
Total Cost in Year of Expenditure:									\$ 2,160,861	

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,160,861	\$ 2,160,861
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 221,921	\$ 221,921
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,938,940	\$ 1,938,940
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 221,921	\$ 221,921
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,160,861	\$ 2,160,861

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.00%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.00%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No		If yes, expected FTA conversion code:		N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References

On State Highway	Yes/No	Route	MP Begin	MP End	Length
	Yes	OR8	MP 4.60	MP 1.30	3.3
	Yes	OR 10	MP 4.60	MP 2.35	2.25

Cross Streets	Route or Arterial	Cross Street	Cross Street
	OR8	SW Murray Rd	SW 107th Ave
	OR 10	SW Murray Rd	SW 102nd Ave
	SW Cedar Hills Blvd	OR8/Tualatin Valley Highway	SW Walker Rd
	SW Millikan Way	SW Murray Rd	SW Cedar Hills Blvd
	SW Jenkins Rd	SW Jenkins Rd	SW Hall Blvd

Proposed Project Traffic Signal Intersections	PROJECT TRAFFIC SIGNAL INTERSECTIONS
	1. SW Murray Blvd_SW Millikan Way
	2. SW Murray Blvd_SW TV Hwy
	3. SW Murray Blvd_SW Farmington Rd
	4. SW Farmington Rd_SW 142nd Ave
	5. SW TV Hwy_SW Hocken Ave
	6. SW Farmington Rd_SW Hocken Ave
	7. SW Jenkins Rd_SW Mall B
	8. SW Cedar Hills_SW Walker Rd
	9. SW Cedar Hills_SW Mall B
	10. SW Cedar Hills_Jenkins Rd
	11. SW Cedar Hills_Fairfield St
	12. SW Cedar Hills_SW Hall Blvd
	13. SW Cedar Hills_SW Millikan Wy
	14. SW Cedar Hills_SW Canyon Rd
	15. SW Cedar Hills_SW Farmington Rd
	16. SW Canyon Rd_SW Watson Ave
	17. SW Farmington Rd_SW Watson Ave
	18. SW Canyon Rd_SW Hall Blvd
	19. SW Farmington Rd_SW Hall Blvd
	20. SW Canyon Rd_SW Lombard Ave
	21. SW Farmington Rd_SW Lombard Ave
	22. SW Canyon Rd_SW 117th Ave
	23. SW Canyon Rd_SW 115th Ave
	24. SW Beaverton-Hillsdale Hwy_SW Griffith Drive
	25. SW Canyon Rd_Hwy 217 SB Ramps
	26. SW Beaverton-Hillsdale Hwy 217 SB Ramps
	27. SW Canyon Rd_Hwy 217 NB Ramps
	28. SW Beaverton-Hillsdale Hwy_Hwy 217 NB Ramp
	29. SW Canyon Rd_SW 110th Ave
	30. SW Beaverton-Hillsdale Hwy_SW 110th Ave
	31. SW Canyon Rd_SW 107th Ave

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification

1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.	
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num	N/A
Last Amendment	Not applicable. Tus is the initial amendment to program the project.						

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes People of Color (POC) = Yes Limited English Proficiency (LEP) = Yes Low Income (LI) = Yes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways		Traffic Congestion		Transit Rides	
		X					
Preservation	Pavement Condition	Bridge Condition		Public Transit Vehicle Condition			
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service	
	X	X		X		X	

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per Table 2, Safety
Exemption Reference:	Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real-time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network					
Yes/No	Network	Designation			
Yes	Motor Vehicle	OR8	Major Arterial	OR10	Major Arterial
		Cedar Hills Blvd	Minor Arterial	Millikan Way	No designation
		Jenkins Rd	Minor Arterial		
Yes	Transit	OR8	Frequent Bus	OR10	Frequent Bus
		Cedar Hills Blvd	Frequent Bus	Millikan Way	No designation
		Jenkins Rd	Frequent Bus		
Yes	Freight	OR8	Roadway Connectors	OR10	Roadway Connectors
		Cedar Hills Blvd	No designation	Millikan Way	No designation
		Jenkins Rd	No designation		
Yes	Bicycle	OR8	Bicycle Parkway & Regional Bikeway	OR10	Bicycle Parkway & Regional Bikeway
		Cedar Hills Blvd	Regional Bikeway	Millikan Way	No designation
		Jenkins Rd	Regional Bikeway		
Yes	Pedestrian	OR8	Pedestrian Parkway	OR10	Pedestrian Parkway
		Cedar Hills Blvd	Pedestrian Parkway	Millikan Way	No designation
		Jenkins Rd	Regional Pedestrian Corridor		

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	OR8	Other NHS Routes
	Yes	OR10	Map-21 NHS Principal Arterials
	No	Cedar Hills Blvd	No designation
	No	Jenkins Rd	No designation
	No	Millikan Way	No designation
Functional Classification		OR8	Urban Other Principal Arterial
		OR10	Urban Other Principal Arterial
		Cedar Hills Blvd	Urban Minor Arterial
		Jenkins Rd	Urban Minor Arterial
		Millikan Way	Urban Major Collector
Federal Aid Eligible Facility		OR8	3 = Other Principal Arterial
		OR10	3 = Other Principal Arterial
		Cedar Hills Blvd	4 = Minor Arterial
		Jenkins Rd	4 = Minor Arterial
		Millikan Way	5 = Major Collector

Additional RTP Consistency Check Areas
1. Is the project designated as a Transportation Control Measure? No.
2. Is the project identified on the Congestion Management Process (CMP) plan? Yes (for OR 8 and OR10 site locations).
3. Is the project included as part of the approved: UPWP? No. Not applicable.
3a. If yes, is an amendment required to the UPWP? No.
3b. Can the project MTIP amendment proceed before the UPWP amendment? Yes.
3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? Not applicable
4. Applicable RTP Goals: <u>Goal 4: Reliability and Efficiency:</u> Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors. <u>Goal 5: Safety and Security:</u> Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel. <u>Goal 9: Equitable Transportation:</u> Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? No. The project is not capacity enhancing or exceeds \$100 million dollars.

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo

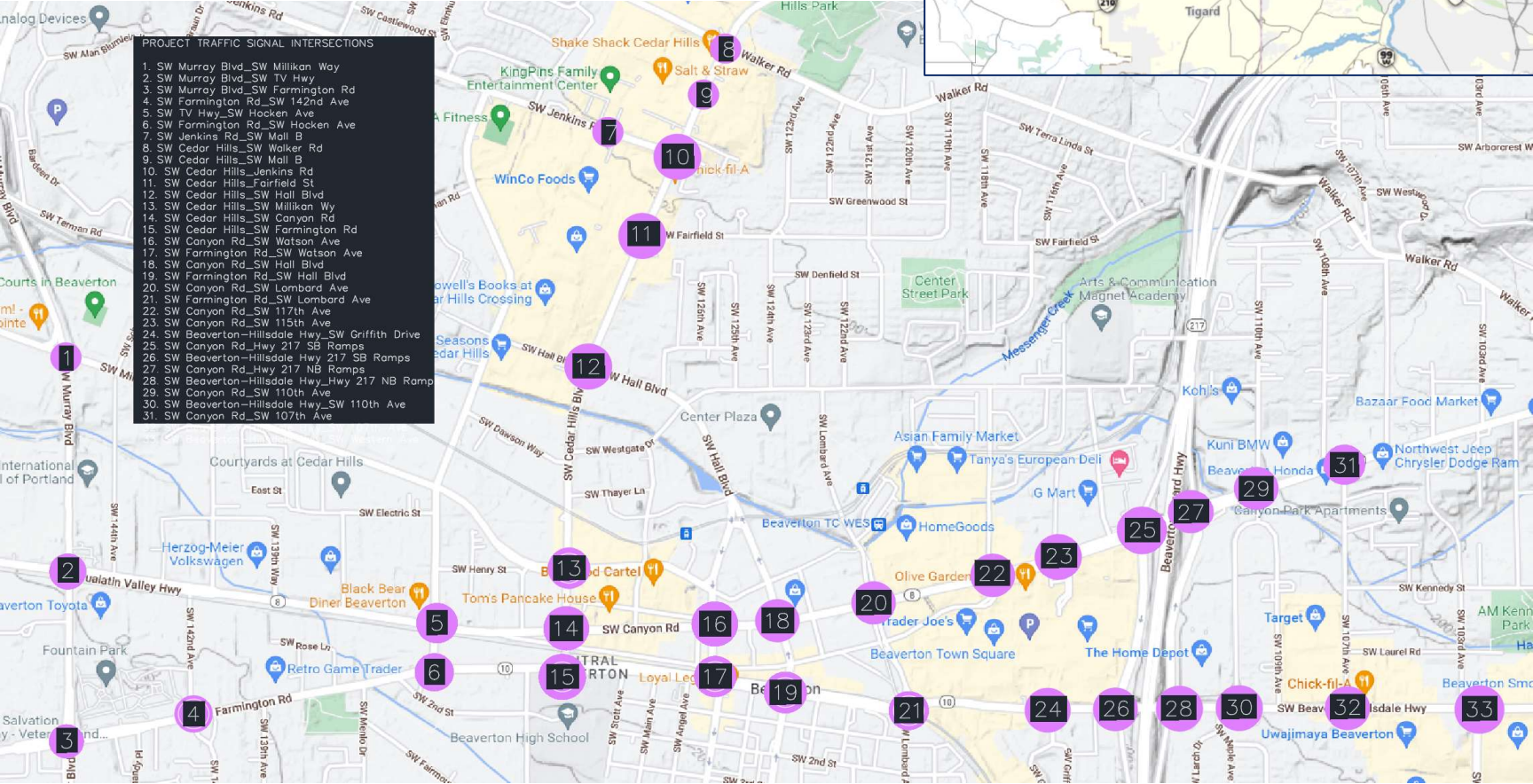
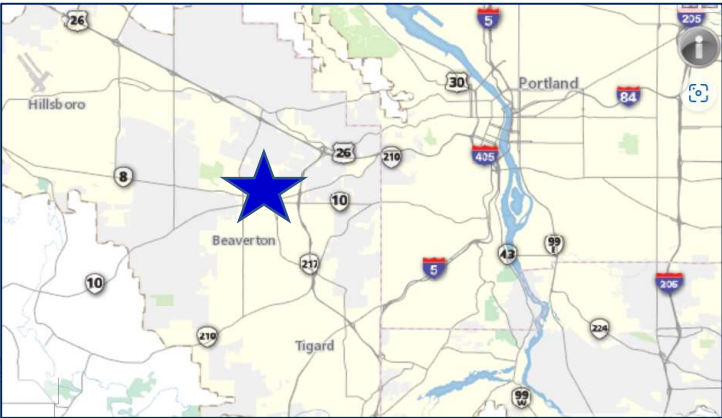


Date: Friday, April 28, 2023
 To: Transportation Policy Alternatives Committee
 From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
 A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
 Caleb Winter, TSMO Program Manager, Metro Senior Transportation
 Subject: 2021 TSMO Strategy Solicitation - Project Recommendations

The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Project	Lead Agency	TSMO Program Funds (federal)	Score (out of 600 possible points)
Accessible, routable sidewalk data, region-wide	Metro	\$1,015,481	569
PORTAL & BikePed Portal: Multimodal data lake and applications to inform equitable outcomes	TREC/PSU	\$ 1,621,892	564
Leading Pedestrian Intervals and Smart Detections	Beaverton	\$ 1,938,940	526
TSMO Program Investment	Metro	\$387,371	519
Clackamas County Signal Safety Project	Clackamas	\$ 933,192	515
Local Traffic Signal Controller Replacement Phase 2	Portland	\$1,588,849	508
Regional Central System Network	Portland	\$870,381	498
<i>Subtotal for seven (7) projects</i>		<i>\$ 8,356,106</i>	

Project Location Map and Proposed Sites in Beaverton





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #2

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The Clackamas Countywide TSMO Traffic Signal Safety Upgrade Project is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March.

Project Name: Clackamas Countywide Traffic Signal Safety Upgrade

Lead Agency:	Clackamas County	Applicant:	Clackamas County	Administrator:	ODOT
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Short Description:
 Identify and upgrade selected traffic signals across Clackamas County with the new signal hardware and install protected pedestrian and bicycle crossings to provide added safety and accessibility for pedestrian and bicyclists

MTIP Detailed Description (Internal Metro use only):
 Identify and upgrade selected traffic signals across Clackamas County in the cities of Milwaukie, Happy Valley, Gladstone, Lake Oswego, West Linn, Oregon City and Canby, plus selected county area locations with the new signal hardware and install protected pedestrian and bicycle crossings to provide added safety and accessibility for pedestrian and bicyclists

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025						\$ 933,192	\$ 933,192
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 933,192	\$ 933,192
State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 106,808	\$ 106,808
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 106,808	\$ 106,808
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,040,000	\$ 1,040,000
Total Estimated Project Cost									\$ 1,040,000
Total Cost in Year of Expenditure:									\$ 1,040,000

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,040,000	\$ 1,040,000
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 106,808	\$ 106,808
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 933,192	\$ 933,192
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 106,808	\$ 106,808
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,040,000	\$ 1,040,000

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.00%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.00%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.00%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	Yes	Various	Various	Various	Various
Cross Streets	Route or Arterial		Cross Street	Cross Street	
	Various		Various	Various	

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. Tus is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes People of Color (POC) = Yes Limited English Proficiency (LEP) = Yes Low Income (LI) = Yes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways	Traffic Congestion	Transit Rides			
		X					
Preservation	Pavement Condition	Bridge Condition	Public Transit Vehicle Condition				
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget	Disadvantage Business Enterprise Utilization	ODOT Customer Service			
	X	X	X	X			

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per Table 2, Safety
Exemption Reference:	Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	Multiple locations and designations. Specific intersection locations to be determined.
Yes	Transit	Multiple locations and designations. Specific intersection locations to be determined.
Yes	Freight	Multiple locations and designations. Specific intersection locations to be determined.
Yes	Bicycle	Multiple locations and designations. Specific intersection locations to be determined.
Yes	Pedestrian	Multiple locations and designations. Specific intersection locations to be determined.

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	To be determined	Final intersection locations on state routes or local arterials will determine the possible designation on the NHS.
Functional Classification	Yes	To be determined	Final intersection locations on state routes or local arterials will determine the functional classification.
Federal Aid Eligible Facility	Yes	To be determined	Final intersection locations on state routes or local arterials will determine their federal aid eligibility status.

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
2. Is the project identified on the Congestion Management Process (CMP) plan? **Yes for some selected sites.**
3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3a. If yes, is an amendment required to the UPWP? **No.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
 - Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
 - Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
 - Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo



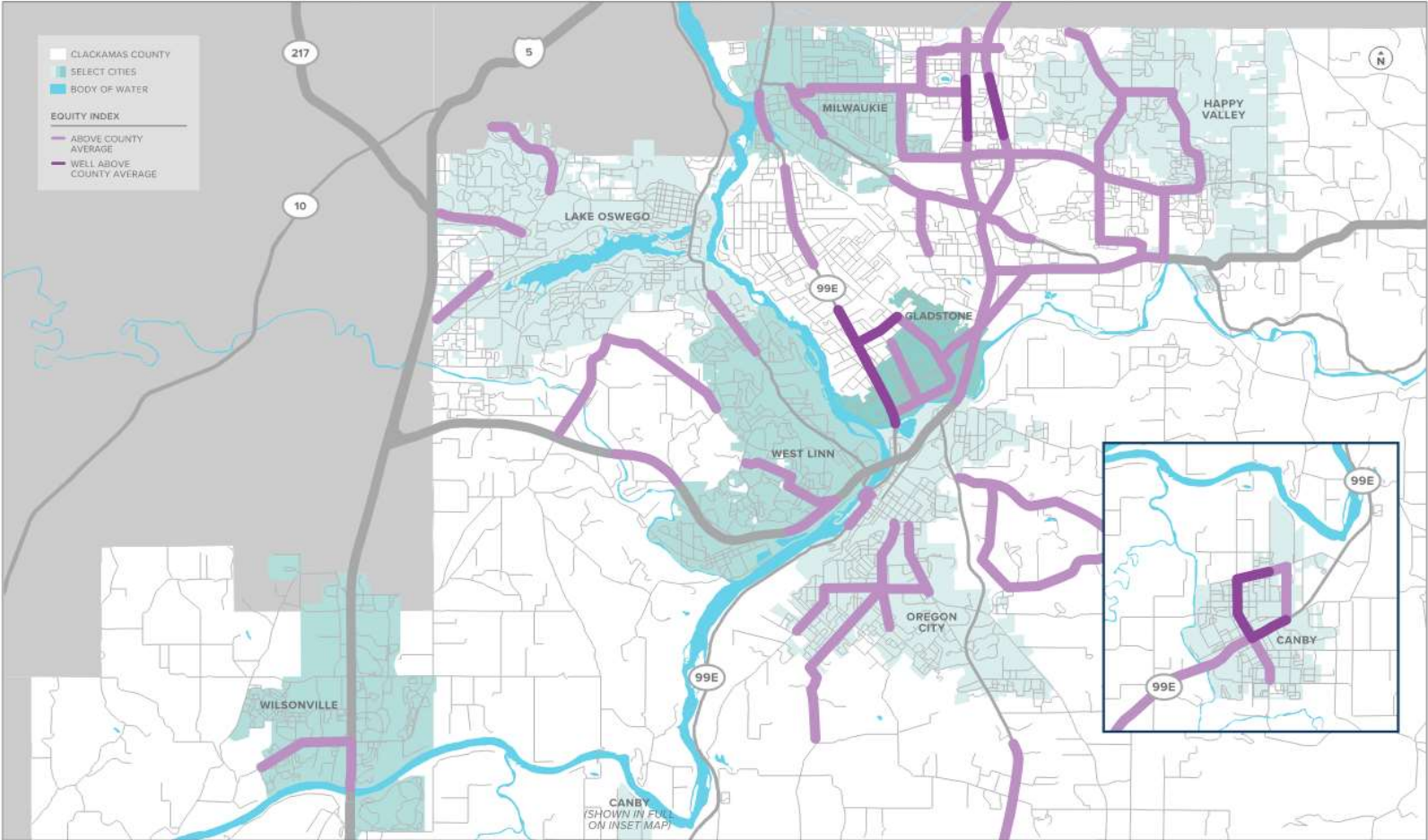
Date: Friday, April 28, 2023
 To: Transportation Policy Alternatives Committee
 From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
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Project	Lead Agency	TSMO Program Funds (federal)	Score (out of 600 possible points)
Accessible, routable sidewalk data, region-wide	Metro	\$1,015,481	569
PORTAL & BikePed Portal: Multimodal data lake and applications to inform equitable outcomes	TREC/PSU	\$ 1,621,892	564
Leading Pedestrian Intervals and Smart Detections	Beaverton	\$ 1,938,940	526
TSMO Program Investment	Metro	\$387,371	519
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Local Traffic Signal Controller Replacement Phase 2	Portland	\$1,588,849	508
Regional Central System Network	Portland	\$870,381	498
<i>Subtotal for seven (7) projects</i>		<i>\$ 8,356,106</i>	

Project Location Map

FIGURE 14: TRANSPORTATION EQUITY INDICATOR PRIORITIZED CORRIDORS





Canceled Project Amendment Submission

The pre-review of the project determined it needs to be split into two projects. The revised split projects will be re-submitted next month as part of the December FFY 2024 Formal MTIP Amendment

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #3

ODOT Key #	New-TBD	RFF	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CD	TA Flex & Conversion Code	No
MTIP Amendment ID: NV24-02-NOV			STIP Amendment ID:	TBD

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The Metro TSMO Program Investments and ITS Architecture Update project is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March.

Project Name: TSMO Program Investments and ITS Architecture Update

Lead Agency: **Metro** Applicant: **Metro** Administrator: **ODOT**

Short Description:
 Complete TSMO program update activities including the ITS Architecture update, standardized equipment (switches, SFP/lasers) purchase, Next Gen TSP coordination standard, & a progress evaluation made on the 2021 TSMO Strategy and system completeness

MTIP Detailed Description (Internal Metro use only):
 Complete various TSMO program update activities including the ITS Architecture update among regional stakeholders, purchasing of standardized required equipment (switches, SFP/lasers), developing a coordination standard for deploying Next Gen TSP throughout the region, complete a progress evaluation made on the 2021 TSMO Strategy, and the TSMO system completeness

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming									
Fund Type	Fund Code	Year	Planning	Preliminary	Right of Way	Utility	Construction	Other	Total
Canceled Project Amendment Submission									
Federal Funds									
STBG-U	Y230	2025						\$ 387,371	\$ 387,371
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 387,371	\$ 387,371
State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 44,336	\$ 44,336
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 44,336	\$ 44,336
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 431,707	\$ 431,707
Total Estimated Project Cost									\$ 431,707
Total Cost in Year of Expenditure:									\$ 431,707

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$				-	\$ 431,707	\$ 431,707
Phase Change Percent:	0.0%				0%	100.0%	100.0%
Amended Phase Matching Funds:	\$				-	\$ 44,336	\$ 44,336
Amended Phase Matching Percent:	N/A				/A	10.27%	10.27%

Canceled Project Amendment Submission

Phase Programming Summary Totals							
Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 387,371	\$ 387,371
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 44,336	\$ 44,336
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 431,707	\$ 431,707

Phase Composition Percentages							
Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.00%

Phase Programming Percentage							
Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.00%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.00%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.00%	0.0%	0.0%	0.0%	0.0%	100.0%	100.00%

Project Phase Obligation History								
Item	Planning	PE	ROW	UR	Cons	Other	Federal	
Total Funds Obligated						Not	Aid	
Federal Funds Obligated:						Obligated		
EA Number:	Canceled Project Amendment Submission							FHWA or FTA
Initial Obligation Date:								FHWA
EA End Date:								FMIS or TRAMS
Known Expenditures:								FMIS
Completion Date Notes:						Estimated Project Completion Date:	12/30/2027	
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A		
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.								

Fiscal Constraint Consistency Review	
1. What is the source of funding?	Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding?	No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change?	Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval?	No ODOT approval required, but TransPort approval was required with concurrence from TPAC
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment?	Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Various	Various
Cross Streets		Route or Arterial	Cross Street		Cross Street
		Not Applicable	Not Applicable		Not Applicable

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programme	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. This is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RFP Performance Measurements	Congestion Mitigation	Climate Change Resilience	Economic	Equity	Mobility	Safety	Notes Equity assessment based on a region-wide application
						X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership		Walkways/Bikeways		Traffic Congestion		Transit Rides
Preservation	Pavement Condition		Bridge Condition		Public Transit Vehicle Condition		
Safety	Fatalities/Injuries Reduction						
Stewardship	Construction Projects On-Time		Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per Table 2, Safety
Exemption Reference:	Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name: **11104 - Regional TSMO Program Investments for 2018-2027**

Implement and maintain Transportations System Management and Operations (TSMO) investments used by multiple agencies (e.g., Central Signal System, operations and archiving) and coordinate program also includes strategy planning (e.g., coordination of activities for TransPort the blueprints for agency software and hardware systems (ITS Architecture), improving traveler information with live-streaming data for connected vehicle and mobile information systems (TripCheck Traveler Information Portal Enhancement), and improving "big data" processing (PSU PORTAL) to support analyzing performance measures.

Canceled Project Amendment Submission

Project Location in the Metro Transportation Network

Yes/No	Network	Designation
Yes	Motor Vehicle	Not Applicable
Yes	Transit	Not Applicable
Yes	Freight	Not Applicable
Yes	Bicycle	Not Applicable
Yes	Pedestrian	Not Applicable

National Highway System and Functional Classification Designations

System	Y/N	Route	Designation
NHS Project	Yes	Not Applicable	Not Applicable
Functional Classification	Yes	Not Applicable	Not Applicable
Federal Aid Eligible Facility	Yes	Not Applicable	Not Applicable

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
2. Is the project identified on the Congestion Management Process (CMP) plan? **No.**
3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3a. If yes, is an amendment required to the UPWP? **No.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**

- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
- Goal 4: Reliability and Efficiency:**
Objective 4.1 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
- Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
- Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Canceled Project Amendment Submission

Public Notification / Opportunity to Comment Consistency Requirement	
1. Is a 30-day/opportunity to comment period required as part of the amendment?	Yes.
2. What are the start and end dates for the comment period?	October 31, 2023 to December 1, 2023
3. Was the comment period completed consistent with the Metro Public Participation Plan?	Yes.
4. Was the comment period included on the Metro website allowing email submissions as comments?	Yes.
5. Did the project amendment result in a significant number of comments?	Not Expected
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office?	Not Expected

Fund Codes References	
Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo



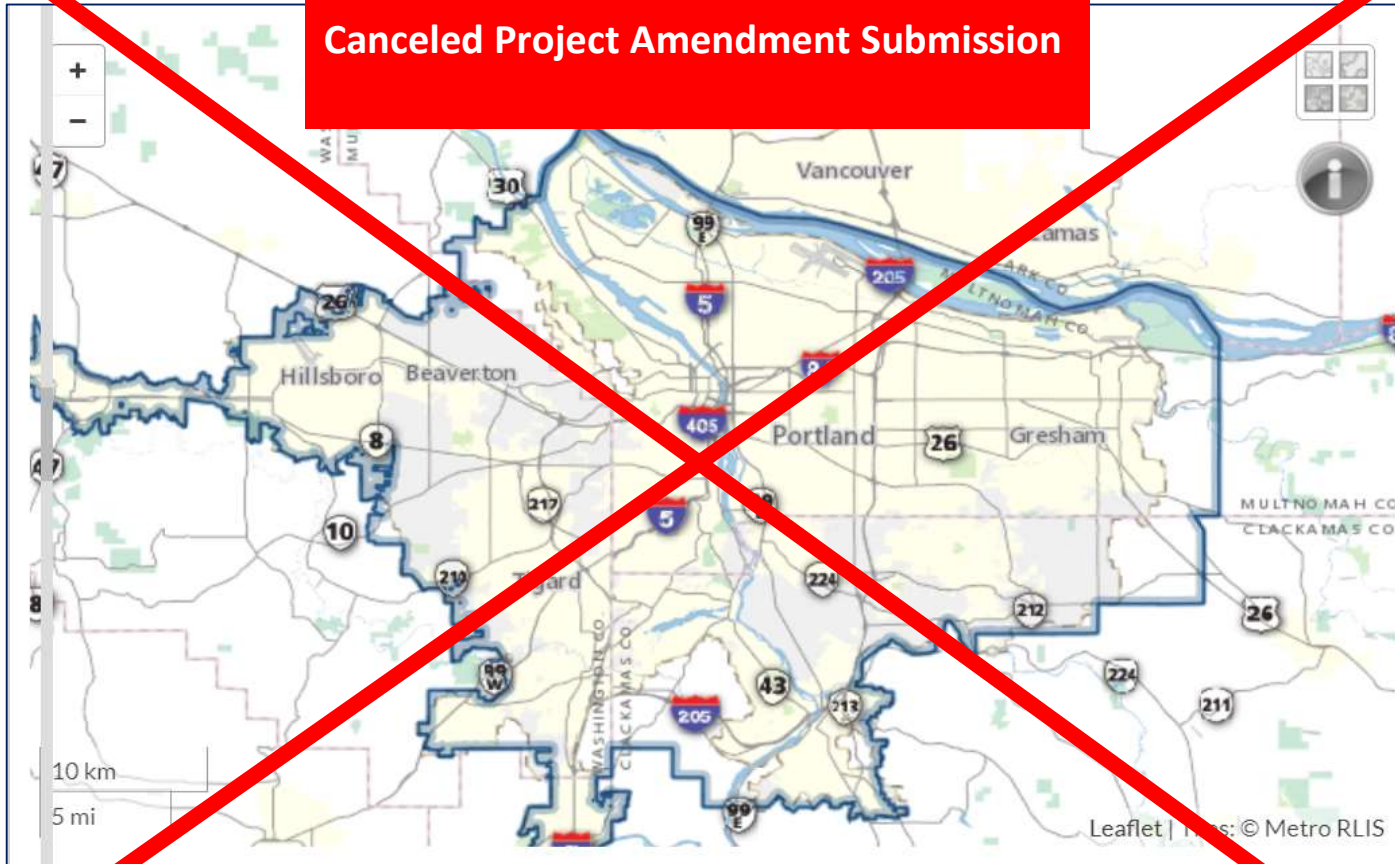
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Project	Lead Agency	TSMO Program Funds (federal)	Score (out of 600 possible points)
Accessible, routable sidewalk data, region-wide	Metro	\$1,015,400	569
PORTAL & BikePed Portal: Multimodal data lake and applications to inform equitable outcomes	TREC/PSU	\$ 1,621,892	564
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Regional Central System Network	Portland	\$870,381	498
<i>Subtotal for seven (7) projects</i>		<i>\$ 8,356,106</i>	

Project Location Map (Region Wide Application)

Canceled Project Amendment Submission





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new USDOT Culvert AOP grant award to the MTIP

Project #4

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11673	2023 RTP Approval Date:	December 2023
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new USDOT FFY 2022 National Culvert Removal, Replacement, and Restoration Grant Program (Culvert AOP Program) discretionary grant award (\$1,430,480 federal) to Multnomah County to fund the design, right-of-way acquisition, and permitting phase of a project to replace the existing undersized culvert and failed fish ladder with a new bridge at Troutdale Rd on Beaver Creek

Project Name:	Beaver Creek Fish Passage Restoration at Troutdale Rd					
Lead Agency:	Multnomah County	Applicant:	Multnomah County	Administrator:	ODOT	

Short Description:
 Complete design, right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge.

MTIP Detailed Description (Internal Metro use only):
 In the northeast Metro region on South Troutdale Rd at Beaver Creek (Coordinates: Lat/long: 45.521788, -122.386953), complete design, right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge, plus remove the flow restriction, relieve the risk of debris blockage, and fill a gap in sidewalks and bicycle lanes on Troutdale Rd.

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Roadway	Roadway - Bridge	Reconstruction/Preservation	Capital Improvement
	Roadway - Pedestrian	Sidewalk New (gap fill)	
	Roadway - Bicycle	On Street Striped	
	Roadway - Other	Other (culvert/fish passage reconstruction)	
ODOT Work Type:	TBD		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
ADVCON	ACPO	2024		\$ 1,330,480					\$ 1,330,480
ADVCON	ACPO	2025			\$ 100,000				\$ 100,000
Federal Totals:			\$ -	\$ 1,330,480	\$ 100,000	\$ -	\$ -	\$ -	\$ 1,430,480

State Funds

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Local Funds

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2024		\$ 332,620					\$ 332,620
Other	OTH0	2024		\$ 25,000					\$ 25,000
Local	Match	2025			\$ 25,000				\$ 25,000
Local Totals:			\$ -	\$ 357,620	\$ 25,000	\$ -	\$ -	\$ -	\$ 332,620

Phase Totals	Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals	\$ -	\$ 1,688,100	\$ 125,000	\$ -	\$ -	\$ -	\$ 1,813,100

Total Estimated Project Cost (including the later construction phase): \$ 11,600,000
Total Cost in Year of Expenditure: \$ 11,600,000

Programming Summary	Yes/No	Reason if Short Programmed					
Is the project short programmed?	Yes	Only PE and Row phases are being added now per the USDOT grant award. The construction phase will be added later.					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ 1,688,100	\$ 125,000	\$ -	\$ -	\$ -	\$ 1,813,100
Phase Change Percent:	0.0%	100.0%	100.0%	0.0%	0.0%	0.0%	100.0%
Amended Phase Matching Funds:	N/A	\$ 332,620	\$ 25,000	N/A	N/A	N/A	\$ 357,620
Amended Phase Matching Percent:	N/A	20.00%	20.00%	N/A	N/A	N/A	20.00%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ 1,330,480	\$ 100,000	\$ -	\$ -	\$ -	\$ 1,430,480
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ 357,620	\$ 25,000	\$ -	\$ -	\$ -	\$ 382,620
Total	\$ -	\$ 1,688,100	\$ 125,000	\$ -	\$ -	\$ -	\$ 1,813,100

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	78.82%	80.00%	0.0%	0.0%	0.0%	78.90%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	21.18%	20.0%	0.0%	0.0%	0.0%	21.10%
Total	0.0%	100.00%	100.00%	0.0%	0.0%	0.0%	100.00%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	73.38%	5.52%	0.0%	0.0%	0.0%	78.90%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	19.72%	1.4%	0.0%	0.0%	0.0%	21.10%
Total	0.0%	93.11%	6.89%	0.0%	0.0%	0.0%	100.00%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated		Not Obligated	Not Obligated				Aid ID
Federal Funds Obligated:			Obligated				
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	Not stated
Completion Date Notes: The project will complete PE and initiate ROW. The schedule does not yet address the construction timing							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review	
1. What is the source of funding?	USDOT/FHWA's National Culvert Removal Replacement and Restoration Grant Program
2. Does the amendment include changes or updates to the project funding?	Yes. This is new funding being added to the MTIP.
3. Was proof-of-funding documentation provided to verify the funding change?	Yes. Grant award confirmation documentation was provided.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval?	No. However, FHWA approval was required.
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment?	Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not applicable	Not applicable	Not applicable	Not applicable
Cross Streets	Route or Arterial		Cross Street	Cross Street	
	Troutdale Rd		at Beaver Creek	Coordinates Lat/long: 45.521788, -122.386953	
Note: Routes or arterials with multiple site improvement locations shown as an aggregate total.					

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification							
1st Year Programmed	2024	Years Active	0	Project Status	1	Pre-first phase obligation activities (IGA development, project scoping, scoping refinement, etc.).	
Total Prior Amendments	0	Last Amendment	Not applicable	Date of Last Amendment	Not applicable	Last MTIP Amend Num	Not applicable
Last Amendment Action	None. This is the initial MTIP and STIP programming for the project.						

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
				X		X	Troutdale Rd east of Beaver Creek: LEP, LE, and LI are no. Troutdale Rd west of Beaver Creek: LEP and LE are no. Low Income (LI) is
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership		Walkways/Bikeways		Traffic Congestion		Transit Rides
			X				
Preservation	Pavement Condition		Bridge Condition		Public Transit Vehicle Condition		
Safety	Fatalities/Injuries Reduction						
Stewardship	Construction Projects On-Time		Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service
	X		X		X		X

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	No
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Yes, per Table 2 under Safety and Other categories
Exemption Reference:	Safety: Widening narrow pavements or reconstructing bridges (no additional travel lanes). Other: Engineering to assess social, economic, and environmental effects of the proposed action or alternatives
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. The project is not capacity enhancing.
2023 RTP Constrained Project ID and Name:	11673 - Beaver Creek Crossing at Troutdale Rd
2023 RTP Project Description:	Replace the existing culvert and failed fish ladder on Beaver Creek at Troutdale Rd with a new bridge. The project will fill a gap in sidewalks and bicycle lanes on Troutdale Rd where there is currently not adequate space over the existing culvert. (542U)

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
No	Motor Vehicle	The project location is not identified as part of the Motor Vehicle network
Yes	Transit	The project location is identified as part of a Frequent Bus route in the Transit network
No	Freight	The project location is not identified as part of the Freight network
Yes	Bicycle	The location is identified as part of a Bicycle Parkway in the Bicycle network
Yes	Pedestrian	The location is identified as a future Regional Pedestrian Corridor in the Pedestrian network

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	No	S. Troutdale Rd	Not identified as part of the NHS system,
Functional Classification	Yes	S. Troutdale Rd	Urban Major Collector
Federal Aid Eligible Facility	Yes	S. Troutdale Rd	FHWA Functional Classification Code: 5 (Major Collector)

Additional RTP Consistency Check Areas
1. Is the project designated as a Transportation Control Measure? No.
2. Is the project identified on the Congestion Management Process (CMP) plan? No.
3. Is the project included as part of the approved: UPWP? No. Not applicable
3a. If yes, is an amendment required to the UPWP? Not applicable
3b. Can the project MTIP amendment proceed before the UPWP amendment? Yes.
3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? Not applicable
4. Applicable RTP Goal: Goal 6: Healthy Environment, Objective 6.1 Biological and Water Resources – Protect fish and wildlife habitat and water resources from the negative impacts of transportation
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? No. The project is not capacity enhancing or exceeds \$100 million in cost.

Public Notification/Opportunity to Comment Consistency Requirement
1. Is a 30-day/opportunity to comment period required as part of the amendment? Yes.
2. What are the start and end dates for the comment period? Estimated to be: October 31, 2023 to December 1, 2023.
3. Was the comment period completed consistent with the Metro Public Participation Plan? Yes.
4. Was the comment period included on the Metro website allowing email submissions as comments? Yes.
5. Did the project amendment result in a significant number of comments? Not expected.
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? Not expected.

Fund Codes References

CULAOP22	Discretionary federal funds originating from the USDOT FFY 2022 National Culvert Removal, Replacement, and Restoration Grant Program (Culvert AOP Program). The Culvert AOP Program stands for the "Culvert Aquatic Organism Passage (AOP) Program". The federal share is set at a maximum of 80% with a 20% minimum match requirement, The funding provides competitive grants for the replacement, removal, and repair of culverts or weirs that: (1) would meaningfully improve or restore fish passage for anadromous fish; and (2) with respect to weirs, may include (A) infrastructure to facilitate anadromous fish passage around or over the weir; and (B) weir improvements
Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds.

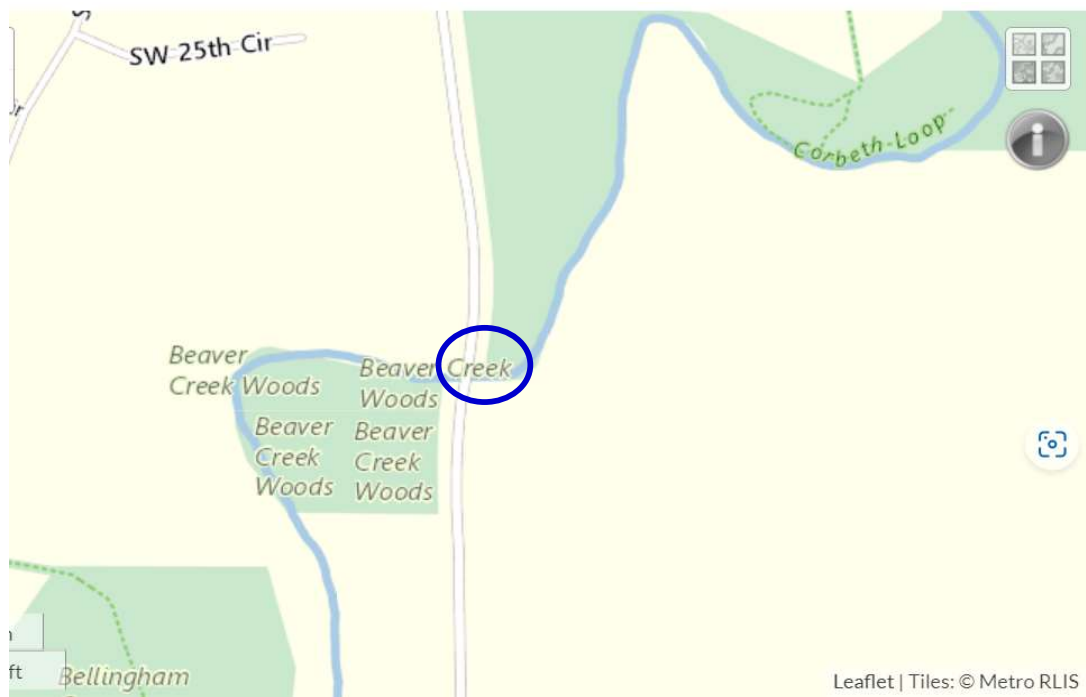
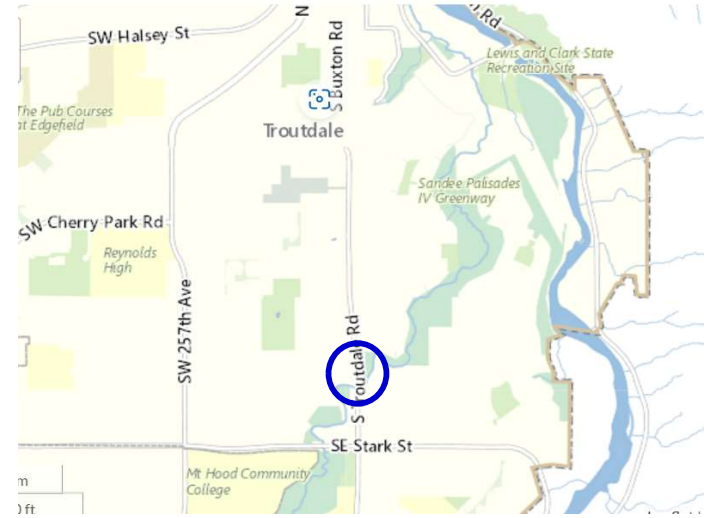


National Culvert Removal Replacement and Restoration Grant Program

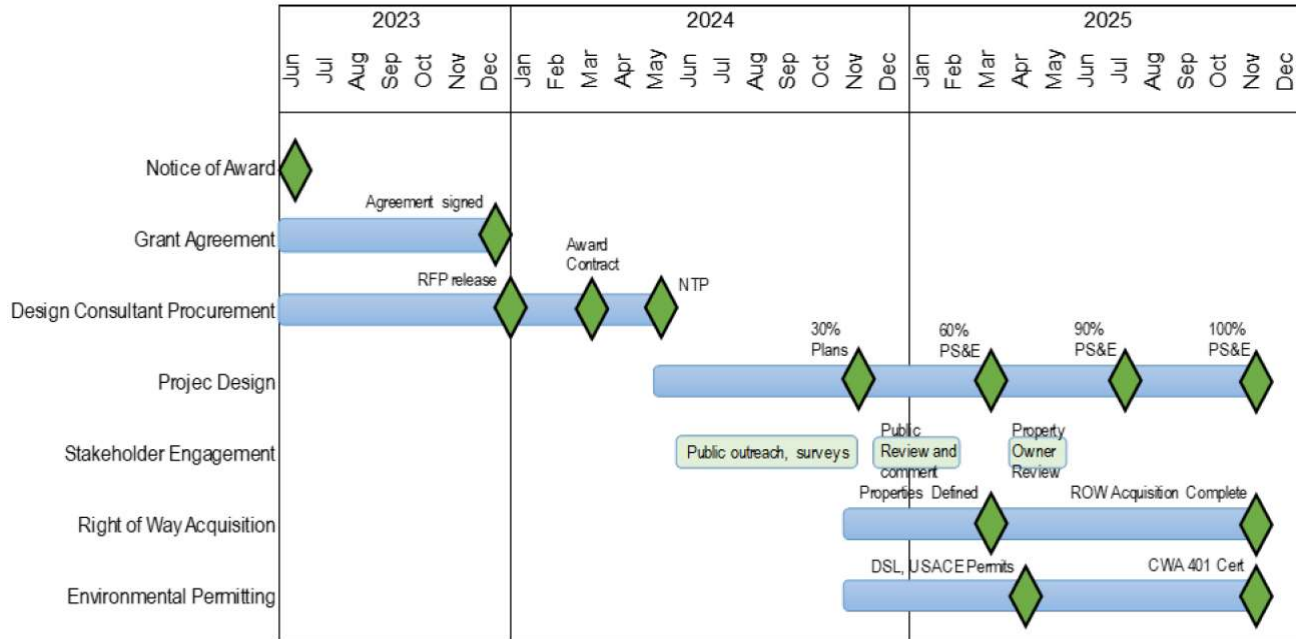
Year One [FY 2022] Grant Recipients

Award	Application Name	Applicant	State	Awarded	Application Description
29	Mill Creek – Brickyard Road AOP Barriers 1106 and 1137 Design and Construction Bundle	Tillamook County	OR	\$1,492,800	The Mill Creek project is part of the Salmon SuperHwy (SSH) strategic effort to restore 95% of historic habitat connectivity for 5 species of anadromous ESA-listed salmonids and Pacific lamprey, while reducing flooding and improving public safety in the flood-prone coastal community of Tillamook County. The application seeks design and construction funding to replace two fish passage barriers on Brickyard Road with structures that meet Federal fish passage requirements.
30	Smith River Basin Priority Passage Projects	Coquille Indian Tribe	OR	\$1,490,792	This application covers the removal and replacement of five culverts and removal or modification of 8 weirs to address access by anadromous fish to approximately 62 river miles in the lower Umpqua River watershed. These projects will improve passage to spawning and rearing habitat for anadromous populations of Chinook Salmon, Oregon Coastal Coho Salmon (ESA listed, threatened), Oregon Coast Steelhead (BLM Sensitive), and Cutthroat Trout, Pacific Lamprey (BLM Sensitive Species) as well as resident populations of Rainbow and Cutthroat Trout, Western Brook Lamprey, and other native fish species.
31	Clackamas County Oregon Culvert AOP Funding Application	Clackamas County, Oregon	OR	\$1,490,320	The Lead Applicant for this project will be Clackamas County, Oregon. It is a design and construction project that would remove the existing culverts, which are passage barriers under certain flow regimes, and replace them with a modular 20' clear span bridge. Conway Creek flows under Aschoff Road in Rhododendron, OR via two degraded and undersized culverts. Aschoff Road has experienced several minor washout and over-topping events. This application would provide access to a minimum of 0.76 miles of upstream spawning and rearing habitat for wild Coho salmon and wild steelhead among other aquatic organisms.
32	Beaver Creek Fish Passage Restoration at Troutdale Rd	Multnomah County	OR	\$1,430,480	The proposal is for the design, right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge.

Project Location Map



Proposed Project Delivery (PE & ROW) Schedule





Metro
 2024-27 Metropolitan Transportation Improvement Program (MTIP)
 PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
CANCEL PHASE
 Cancel ROW, and update the project name, limits, description

Project #5

Project Details Summary							
ODOT Key #	21617	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	71171	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV	STIP Amendment ID:		24-27-0214		

Summary of Amendment Changes Occurring:
 The formal amendment cancels the ROW phase, reduces the project limits resulting in an overall scope change that requires an updated project name and description plus milepost reference adjustments. The main project scope activities remains unchanged. However, the project limit changes are greater than 1 threshold limit for administrative limits changes and triggers the need for a formal/full amendment. The project's total cost also increases by \$553,056, or by 14.1%. Project needs in PE (Preliminary Engineering) were underestimated and severely under-budgeted and ROW (Right of Way) was overestimated. During the course of project development, PE costs increased actual and inflationary), ROW was determined to not be required, and CN (Construction) could be reduced to keep the project scope and funding in balance.

Project Name: ~~OR8: SE Brookwood Ave - OR217~~
OR8: SE 198th Ave - OR217

Lead Agency:	ODOT	Applicant:	ODOT	Administrator:	ODOT
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Short Description:
 Install fiber optic cable where gaps exist in order to operate traffic control and monitoring systems and rapidly respond to incidents.

MTIP Detailed Description (Internal Metro use only):
On OR8, Tualatin Valley Highway, in the NW Portland Region from net MP 2.85 to MP 7.27, (cross streets 198th Ave to OR217), employ ITS upgrades that include the installation of ~~Install~~ fiber optic cable where gaps exist in order to operate traffic control and monitoring systems and rapidly respond to incidents.

STIP Description: Install fiber optic cable where gaps exist in order to operate traffic control and monitoring systems and rapidly respond to incidents.

Project Classification Details			
Project Type	Category	Features	System Investment Type
Highway	Highway - Motor Vehicle	System Management and Operations	System Management, ITS and Operations
ODOT Work Type:	OP-ITS		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
NHPP	M001	2021		\$ 403,930					\$ 403,930
NHPP (IIJA)	Y001	2021		\$ 215,498					\$ 215,498
NHPP (FAST)	Z0E1	2021		\$ 147,726					\$ 147,726
Redistribution	Z030	2021		\$ 329,321					\$ 329,321
NHPP	Y001	2024			\$ 28,199				\$ -
NHPP	Z001	2024					\$ 3,091,714		\$ -
NHPP	Z001	2024					\$ 2,923,626		\$ 2,923,626
									\$ -
Federal Totals:			\$ -	\$ 1,096,475	\$ -	\$ -	\$ 2,923,626	\$ -	\$ 4,020,101

State Funds

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
State (M001)	Match	2021		\$ 46,232					\$ 46,232
State (Y001)	Match	2021		\$ 24,665					\$ 24,665
State (Z0E1)	Match	2021		\$ 16,908					\$ 16,908
State (Redist)	Match	2021		\$ 37,692					\$ 37,692
State	Match	2024			\$ 3,228				\$ -
State	Match	2024					\$ 353,861		\$ -
State	Match	2024					\$ 334,622		\$ 334,622
									\$ -
State Totals:			\$ -	\$ 125,497	\$ -	\$ -	\$ 334,622	\$ -	\$ 460,119

Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Phase Totals	Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:	\$ -	\$ 450,162	\$ 31,427	\$ -	\$ 3,445,575	\$ -	\$ 3,927,164
Amended Programming Totals	\$ -	\$ 1,221,972	\$ -	\$ -	\$ 3,258,248	\$ -	\$ 4,480,220
Total Estimated Project Cost							\$ 4,480,220
Total Cost in Year of Expenditure:							\$ 4,480,220

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ 771,810	\$ (31,427)	\$ -	\$ (187,327)	\$ -	\$ 553,056
Phase Change Percent:	0.0%	171.5%	-100.0%	0.0%	-5.4%	0.0%	14.1%
Amended Phase Matching Funds:	\$ -	\$ 125,497	\$ -	\$ -	\$ 334,622	\$ -	\$ 460,119
Amended Phase Matching Percent:	N/A	10.27%	0.0%	N/A	10.27%	N/A	10.27%

Phase Programming Summary Totals							
Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ 1,096,475	\$ -	\$ -	\$ 2,923,626	\$ -	\$ 4,020,101
State	\$ -	\$ 125,497	\$ -	\$ -	\$ 334,622	\$ -	\$ 460,119
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ 1,221,972	\$ -	\$ -	\$ 3,258,248	\$ -	\$ 4,480,220

Phase Composition Percentages							
Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	89.73%	0.0%	0.0%	89.73%	0.0%	89.73%
State	0.0%	10.27%	0.0%	0.0%	10.27%	0.0%	10.27%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	100.00%	0.0%	0.0%	100.00%	0.0%	100.00%

Phase Programming Percentage							
Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	24.47%	0.0%	0.0%	65.26%	0.0%	89.73%
State	0.0%	2.80%	0.0%	0.0%	7.47%	0.0%	10.27%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	27.27%	0.0%	0.0%	72.73%	0.0%	100.00%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated		\$ 1,221,972					Aid ID
Federal Funds Obligated:		\$ 1,096,475					S029(036)
EA Number:		PE003253					FHWA or FTA
Initial Obligation Date:		12/4/2020					FHWA
EA End Date:		N/A					FMIS or TRAMS
Known Expenditures:		N/A					FMIS
						Estimated Project Completion Date:	12/31/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? ODOT, Federal National Highway Performance Program and Redistribution funds.
2. Does the amendment include changes or updates to the project funding? Yes, TPC increases by \$553k or 14.1% (still within admin threshold)
3. Was proof-of-funding documentation provided to verify the funding change? Yes. Program has authority to add the funds per CMR
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No. Authority under Program Manager
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
	Yes/No	Route	MP Begin	MP End	Length
On State Highway	Yes	OR8	2.94	9.73	6.79
	Yes	OR8	2.85	7.27	4.42
The net limit change to the project adjust it by 2.37 miles which is greater than the 1 mile threshold.					2.37
Cross Streets	Route or Arterial		Cross Street		Cross Street
	OR8		198th Ave		OR217

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification							
1st Year Programmed	2021	Years Active	4	Project Status	4	(PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated).	
Total Prior Amendments	3	Last Amendment	Administrative	Date of Last Amendment	August 2023	Last MTIP Amend Num	AM23-23-AUG2
Last Amendment Action	PHASE SLIP: Slip ROW phase to FFY 2024						

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes People of Color (POC) = Yes Limited English Proficiency (LEP) = Yes Low Income (LI) = Yes
	X			X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership		Walkways/Bikeways		Traffic Congestion		Transit Rides
					X		
Preservation	Pavement Condition		Bridge Condition		Public Transit Vehicle Condition		
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time		Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service
	X		X		X		X

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	No.
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt per Table 2 - Safety
Exemption Reference:	Safety - Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No. Not required
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. The project is not capacity enhancing.

RTP Constrained Project ID and Name:	11104 - Regional TSMO Program Investments for 2018-2027
RTP Project Description:	Implement and maintain Transportations System Management and Operations (TSMO) investments used by multiple agencies (e.g., Central Signal System, traffic signal priority, data communications and archiving) and coordinate response to crashes. The regional program also includes strategy planning (e.g., periodic TSMO Strategy updates), coordination of activities for TransPort subcommittee to TPAC, updates to the blueprints for agency software and hardware systems (ITS Architecture), improving traveler information with live-streaming data for connected vehicle and mobile information systems (TripCheck Traveler Information Portal Enhancement), and improving “big data” processing (PSU PORTAL) to support analyzing performance measures.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	Throughway
Yes	Transit	Frequent Bus and future HCT
Yes	Freight	Main Roadway Routes and Branch Rail Lines
Yes	Bicycle	Bicycle Parkway
Yes	Pedestrian	Pedestrian Parkway

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	OR8	Other NHS Routes
Functional Classification	Yes	OR8	Urban Other Principal Arterial
Federal Aid Eligible Facility	Yes	OR8	3 = Other Principal Arterial

Additional RTP Consistency Check Areas	
1.	Is the project designated as a Transportation Control Measure? No.
2.	Is the project identified on the Congestion Management Process (CMP) plan? Yes.
3.	Is the project included as part of the approved: UPWP? Not Applicable
3a.	If yes, is an amendment required to the UPWP? Not Applicable.
3b.	Can the project MTIP amendment proceed before the UPWP amendment? Yes.
3c.	What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? Not Applicable.

4. Applicable RTP Goal: **Goal 4: Reliability and Efficiency**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing nor does exceed \$100 million dollars.**

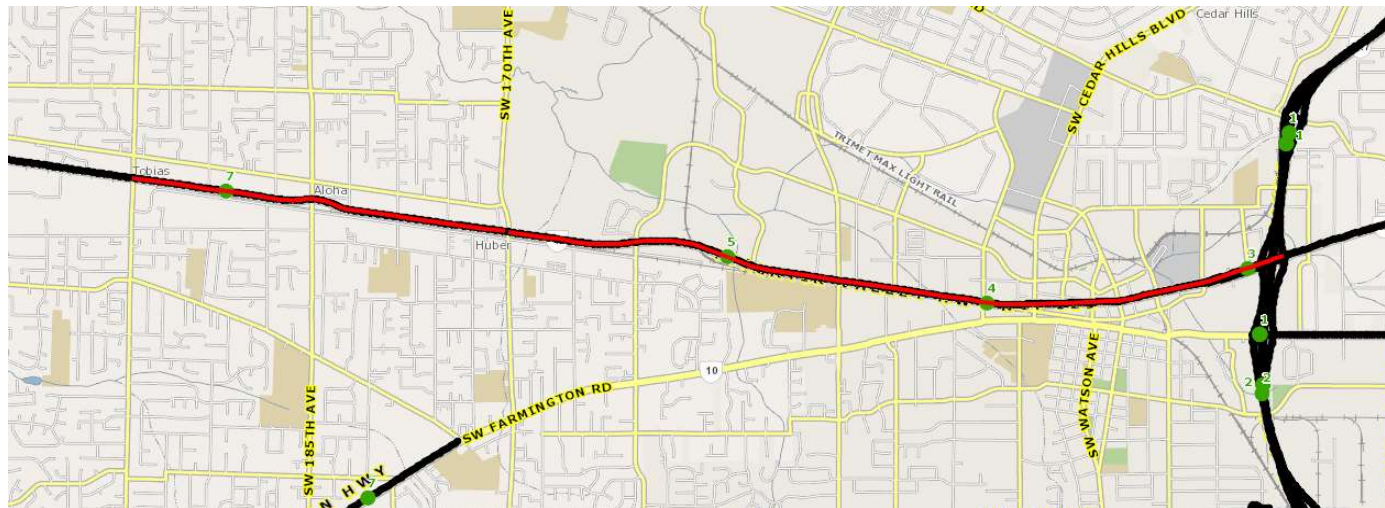
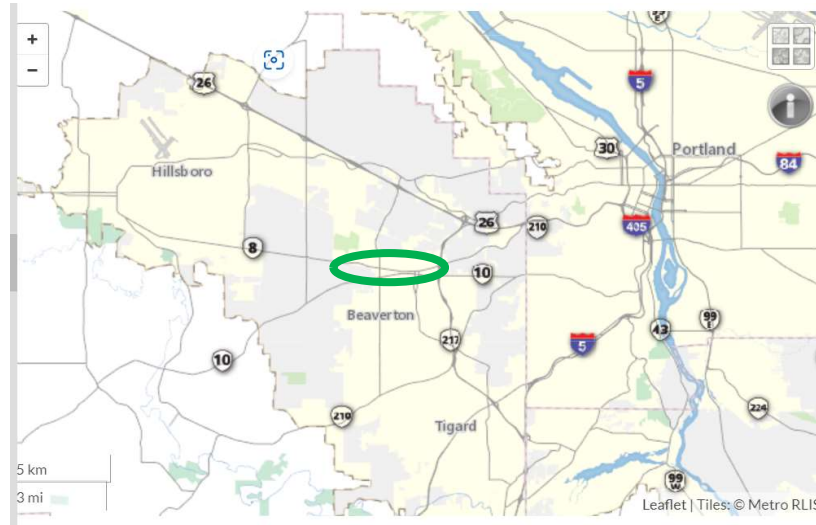
Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31 through December 1, 2023.**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected.**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not expected.**

Fund Codes References

State	General State funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
NHPP	A federal funding source (FHWA based) appropriated to the State DOT. The purposes of this program are: to provide support for the condition and performance of the National Highway System (NHS); to provide support for the construction of new facilities on the NHS; to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets established in a State's asset management plan for the NHS; and [NEW] to provide support for activities to increase the resiliency of the NHS to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters. [§ 11105(1); 23 U.S.C. 119(b)]
Redistribution	A special federal funding source (FHWA based). Every State DOT is required to meet annual obligation targets. If a State DOT does not meet its required obligation goals, FHWA may rescind a portion of the appropriated funds and redistribute them to other states that met their targets. Redistribution of certain authorized funds when programmed reflects a portion of the rescinded funds from other states to Oregon,

Project Location Map





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #6

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The Portland Regional Central Network Upgrade project is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March.

Project Name:	Portland TSMO Regional Central Network Upgrade						
Lead Agency:	Portland	Applicant:	Portland	Administrator:	ODOT		

Short Description:
 Evaluate and upgrade the Regional Central System network, architecture design, configuration and installed equipment to bring it up to the same standards for traffic signal communications as performed by the ITS network for increased traffic mobility.

MTIP Detailed Description (Internal Metro use only):
 Across the city of Portland with monitoring and evaluation assistance provided by the cities of Gresham and Beaverton plus Clackamas and Washington Counties, evaluate and upgrade the existing Regional Central System network, architecture design, configuration and installed equipment to bring it up to the same standards for traffic signal communications as performed by the ITS network for increased traffic mobility.

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025						\$ 870,381	\$ 870,381
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 870,381	\$ 870,381
State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 99,619	\$ 99,619
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99,619	\$ 99,619
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 970,000	\$ 970,000
Total Estimated Project Cost									\$ 970,000
Total Cost in Year of Expenditure:									\$ 970,000

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 970,000	\$ 970,000
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99,619	\$ 99,619
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 870,381	\$ 870,381
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99,619	\$ 99,619
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 970,000	\$ 970,000

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	Yes	Multiple	Various	Various	Various
Cross Streets	Route or Arterial		Cross Street	Cross Street	
	Multiple		Various	Various	

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. Tus is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways	Traffic Congestion	Transit Rides			
Preservation	Pavement Condition	Bridge Condition	Public Transit Vehicle Condition				
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget	Disadvantage Business Enterprise Utilization	ODOT Customer Service			
	X	X	X	X			

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per Table 2, Safety
Exemption Reference:	Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	Multiple
Yes	Transit	Multiple
Yes	Freight	Multiple
Yes	Bicycle	Multiple
Yes	Pedestrian	Multiple

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	Multiple	Multiple
Functional Classification	Yes	Multiple	Multiple
Federal Aid Eligible Facility	Yes	Multiple	Multiple

Additional RTP Consistency Check Areas
1. Is the project designated as a Transportation Control Measure? No.
2. Is the project identified on the Congestion Management Process (CMP) plan? No.
3. Is the project included as part of the approved: UPWP? No. Not applicable.
3a. If yes, is an amendment required to the UPWP? No.
3b. Can the project MTIP amendment proceed before the UPWP amendment? Yes.

3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? Not applicable
4. Applicable RTP Goals: <u>Goal 4: Reliability and Efficiency:</u> Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors. <u>Goal 5: Safety and Security:</u> Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel. <u>Goal 9: Equitable Transportation:</u> Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? No. The project is not capacity enhancing or exceeds \$100 million dollars.

Public Notification/Opportunity to Comment Consistency Requirement
1. Is a 30-day/opportunity to comment period required as part of the amendment? Yes.
2. What are the start and end dates for the comment period? October 31, 2023 to December 1, 2023
3. Was the comment period completed consistent with the Metro Public Participation Plan? Yes.
4. Was the comment period included on the Metro website allowing email submissions as comments? Yes.
5. Did the project amendment result in a significant number of comments? Not expected
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? Not Expected

Fund Codes References	
Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo

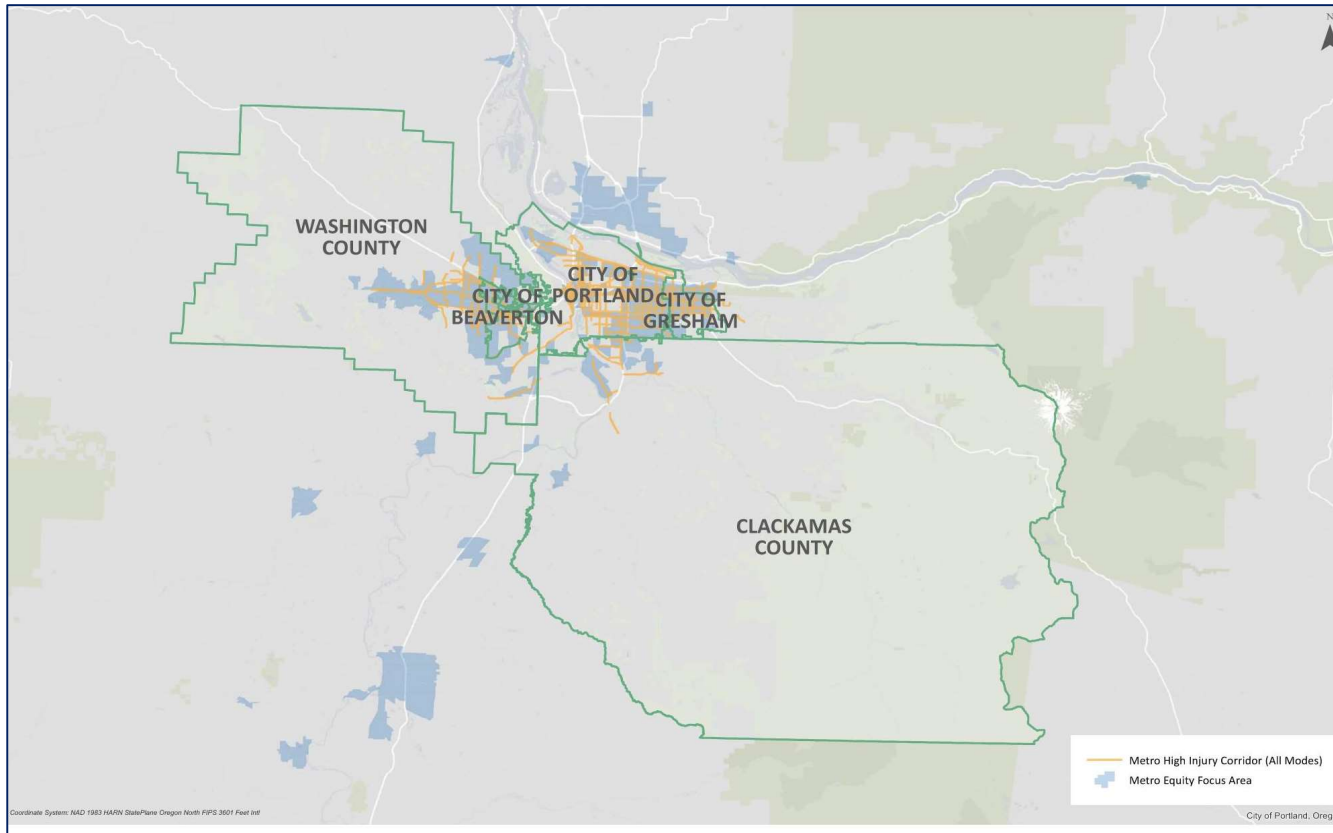


Date: Friday, April 28, 2023
 To: Transportation Policy Alternatives Committee
 From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
 A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
 Caleb Winter, TSMO Program Manager, Metro Senior Transportation
 Subject: 2021 TSMO Strategy Solicitation - Project Recommendations

The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Project	Lead Agency	TSMO Program Funds (federal)	Score (out of 600 possible points)
Accessible, routable sidewalk data, region-wide	Metro	\$1,015,481	569
PORTAL & BikePed Portal: Multimodal data lake and applications to inform equitable outcomes	TREC/PSU	\$ 1,621,892	564
Leading Pedestrian Intervals and Smart Detections	Beaverton	\$ 1,938,940	526
TSMO Program Investment	Metro	\$387,371	519
Clackamas County Signal Safety Project	Clackamas	\$ 933,192	515
Local Traffic Signal Controller Replacement Phase 2	Portland	\$1,588,849	508
Regional Central System Network	Portland	\$870,381	498
<i>Subtotal for seven (7) projects</i>		<i>\$ 8,356,106</i>	

Project Location Map (Region Wide Application)





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #7

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The Portland Local Traffic Signal Controller Replacement, Part II project is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March. The project is a combined and joint effort among PBOT, the city of Gresham, and Multnomah County.

Project Name:	Portland Local Traffic Signal Controller Replacement Phase II						
Lead Agency:	Portland	Applicant:	Portland	Administrator:	ODOT		

Short Description:
 Purchase and install up to 160 ATCs for PBOT and 79 for the City of Gresham and Multnomah County at selected signalized locations to improve the reliability of signal communications and pedestrian safety at intersections.

MTIP Detailed Description (Internal Metro use only):
 Throughout Portland, Gresham, and Multnomah County, purchase and install up to 160 Advance Transportation Controllers (ATC) for PBOT and 79 for the City of Gresham and Multnomah County at selected signalized locations to improve the reliability of signal communications and pedestrian safety at intersections

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025						\$ 1,588,849	\$ 1,588,849
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,588,849	\$ 1,588,849

State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 181,851	\$ 181,851
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 181,851	\$ 181,851

Phase Totals		Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,770,700	\$ 1,770,700
Total Estimated Project Cost								\$ 1,770,700
Total Cost in Year of Expenditure:								\$ 1,770,700

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,770,700	\$ 1,770,700
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 181,851	\$ 181,851
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,588,849	\$ 1,588,849
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 181,851	\$ 181,851
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,770,700	\$ 1,770,700

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	Yes/No	Multiple	Various	Various	Various
Cross Streets	Route or Arterial		Cross Street	Cross Street	
	Multiple		Various	Various	

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. Tus is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways	Traffic Congestion	Transit Rides			
Preservation	Pavement Condition	Bridge Condition	Public Transit Vehicle Condition				
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget	Disadvantage Business Enterprise Utilization	ODOT Customer Service			
	X	X	X	X			

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per Table 2, Safety
Exemption Reference:	Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	Multiple
Yes	Transit	Multiple
Yes	Freight	Multiple
Yes	Bicycle	Multiple
Yes	Pedestrian	Multiple

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	Multiple	Multiple
Functional Classification	Yes	Multiple	Multiple
Federal Aid Eligible Facility	Yes	Multiple	Multiple

Additional RTP Consistency Check Areas
1. Is the project designated as a Transportation Control Measure? No.
2. Is the project identified on the Congestion Management Process (CMP) plan? No.
3. Is the project included as part of the approved: UPWP? No. Not applicable.
3a. If yes, is an amendment required to the UPWP? No.
3b. Can the project MTIP amendment proceed before the UPWP amendment? Yes.

- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
- Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
- Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
- Goal 9: Equitable Transportation:**
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

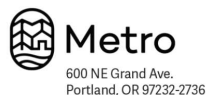
1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo

Date: Friday, April 28, 2023
 To: Transportation Policy Alternatives Committee
 From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
 A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
 Caleb Winter, TSMO Program Manager, Metro Senior Transportation
 Subject: 2021 TSMO Strategy Solicitation - Project Recommendations



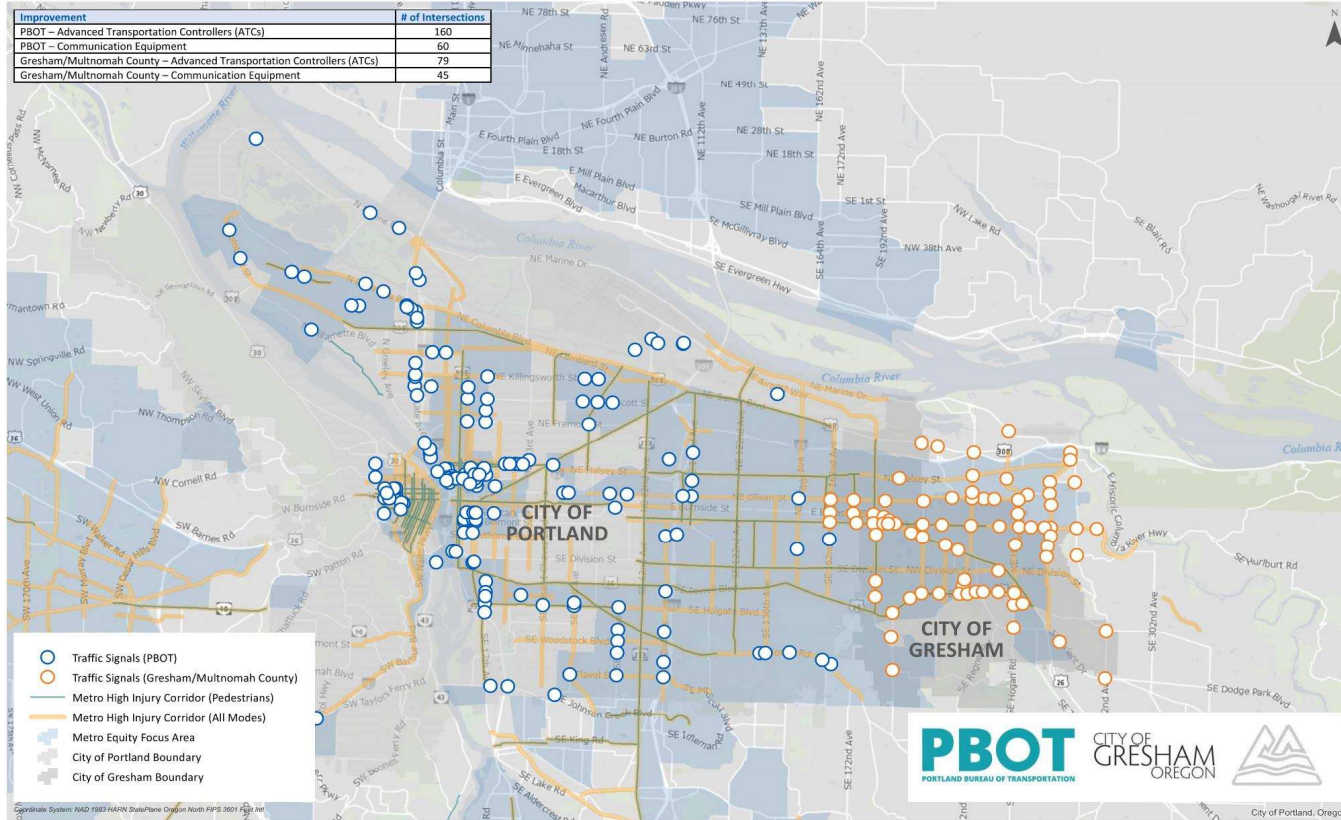
The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Project	Lead Agency	TSMO Program Funds (federal)	Score (out of 600 possible points)
Accessible, routable sidewalk data, region-wide	Metro	\$1,015,481	569
PORTAL & BikePed Portal: Multimodal data lake and applications to inform equitable outcomes	TREC/PSU	\$ 1,621,892	564
Leading Pedestrian Intervals and Smart Detections	Beaverton	\$ 1,938,940	526
TSMO Program Investment	Metro	\$387,371	519
Clackamas County Signal Safety Project	Clackamas	\$ 933,192	515
Local Traffic Signal Controller Replacement Phase 2	Portland	\$1,588,849	508
Regional Central System Network	Portland	\$870,381	498
<i>Subtotal for seven (7) projects</i>		<i>\$ 8,356,106</i>	

Project Location Map (Region Wide Application)

Site locations include the city of Portland, Gresham and Multnomah County

Exhibit 1. Project Map





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #8

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The t is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March. The project is a joint effort among Portland, Gresham, and Multnomah County.

Project Name:	Stark/Washington St Signal ATC Upgrades: 76th Ave – 257th Ave						
Lead Agency:	Portland	Applicant:	Portland	Administrator:	ODOT		

Short Description:
 Design, construct, and complete traffic signal interconnect actions plus upgrade Advance Transportation Controllers (ATC) on SE Stark Street for improved signalized intersection efficiency and added motorist and pedestrian safety.

MTIP Detailed Description (Internal Metro use only):
 On SE Stark and Washington Streets from SE 76th Ave east to SW 257th Ave across Portland and Gresham, design, construct, and complete traffic signal interconnect actions plus include ATC upgrade conversions including, wireless radio interconnect, radar detection, and pan-tilt-zoom (PTZ) cameras at approximately 26 intersection locations to provide driving increased safety including speed management and pedestrian head starts

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025						\$ 1,668,340	\$ 1,668,340
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,668,340	\$ 1,668,340
State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 190,949	\$ 190,949
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 190,949	\$ 190,949
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,859,289	\$ 1,859,289
Total Estimated Project Cost									\$ 1,859,289
Total Cost in Year of Expenditure:									\$ 1,859,289

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,859,289	\$ 1,859,289
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 190,949	\$ 190,949
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,668,340	\$ 1,668,340
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 190,949	\$ 190,949
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,859,289	\$ 1,859,289

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review	
1. What is the source of funding?	Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding?	No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change?	Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval?	No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment?	Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cross Streets	Route or Arterial		Cross Street		Cross Street
	SE Stark Street		SE 76th Ave (Portland)		SW 257th Ave (Gresham)
	Washington Street		SE 76th Ave (Portland)		SE 106th Ave (Portland)

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. This s is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes People of Color (POC) = Yes Limited English Proficiency (LEP) = Yes Low Income (LI) = Yes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways	Traffic Congestion	Transit Rides			
Preservation	Pavement Condition	Bridge Condition	Public Transit Vehicle Condition				
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget	Disadvantage Business Enterprise Utilization	ODOT Customer Service			
	X	X	X	X			

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per 40 CFR 93.126, Table 2, Safety
Exemption Reference:	Table 2 - Safety: Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	SE Stark Street = Major Arterial
		SE Washington Street = Major Arterial
Yes	Transit	SE Stark Street = Frequent Bus
		SE Washington Street = Frequent Bus
No	Freight	SE Stark Street = No Designation
		SE Washington Street = No Designation
Yes	Bicycle	SE Stark Street = Regional Bikeway and Bicycle Parkway
		SE Washington Street = Regional Bikeway
Yes	Pedestrian	SE Stark Street = Pedestrian Parkway
		SE Washington Street = Pedestrian Parkway

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	No	SE Stark Street	No designation
	No	SE Washington Street	No designation
Functional Classification	Yes	SE Stark Street	Urban Minor Arterial
	Yes	SE Washington Street	Urban Minor Arterial
Federal Aid Eligible Facility	Yes	SE Stark Street	4 = Minor Arterial
	Yes	SE Washington Street	4 = Minor Arterial

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
2. Is the project identified on the Congestion Management Process (CMP) plan? **No.**
3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3a. If yes, is an amendment required to the UPWP? **No.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
 - Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
 - Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
 - Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo



Date: Friday, April 28, 2023
To: Transportation Policy Alternatives Committee
From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
Caleb Winter, TSMO Program Manager, Metro Senior Transportation
Subject: 2021 TSMO Strategy Solicitation - Project Recommendations

The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Project	Lead Agency	TSMO Program Funds (federal)	Score
E Burnside Next-Gen TSP Investments	Portland	To be determined	494
NE Halsey Street Speed Management	Portland	To be determined	488
SE Stark Street Next-Gen TSP Investments	Portland	To be determined	480
<i>Subtotal for three (3) projects</i>		<i>\$3,908,212</i>	

Metro

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

September 22, 2023

Bikram Raghubansh
City of Portland
1120 SW 5th Ave.
Portland, OR 97204

Dear Bikram,

The purpose of this letter is to officially share that TransPort, Subcommittee of the Transportation Policy Alternatives Committee (TPAC), voted unanimously to suballocate Metro TSMO Program funds for the **SE Stark Street Next-Gen TSP Investments** project. This letter includes next steps and conditions for the project. Please note that this letter does not permit the project to start (no funds can be reimbursed until an Agreement is followed by a Notice to Proceed).

Through TransPort and our communications, the applied-for sums were updated to a total project cost of \$1,859,289 for which Metro is prepared to support up to \$1,668,340 from federal sources, requiring the project lead and partners to fund \$190,949 from local sources. City of Portland, City of Gresham and Multnomah County indicated budget for local match in the January 2023 letters attached to the application.

Steps you can take in the next two months to help ensure a smooth start to the process:

- Please utilize TSMO Project ID 23SEStark in all correspondence until ODOT assigns a key number through the MTIP/STIP amendment process.
- In order to not overwhelm TPAC, Metro staff need to wait until November for the soonest possible MTIP Amendment date, likely amending the STIP in January 2024.
- Reply with a list of people and emails you would like to invite to a kick-off meeting (project manager, partners, application writer, etc.). Metro will schedule this meeting in fall 2023 with your invitees, Metro staff and ODOT LAL staff.
- Review conditions of approval on the following pages of this letter and reply with any concerns or clarifying questions.
- Draft the Local Agency Technical Scope Sheet (formerly Prospectus), assisted by information in the original TSMO application. The latest form (734-5151) can be found [here](#).

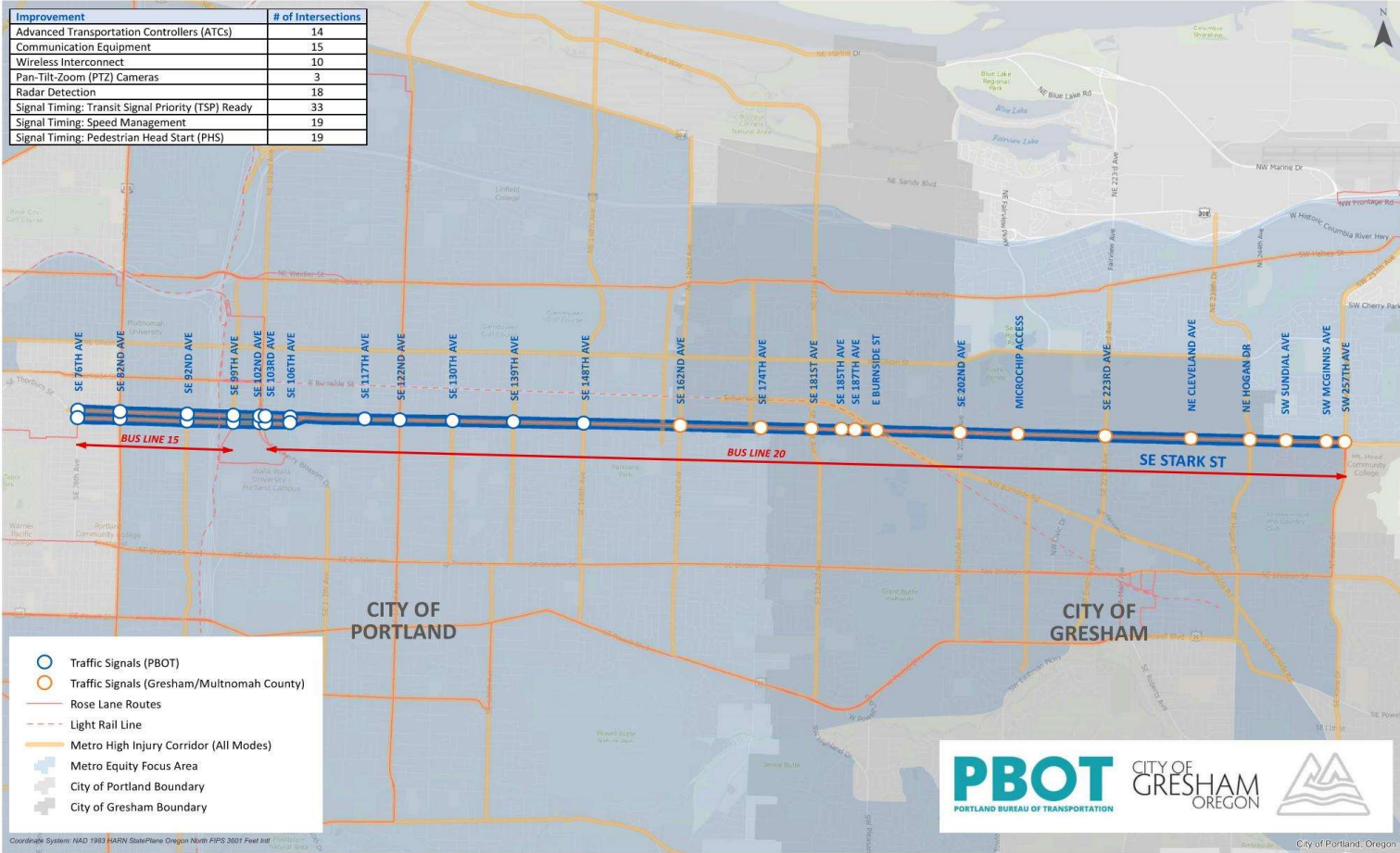
Please let me know if you have any questions.

Sincerely,

Caleb Winter, TSMO Program Manager

Project Location Map

Exhibit 1. Project Map





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
ADD NEW PROJECT
 Add the new TSMO awarded project to the MTIP

Project #9

Project Details Summary							
ODOT Key #	New-TBD	RFFA ID:	N/A	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	New-TBD	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment adds the new awarded TSMO project to the MTIP. The project is one of multiple new awarded projects the TransPort subcommittee recommended to TPAC back last March. The project is a joint effort among Portland, Gresham, and Multnomah County.

Project Name: **E Burnside Transit Signal Priority Upgrades: 97th - Powell Blvd**

Lead Agency:	Portland	Applicant:	Portland	Administrator:	ODOT
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Short Description:
 Design, construct, and upgrade traffic signal ATCs for priority timing involving the interconnect of ITS equipment including traffic signal controller conversions providing added speed management safety and pedestrian head starts

MTIP Detailed Description (Internal Metro use only):
 On East Burnside Street from NE 97th Ave to SE Powell Blvd, design, construct, and upgrade traffic signal advance transportation controllers (ATC) for priority timing at up to 29 intersection locations involving the interconnect of ITS equipment including traffic signal controller conversions with the addition of fiber optic interconnect, radar detection, and pan-tilt (PTZ) cameras to support the next generation transit priority to provide added speed management safety and pedestrian head starts.

STIP Description: TBD

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	TBD		

Phase Funding and Programming									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025						\$ 2,239,872	\$ 2,239,872
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,239,872	\$ 2,239,872
State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025						\$ 256,363	\$ 256,363
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 256,363	\$ 256,363
Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,496,235	\$ 2,496,235
Total Estimated Project Cost									\$ 2,496,235
Total Cost in Year of Expenditure:									\$ 2,496,235

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,496,235	\$ 2,496,235
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 256,363	\$ 256,363
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,239,872	\$ 2,239,872
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 256,363	\$ 256,363
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,496,235	\$ 2,496,235

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						Not	Aid ID
Federal Funds Obligated:						Obligated	
EA Number:							FHWA or FTA
Initial Obligation Date:							FHWA
EA End Date:							FMIS or TRAMS
Known Expenditures:							FMIS
						Estimated Project Completion Date:	12/30/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No	If yes, expected FTA conversion code:			N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review	
1. What is the source of funding?	Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding?	No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change?	Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval?	No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment?	Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cross Streets	Route or Arterial		Cross Street		Cross Street
	East Burnside Street		NE 97th Ave		SE Powell Blvd

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2025	Years Active	0	Project Status	0	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable. Tus is the initial amendment to program the project.					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes People of Color (POC) = Yes Limited English Proficiency (LEP) = Yes Low Income (LI) = Yes
				X	X	X	
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways	Traffic Congestion	Transit Rides			
Preservation	Pavement Condition	Bridge Condition	Public Transit Vehicle Condition				
Safety	Fatalities/Injuries Reduction						
	X						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget	Disadvantage Business Enterprise Utilization	ODOT Customer Service			
	X	X	X	X			

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per 40 CFR 93.126, Table 2, Safety
Exemption Reference:	Table 2 - Safety: Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	No designation from 97th Ave to 181st Ave. Major Arterial designation from 181st Ave to SE Powell Blvd
Yes	Transit	Commuter Rail
No	Freight	No designation from 97th Ave to SE 223rd Ave. Roadway Connector from SE 223rd Ave to SE Powell Blvd.
Yes	Bicycle	Bicycle Parkway
Yes	Pedestrian	Pedestrian Parkway

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	E. Burnside Street	No designation from 97th Ave to 181st Ave. "Other NHS Route" from 181st Ave to SE Powell.
Functional Classification	Yes	E. Burnside Street	Urban Major Collector
Federal Aid Eligible Facility	Yes	E. Burnside Street	5 = Major Collector

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
2. Is the project identified on the Congestion Management Process (CMP) plan? **Yes from 181st Ave to SE Powell Blvd.**
3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3a. If yes, is an amendment required to the UPWP? **No.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
 - Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
 - Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
 - Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas

Memo



Date: Friday, April 28, 2023
To: Transportation Policy Alternatives Committee
From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
Caleb Winter, TSMO Program Manager, Metro Senior Transportation
Subject: 2021 TSMO Strategy Solicitation - Project Recommendations

The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Project	Lead Agency	TSMO Program Funds (federal)	Score
E Burnside Next-Gen TSP Investments	Portland	To be determined	494
NE Halsey Street Speed Management	Portland	To be determined	488
SE Stark Street Next-Gen TSP Investments	Portland	To be determined	480
<i>Subtotal for three (3) projects</i>		\$3,908,212	



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

September 22, 2023

Bikram Raghubansh
City of Portland
1120 SW 5th Ave.
Portland, OR 97204

Dear Bikram,

The purpose of this letter is to officially share that TransPort, Subcommittee of the Transportation Policy Alternatives Committee (TPAC), voted unanimously to suballocate Metro TSMO Program funds for the E Burnside Next-Gen TSP Investments project. This letter includes next steps and conditions for the project. Please note that this letter does not permit the project to start (no funds can be reimbursed until an Agreement is followed by a Notice to Proceed).

Through TransPort and our communications, the applied-for sums were updated to a total project cost of \$2,496,235 for which Metro is prepared to support up to \$2,239,872 from federal sources, requiring the project lead and partners to fund \$256,363 from local sources. City of Portland and City of Gresham indicated budget for local match in the January 2023 letters attached to the application.

Steps you can take in the next two months to help ensure a smooth start to the process:

- Please utilize TSMO Project ID 23EBurnside in all correspondence until ODOT assigns a key number through the MTIP/STIP amendment process.
- In order to not overwhelm TPAC, Metro staff need to wait until November for the soonest possible MTIP Amendment date, likely amending the STIP in January 2024.
- Reply with a list of people and emails you would like to invite to a kick-off meeting (project manager, partners, application writer, etc.). Metro will schedule this meeting in fall 2023 with your invitees, Metro staff and ODOT LAL staff.
- Review conditions of approval on the following pages of this letter and reply with any concerns or clarifying questions.
- Draft the Local Agency Technical Scope Sheet (formerly Prospectus), assisted by information in the original TSMO application. The latest form (734-5151) can be found [here](#).

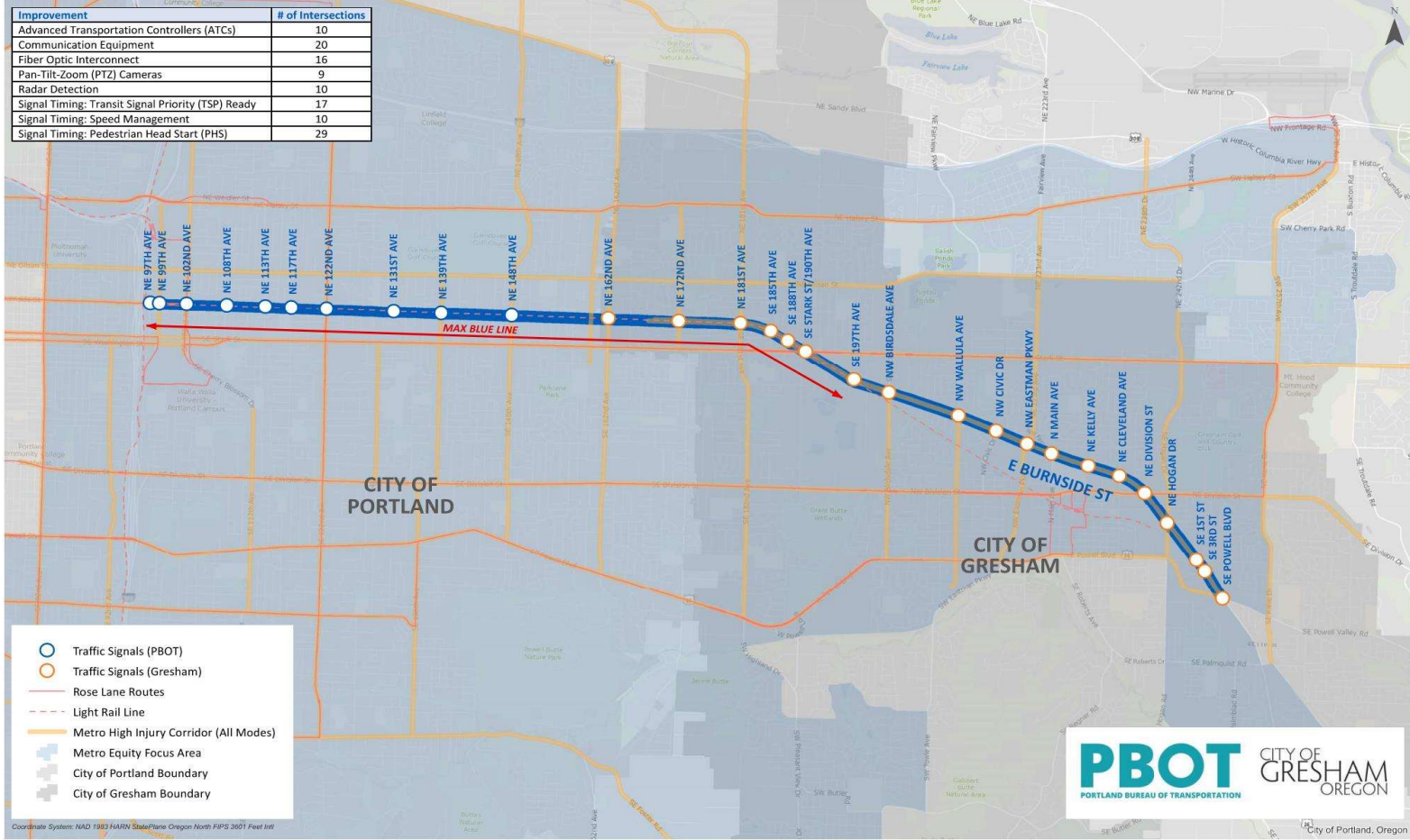
Please let me know if you have any questions.

Sincerely,

Caleb Winter, TSMO Program Manager

Project Location Map

Exhibit 1. Project Map





Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
COMBINE PROJECT
 Split and combine the funds into
 the new TSMO awarded projects

Project #10

Project Details Summary

ODOT Key #	20886	RFFA ID:	50361	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	70875	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:

The formal amendment splits the existing TSMO project grouping bucket (PGB) funding and commits and combines the funds into the new awarded TSMO projects that are being added to the 2024-27 MTIP as part of this formal amendment. Key 20886 was established to provide the prior approved TSMO funding for later specific projects that would evolve from the TSMO calls. The funding from this pub is now being applied to the various new approved TSMO awarded projects.

Project Name: Transportation System Mgmt Operations/ITS (2021)

Lead Agency:	Metro	Applicant:	Metro	Administrator:	Metro
--------------	--------------	------------	-------	----------------	-------

Short Description:

Provide strategic and collaborative program management including coordination of activities for TransPort TSMO committee. (FY 2021 allocation year)

MTIP Detailed Description (Internal Metro use only):

Provide strategic and collaborative program management including coordination of activities for TransPort TSMO committee; allocation and implementation of MTIP programming for TSMO; manage regional policy and project development; and oversee performance data development and tracking. (FY 2021 allocation year)

STIP Description: Funding to provide strategic and collaborative program management including coordination of activities for TransPort Transportation System Management and Operations (TSMO) committee.

Project Classification Details

Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	OP-ITS		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025	—	—				\$ 1,801,828	\$ -
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,801,828	\$ -

State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025	—					\$ 206,227	\$ -
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 206,227	\$ -

Phase Totals		Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,008,055	\$ 2,008,055
Amended Programming Totals		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Estimated Project Cost								\$ -
Total Cost in Year of Expenditure:								\$ -

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (2,008,055)	\$ (2,008,055)
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated							Aid ID
Federal Funds Obligated:							N/A
EA Number:							FHWA or FTA
Initial Obligation Date:							N/A
EA End Date:							FMIS or TRAMS
Known Expenditures:							N/A
						Estimated Project Completion Date:	N/A
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No		If yes, expected FTA conversion code:		N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cross Streets	Route or Arterial		Cross Street		Cross Street
	Not Applicable		Not Applicable		Not Applicable

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification							
1st Year Programmed	2021	Years Active	4	Project Status	Completed	11 = Project completed, reimbursements finished.	
Prior Amend	2	Last Amend	Formal	Date	Jun-21	Amend Num	JN21-11-JUN
Last Amendment	REPROGRAM PROJECT: Push out the UPWP planning project to FFY 2025 to avoid possible conflicts with the annual Obligation Targets program						

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
	Not Applicable	—————→					
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways		Traffic Congestion		Transit Rides	
	Not Applicable	N/A		N/A		N/A	
Preservation	Pavement Condition	Bridge Condition		Public Transit Vehicle Condition			
	N/A	N/A		N/A			
Safety	Fatalities/Injuries Reduction						
	N/A						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service	
	N/A	N/A		N/A		N/A	

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per 40 CFR 93.126, Table 2, Safety
Exemption Reference:	Table 2 - Safety: Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	No designation
Yes	Transit	No designation
No	Freight	No designation
Yes	Bicycle	No designation
Yes	Pedestrian	No designation

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	E. Burnside Street	No designation
Functional Classification	Yes	E. Burnside Street	No designation
Federal Aid Eligible Facility	Yes	E. Burnside Street	No designation

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
 2. Is the project identified on the Congestion Management Process (CMP) plan? **No.**
 3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
- Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
- Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
- Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas



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[earmarks](#)
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ODOT Key: 20886 | MTIP ID: 70875

Transportation System Mgmt Operations/ITS (2021) - Cycle 2024-29

Current Programming

phase	year	fund type	federal amount	minimum local match	other amount	total	hold from mtip
Other (explain)	2025		\$1,801,828	\$206,227	\$0	\$2,008,055	<input type="checkbox"/>
	2021	STBG-URBAN	\$1,801,828	\$206,227	\$0	\$2,008,055	
Totals >>			\$1,801,828	\$206,227	\$0	\$2,008,055	

[update](#)



Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
COMBINE PROJECT
 Split and combine the funds into
 the new TSMO awarded projects

Project #11

Project Details Summary							
ODOT Key #	22168	RFFA ID:	50408	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	71117	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment splits the existing TSMO project grouping bucket (PGB) funding and commits and combines the funds into the new awarded TSMO projects that are being added to the 2024-27 MTIP as part of this formal amendment. Key 22168 was established to provide the prior approved TSMO funding for later specific projects that would evolve from the TSMO calls. The funding from this pub is now being applied to the various new approved TSMO awarded projects.

Project Name: TSMO Program Sub-allocation Funds (Remaining 2022-2024)

Lead Agency:	Metro	Applicant:	Metro	Administrator:	Metro
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Short Description:
 Regional Transportation System Management & Operations (TSMO) remaining funding from 2022-24 allocation cycles which will support Metro awarded TSMO/ITS capital and operations projects to increase highway system operational efficiency and motorist safety

MTIP Detailed Description (Internal Metro use only):
 The regional Transportation System Management & Operations (TSMO) program includes a sub-allocation of funds to capital and operations projects that use technology and operations techniques to make existing transportation facilities operate more effectively. It also includes the administration of the regional TSMO program; providing program strategy and direction, administration of grant allocations, and staffing of the Transport committee. (FY 2024 allocation year)

STIP Description: Regional Transportation System Management & Operations remaining funding from 2022-24 allocation cycles which support Metro awarded TSMO/ITS capital & operations projects to increase highway system operational efficiency & motorist safety.

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	OP-ITS		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2025	—	—				\$ 5,153,017	\$ -
									\$ -
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

State Funds

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Local Funds

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2025	—					\$ 589,786	\$ -
									\$ -
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Phase Totals	Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,008,055	\$ 2,008,055
Amended Programming Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Estimated Project Cost							\$ -
Total Cost in Year of Expenditure:							\$ -

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (2,008,055)	\$ (2,008,055)
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated							Aid ID
Federal Funds Obligated:							N/A
EA Number:							FHWA or FTA
Initial Obligation Date:							N/A
EA End Date:							FMIS or TRAMS
Known Expenditures:							N/A
						Estimated Project Completion Date:	N/A
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No		If yes, expected FTA conversion code:		N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review
1. What is the source of funding? Metro TSMO program awarded STBG-U.
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).
3. Was proof-of-funding documentation provided to verify the funding change? Yes.
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cross Streets	Route or Arterial		Cross Street		Cross Street
	Not Applicable		Not Applicable		Not Applicable

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification							
1st Year Programmed	2021	Years Active	2	Project Status	Completed	11 = Project completed, reimbursements finished.	
Prior Amend	1	Last Amend	Formal	Date	Jun-21	Amend Num	JN21-11-JUN
Last Amendment	REPROGRAM PROJECT: Push out the UPWP planning project to FFY 2025 to avoid possible conflicts with the annual Obligation Targets program						

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
	Not Applicable	—————→					
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways		Traffic Congestion		Transit Rides	
	Not Applicable	N/A		N/A		N/A	
Preservation	Pavement Condition	Bridge Condition		Public Transit Vehicle Condition			
	N/A	N/A		N/A			
Safety	Fatalities/Injuries Reduction						
	N/A						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service	
	N/A	N/A		N/A		N/A	

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per 40 CFR 93.126, Table 2, Safety
Exemption Reference:	Table 2 - Safety: Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	No designation
Yes	Transit	No designation
No	Freight	No designation
Yes	Bicycle	No designation
Yes	Pedestrian	No designation

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	E. Burnside Street	No designation
Functional Classification	Yes	E. Burnside Street	No designation
Federal Aid Eligible Facility	Yes	E. Burnside Street	No designation

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
 2. Is the project identified on the Congestion Management Process (CMP) plan? **No.**
 3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
- Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
- Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
- Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas



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ODOT Key: 22168 | MTIP ID: 71117

TSMO Program Sub-allocation Funds (Remaining 2022-2024) - Cycle 2024-29

Current Programming

phase	year	fund type	federal amount	minimum local match	other amount	total	hold from mtip
Other (explain)	2025		\$5,153,017	\$589,786	\$0	\$5,742,803	<input type="checkbox"/>
	2024	STBG-URBAN	\$5,153,017	\$589,786	\$0	\$5,742,803	
Totals >>			\$5,153,017	\$589,786	\$0	\$5,742,803	



Metro
2024-27 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

MTIP Formal Amendment
SPLIT PROJECT
 Split and combine the funds into
 the new TSMO awarded projects

Project #12

Project Details Summary							
ODOT Key #	23209	RFFA ID:	50435	RTP ID:	11104	RTP Approval Date:	12/6/2018
MTIP ID:	71293	CDS ID:	N/A	Bridge #:	N/A	FTA Flex & Conversion Code	No
MTIP Amendment ID:		NV24-02-NOV		STIP Amendment ID:		TBD	

Summary of Amendment Changes Occurring:
 The formal amendment splits the existing TSMO project grouping bucket (PGB) funding and commits and combines the funds into the new awarded TSMO projects that are being added to the 2024-27 MTIP as part of this formal amendment. Key 23209 was established to provide the prior approved TSMO funding for later specific projects that would evolve from the TSMO calls. The funding from this pub is now being applied to the various new approved TSMO awarded projects.

Project Name:	TSMO Program Sub-allocation Funds (FFY 2025-27)						
Lead Agency:	Metro	Applicant:	Metro	Administrator:	Metro		

Short Description:
 Regional Transportation System Management & Operations program for capital and system improvements. (RFFA Step 1 FFY 2025-27 allocation years)

MTIP Detailed Description (Internal Metro use only):
 The regional Transportation System Management & Operations (TSMO) program includes a sub-allocation of funds to capital and operations projects that use technology and operations techniques to make existing transportation facilities operate more effectively. Funding for awarded projects will be split off and programmed separately. (RFFA Step 1 FFY 2025-27 allocation years)

STIP Description: Regional Transportation System Management & Operations (TSMO) program for capital and system improvements during federal fiscal years 2025-2027.

Project Classification Details			
Project Type	Category	Features	System Investment Type
Other	Systems Management and Operations	Operations Systems Deployment	Systems Management, ITS, and Operations
ODOT Work Type:	OP-ITS		

Phase Funding and Programming

Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation (UR)	Construction (Cons)	Other	Total
Federal Funds									
STBG-U	Y230	2027	—	—				\$ 6,306,170	\$ -
STBG-U	Y230	2027						\$ 2,864,067	\$ 2,864,067
Federal Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,306,170	\$ 2,864,067

State Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
									\$ -
State Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Local Funds									
Fund Type	Fund Code	Year	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Local	Match	2027						\$ 721,769	\$ -
Local	Match	2027						\$ 327,805	\$ 327,805
Local Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,049,575	\$ 327,805

Phase Totals			Planning	PE	ROW	UR	Cons	Other	Total
Existing Programming Totals:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,027,939	\$ 7,027,939
Amended Programming Totals			\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,191,872	\$ 3,191,872
Total Estimated Project Cost									\$ 3,191,872
Total Cost in Year of Expenditure:									\$ 3,191,872

Programming Summary	Yes/No	Reason if short Programmed					
Is the project short programmed?	No	The project is not short programmed					
Programming Adjustments Details	Planning	PE	ROW	UR	Cons	Other	Totals
Phase Programming Change:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (3,836,067)	\$ (3,836,067)
Phase Change Percent:	0.0%	0.0%	0.0%	0.0%	0.0%	-54.6%	-54.6%
Amended Phase Matching Funds:	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 327,805	\$ 327,805
Amended Phase Matching Percent:	N/A	N/A	N/A	N/A	N/A	10.27%	10.27%

Phase Programming Summary Totals

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,864,067	\$ 2,864,067
State	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 327,805	\$ 327,805
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,191,872	\$ 3,191,872

Phase Composition Percentages

Fund Type	Planning	PE	ROW	UR	Cons	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Phase Programming Percentage

Fund Category	Planning	Preliminary Engineering (PE)	Right of Way (ROW)	Utility Relocation	Construction	Other	Total
Federal	0.0%	0.0%	0.0%	0.0%	0.0%	89.73%	89.73%
State	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Local	0.0%	0.0%	0.0%	0.0%	0.0%	10.27%	10.27%
Total	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	100.0%

Project Phase Obligation History							
Item	Planning	PE	ROW	UR	Cons	Other	Federal
Total Funds Obligated						N/A	Aid ID
Federal Funds Obligated:						↓	N/A
EA Number:							FHWA or FTA
Initial Obligation Date:							N/A
EA End Date:							FMIS or TRAMS
Known Expenditures:							N/A
						Estimated Project Completion Date:	12/31/2027
Completion Date Notes:							
Are federal funds being flex transferred to FTA?		No		If yes, expected FTA conversion code:		N/A	
Notes: Expenditure Authorization (EA) information pertains primarily to projects under ODOT Local Delivery oversight.							

Fiscal Constraint Consistency Review	
1. What is the source of funding? Metro TSMO program awarded STBG-U.	
2. Does the amendment include changes or updates to the project funding? No. The funding is being pulled from existing programmed TSMO project grouping buckets (PGB).	
3. Was proof-of-funding documentation provided to verify the funding change? Yes.	
4. Did the funding change require OTC, ODOT Director, or ODOT program manager approval? No ODOT approval was required. Metro approval was recommend to TPAC at their May 2023 meeting. (TransPort took Action April 12 and then the memo went to TPAC with the list of sub-allocations for their May meeting.)	
5. Has the fiscal constraint requirement been properly demonstrated and satisfied as part of the MTIP amendment? Yes.	

Project Location References					
On State Highway	Yes/No	Route	MP Begin	MP End	Length
	No	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cross Streets	Route or Arterial		Cross Street		Cross Street
	Not Applicable		Not Applicable		Not Applicable

Summary of MTIP Programming and Last Formal/Full Amendment or Administrative Modification						
1st Year Programmed	2027	Years Active	1	Project Status	No activity	0 = No activity.
Prior Amend	0	Last Amend	N/A	Date	N/A	Amend Num
Last Amendment	Not applicable					

Anticipated Required Performance Measurements Monitoring							
Metro RTP Performance Measurements	Congestion Mitigation	Climate Change Reduction	Economic Prosperity	Equity	Mobility Improvement	Safety	Notes
	Not Applicable	—————→					
ODOT (federal) Performance Measurements							
Mobility	Passenger Rail Ridership	Walkways/Bikeways		Traffic Congestion		Transit Rides	
	Not Applicable	N/A		N/A		N/A	
Preservation	Pavement Condition	Bridge Condition		Public Transit Vehicle Condition			
	N/A	N/A		N/A			
Safety	Fatalities/Injuries Reduction						
	N/A						
Stewardship	Construction Projects On-Time	Construction Projects On-Budget		Disadvantage Business Enterprise Utilization		ODOT Customer Service	
	N/A	N/A		N/A		N/A	

RTP Air Quality Conformity and Transportation Modeling Designations	
Is this a capacity enhancing or non-capacity enhancing project?	Non-capacity enhancing project
Is the project exempt from a conformity determination per 40 CFR 93.126, Table 2 or 40 CFR 93.127, Table 3?	Exempt project per 40 CFR 93.126, Table 2, Safety
Exemption Reference:	Table 2 - Safety: Traffic control devices and operating assistance other than signalization projects.
Was an air analysis required as part of RTP inclusion?	No.
If capacity enhancing, was transportation modeling analysis completed as part of RTP inclusion?	No. Not applicable.

RTP Constrained Project ID and Name:	ID# 12024 - Regional TSMO Corridors Priority Investments for 2018- 2027
RTP Project Description:	Through the regional TSMO program, provide funding for operators to work together to deploy safe, integrated corridor management with advanced technology in regional mobility corridors including decision support systems, real time traveler information on route choice and estimated travel time that uses a variety of data sensors, software and systems (e.g., smart mobility hubs, internet of things, connected and automated vehicles). This also includes deployment of innovative technology systems, automated corridor management, and other active traffic management strategies.

Project Location in the Metro Transportation Network		
Yes/No	Network	Designation
Yes	Motor Vehicle	No designation
Yes	Transit	No designation
No	Freight	No designation
Yes	Bicycle	No designation
Yes	Pedestrian	No designation

National Highway System and Functional Classification Designations			
System	Y/N	Route	Designation
NHS Project	Yes	Not Applicable	No designation
Functional Classification	Yes	Not Applicable	No designation
Federal Aid Eligible Facility	Yes	Not Applicable	No designation

Additional RTP Consistency Check Areas

1. Is the project designated as a Transportation Control Measure? **No.**
 2. Is the project identified on the Congestion Management Process (CMP) plan? **No.**
 3. Is the project included as part of the approved: UPWP? **No. Not applicable.**
- 3b. Can the project MTIP amendment proceed before the UPWP amendment? **Yes.**
- 3c. What is the UPWP category (Master Agreement, Metro funded stand-alone, Non-Metro funded Regionally Significant)? **Not applicable**
4. Applicable RTP Goals:
- Goal 4: Reliability and Efficiency:**
Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.
- Goal 5: Safety and Security:**
Objective 5.1 Transportation Safety – Eliminate fatal and severe injury crashes for all modes of travel.
- Goal 9: Equitable Transportation:**
Objective 9.2 Barrier Free Transportation – Eliminate barriers that people of color, low income people, youth, older adults, people with disabilities and other historically marginalized communities face to meeting their travel needs
5. Does the project require a special performance assessment evaluation as part of the MTIP amendment? **No. The project is not capacity enhancing or exceeds \$100 million dollars.**

Public Notification/Opportunity to Comment Consistency Requirement

1. Is a 30-day/opportunity to comment period required as part of the amendment? **Yes.**
2. What are the start and end dates for the comment period? **October 31, 2023 to December 1, 2023**
3. Was the comment period completed consistent with the Metro Public Participation Plan? **Yes.**
4. Was the comment period included on the Metro website allowing email submissions as comments? **Yes.**
5. Did the project amendment result in a significant number of comments? **Not expected**
6. Did the comments require a comment log and submission plus review by Metro Communications staff and to Council Office? **Not Expected**

Fund Codes References

Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
STBG	Surface Transportation Block Grant funds. A federal funding source (FHWA based) appropriated to the State DOT. The Surface Transportation Block Grant Program (STBG) promotes flexibility in State and local transportation decisions and provides flexible funding to best address State and local transportation needs.
STBG-U	STBG funds that ODOT suballocates to Metro for use of eligible projects in urban areas



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ODOT Key: 23209 | MTIP ID: 71293

TSMO Program Sub-allocation Funds (FFY 2025-27) - Cycle 2024-29

Current Programming

phase	year	fund type	federal amount	minimum local match	other amount	total	hold from mtip
Other (explain)	2027		\$6,306,170	\$721,769		\$7,027,939	<input type="checkbox"/>
	2027	STBG-URBAN	\$6,306,170	\$721,769		\$7,027,939	
Totals >>			\$6,306,170	\$721,769	\$0	\$7,027,939	



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: November 21, 2023
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: November FFY 2024 MTIP Formal Amendment & Resolution 23-5365 Approval Request

FORMAL MTIP AMENDMENT STAFF REPORT

Amendment Purpose Statement

FOR THE PURPOSE OF AMENDING AND ADDING NEW FEDERAL DISCRETIONARY PLUS METRO TSMO PROGRAM AWARDS TO THE 2024-27 MTIP

BACKGROUND

What This Is - Amendment Summary:

The November FFY 2024 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment bundle continues the transition clean-up effort to the new 2024-27 MTIP. The amendment bundle contains several new projects being added to the MTIP.

The US Department of Transportation (Federal Highways Administration (FHWA) and Federal Transit Administration have established numerous conditions to complete and requirements for the use of federal funds. One of many conditions is the project programming requirement in the MTIP and State Transportation Improvement Program (STIP). The MTIP and STIP are used to verify funding and project aspects through the project development and delivery process. A key verification occurs through the fund obligation process. In order for FHWA or FTA to authorize the federal funds must be verified as programmed in the correct phase and with the correct amount in the MTIP and STIP. Without this verification, the fund obligation process won't occur and the lead agency will not be granted a notice to proceed to expend the funds. This is a key reason why you see numerous new projects being added to the MTIP often every month.

The November Federal Fiscal Year (FFY) 2024 Formal MTIP Amendment continues the action to add new projects. New projects being added include the Beaver Creek Fish Passage Restoration at Troutdale Rd project for Multnomah County and seven new Metro Transportation System Management and Operations (TSMO) project awards. The approved funding for these seven projects originates from prior approved Metro project grouping buckets (PGB) which contain the approved program funding for the new TSMO projects. Prior approved TSMO funds are being split for the TSMO PGBs and combined into the new awarded TSMO projects.

In addition to the new project programming actions, ODOT's OR8: SE Brookwood Ave - OR217 Intelligent Transportation System traffic monitoring upgrade project has experience a significant cost increase and now requires as scope, limits and cost adjustment. The required changes exceed the thresholds FHWA has established for making the changes administratively. As a result, the changes must occur through the completion of a formal/full MTIP amendment.

What is the requested action?

JPACT approved Resolution 23-5365 on November 16, 2023 and now recommends Metro Council provide the final approval of Resolution 23-5365 to add and amend the eleven projects to the 2024-27 MTIP.

JPACT Meeting Summary – November 16, 2023:

The November FFY 2024 Formal MTIP Amendment was included on JPACT's Consent Calendar. JPACT passed the Consent calendar unanimously and without any discussion.

TPAC Meeting Summary – November 3, 2023:

Ken Lobeck, Metro Funding Programs Lead, provide an overview of the formal amendment bundle and the required changes to the 2024-27 MTIP. The formal amendment bundle as described in Exhibit A contains a total of twelve projects. Seven are new Metro TSMO awarded project from Metros recent TSMO project funding call. Three existing TSMO funding project grouping buckets (PGB) are providing the funding for the seven new projects. The PGBs will reprogram their prior approved TSMO committed revenues to the new TSMO awarded projects. One new project is Multnomah County's FHWA discretionary project grant award, Beaver Creek Fish Passage Restoration at Troutdale Rd. The project will design, complete right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge. The last project being amended is existing ODOT OR8 - SE Brookwood Ave - OR217 ITS upgrade project. The project requires the Right-of-Way phase to be canceled along with an adjustment in the project limits.

Ken noted that an ODOT pre-review of the Metro TSMO Program Investments and ITS Architecture Update resulted in the need to split the project into two projects. The planned TSMO equipment portion to the project needs to be separated from the remaining TSMO planning elements. A conflict in developing the Intergovernmental Agreement (IGA) will result if the scope elements are not separated into two projects. As a result of ODOT's comments, Metro's TSMO Program Investments and ITS Architecture Update is being withdrawn from the November FFY 2024 MTIP Formal Amendment bundle. Staff will work with ODOT to split the project and return the equipment portion for MTIP and STIP programming next month. The remaining TSMO scope elements within the project are considered planning activities. As a result of this, staff expect the planning activities to be incorporated into the SFY 2025 UPWP.

The was no discussion and TPAC members provided their unanimous approval recommendation to JPACT for the remaining eleven projects with Exhibit A.

PROJECT AMENDMENT NOTES:

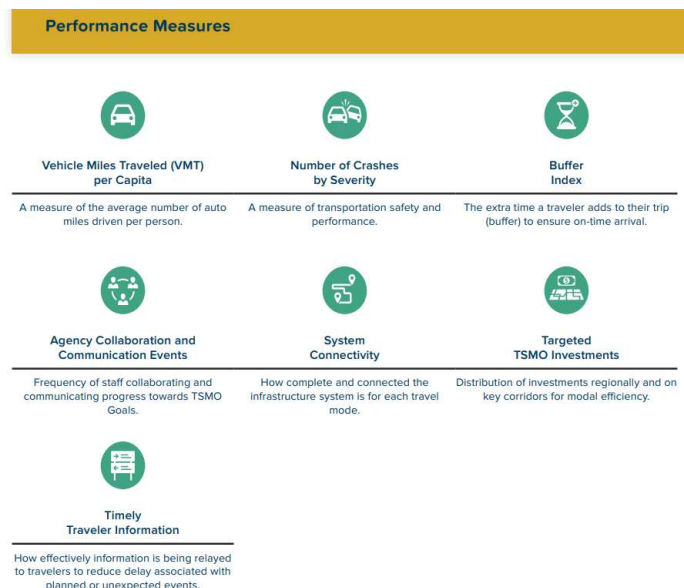
Approval of the Metro TSMO projects dates back to last April 2023 when TPAC was notified of the new project awards. However, MTIP programming delayed due to the final review lock-down for the 2024-27 MTIP. The programming action is moving forward now that the 2024-27 MTIP has been approved.

The Metro TSMO Program represents an innovative, holistic, multimodal, and cost-effective approach to managing the region's transportation system. An effective TSMO Strategy prioritizes optimization of the existing transportation system by improving business practices and collaboration, encouraging behavior changes through travel demand management, and using technology to understand and manage how the system operates.



The new awarded projects are from the 2023 TSMO Project Funding call. The final awards originate from the 2021 Strategy. A copy of the TSMO strategy is available for down from the Metro website. The program identifies seven key performance measures that help guide the selection of later specific projects. The performance measures are shown at right and include:

- Vehicle Miles Traveled (VMT)
- Number of Crashes by Severity
- Buffer Index
- Agency Collaboration and Communication Events
- System Connectivity
- Targeted TSMO Investments
- Timely Traveler Information



Memo



Date: Friday, April 28, 2023
 To: Transportation Policy Alternatives Committee
 From: Kate Freitag, TransPort Chair, ODOT Region 1 Traffic Engineer
 A.J. O'Connor, TransPort Vice Chair, TriMet Intelligent Transportation Systems Director
 Caleb Winter, TSMO Program Manager, Metro Senior Transportation
 Subject: 2021 TSMO Strategy Solicitation - Project Recommendations

The purpose of this memo is to share the 2021 TSMO Strategy Solicitation project recommendations. The recommendations suballocate Regional Flexible Fund Allocation (RFFA) dollars for two funding cycles (2022-2024 and 2025-2027). This memo focuses on action taken by TransPort, the Subcommittee of TPAC.

Through the long project review and evaluation developed from the TSMO Strategy emerged the final project selects that are now being added to the MTIP. They include:

Lead Agency	Project Name	Description	Federal Funds Awarded
Beaverton	Leading Pedestrian Intervals & Smart Detections - Beaverton Citywide	Implement leading pedestrian interval (LPI) at traffic signals running SCATS (Sydney Coordination Adaptive Traffic System) code in transit priority at traffic signals and upgrade existing traffic detections at up to 31 sites for added pedestrian safety.	\$1,938,940
Clackamas County	Clackamas Countywide Traffic Signal Safety Upgrade	Identify and upgrade selected traffic signals across Clackamas County with the new signal hardware and install protected pedestrian and bicycle crossings to provide added safety and accessibility for pedestrian and bicyclists.	\$933,192
<p>Per a submitted comment and preview conducted by ODOT. Metro's new TSMO Program Investments and ITS Architecture Update is being removed from Exhibit A as part of the November FFY 2024 Formal MTIP Amendment bundle. The project will be split into two projects. The TSMO equipment purchase project is expected to be ready for MTIP and STIP programming as part of next month's formal amendment submission.</p>			
Metro	TSMO Program Investments and ITS Architecture Update	Complete TSMO program update activities including the ITS Architecture update, standardized equipment (switches, SFP/lasers) purchase, Next Gen TSP coordination standard, & a progress evaluation made on the 2021 TSMO Strategy and system completeness	\$387,371
Portland	Portland TSMO Regional Central Network Upgrade	Evaluate and upgrade the Regional Central System network, architecture design, configuration and installed equipment to bring it up to the same standards for traffic signal communications as performed by the ITS network for increased traffic mobility.	\$870,381
Portland	Portland Local Traffic Signal Controller Replacement Phase II	Purchase and install up to 160 ATCs for PBOT and 79 for the City of Gresham and Multnomah County at selected signalized locations to improve the reliability of signal communications and pedestrian safety at intersections.	\$1,588,849
Portland	Stark/Washington St Signal ATC	Design, construct, and complete traffic signal interconnect actions plus upgrade Advance Transportation Controllers	\$1,668,340

	Upgrades: 76th Ave – 257th Ave	(ATC) on SE Stark Street for improved signalized intersection efficiency and added motorist and pedestrian safety.	
Portland	E Burnside Transit Signal Priority Upgrades: 97th - Powell Blvd	Design, construct, and upgrade traffic signal ATCs for priority timing involving the interconnect of ITS equipment including traffic signal controller conversions providing added speed management safety and pedestrian head starts	\$2,239,872
Total new federal funds for TSMO being programmed being programmed through the November FFY 2024 Formal MTIP Amendment:			\$9,626,945

Note: Additional details about project are included Exhibit A to Resolution 23-5365 (*the MTIP Worksheets*).

The awarded federal funds committed to the TSMO projects will be sourced from three TSMO PGBs: Keys 20886, 22168, and 23209. The adjustments to these three PGBs are included as part of the formal amendment bundle.

The Metro TSMO program receives a portion of the Step 1 - Regional Flexible Funds Allocation (RFFA). The federal funds for the TSMO program already have been approved through the RFFA process. The approved funds are programmed in the MTIP in PGBs to reflect that the funds are now committed to the Metro TSMO program. An example of one of the TSMO PGBs is shown below. The TSMO PGBs function like a bank checking account. As projects are awarded, the required funds are split off from the PGB and reprogrammed to the specific TSMO.

2024-2027 Metropolitan Transportation Improvement Program (MTIP)
Current Approved Project List with Approved Amendments

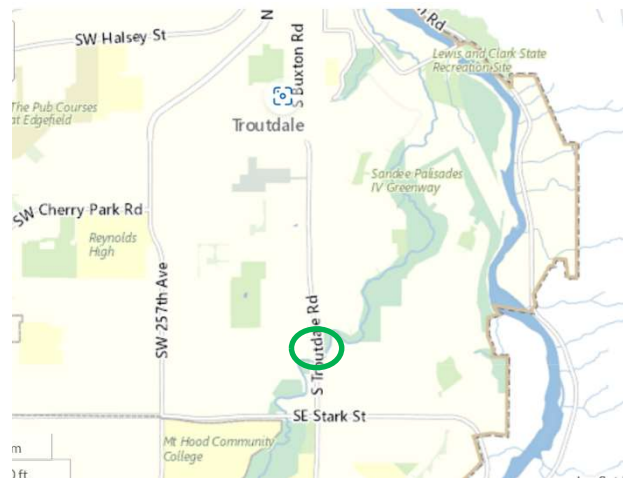


LEAD AGENCY		Metro				
PROJECT NAME		TSMO Program Sub-allocation Funds (Remaining 2022-2024)				
Project IDs		Project Description			Project Type	
ODOT KEY	22168	Regional Transportation System Management & Operations (TSMO) remaining funding from 2022-24 allocation cycles which will support Metro awarded TSMO/ITS capital and operations projects to increase highway system operational efficiency and motorist safety			TSMO/TDM	
MTIP ID	71117					
RTP ID	12024					
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Other	2025	STBG-URBAN	\$5,153,017	\$589,786	\$0	\$5,742,803
FY 24-29 Totals			\$5,153,017	\$589,786	\$0	\$5,742,803
Estimated Project Cost (YOES)			\$5,153,017	\$589,786	\$0	\$5,742,803

The new TSMO project awards and funding PGBs account for ten of the twelve projects in the amendment bundle. The two remaining project amendments are the following:

- **Add Multnomah County’s new FHWA discretionary project grant award, Beaver Creek Fish Passage Restoration at Troutdale Rd, to the MTIP**

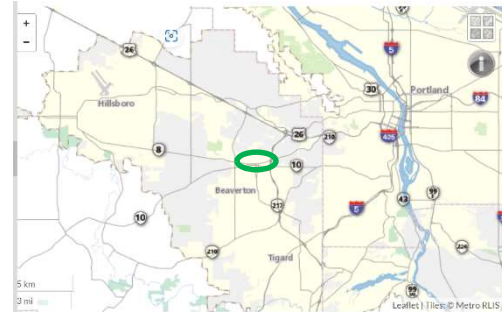
- The project received a \$1,430,480 federal grant award for the project from FHWA’s FY 2022 National Culvert Removal Replacement and Restoration Grant Program
- The project will design, right of way acquisition, and permitting phase for the replacement of the existing Troutdale Rd culvert and fish ladder on Beaver Creek with a new at-grade bridge.
- Only the preliminary Engineering (PE) and Right-of-Way (ROW) phases are being added now. The construction phase will be added to the MTP at a later date.
- The PE phase is projected to begin before the end of FFY 2024.



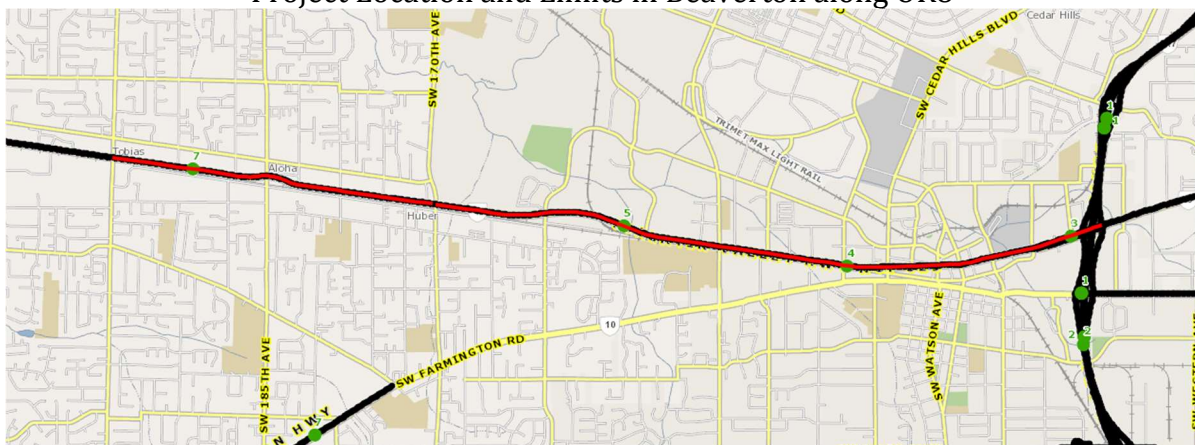
- **Key 21617 – ODOT OR8: SE Brookwood Ave - OR217 ITS upgrade project:**

- Action: Cancel Phase (along with limits and cost updates)
- The project focus is to Install fiber optic cable where gaps exist in order to operate traffic control and monitoring systems and rapidly respond to incidents.
- The formal amendment cancels the ROW phase, reduces the project limits resulting in an overall scope change that requires an updated project name and description plus milepost reference adjustments:
 - As a result, the project will be modified to be “OR8: SE 198th Ave - OR217”.

- The project limits are adjusted from “MP 2.94 to MP 9.73” to be MP 2.85 to MP 7.27”.
 - The Right-of-Way (ROW) phase is being canceled.
 - The project's total cost also increases by \$553,056, or by 14.1%.
 - The overall project scope does not change.
- Summary: Project needs in PE (Preliminary Engineering) were underestimated and severely under-budgeted and ROW (Right of Way) was overestimated. During the course of project development, PE costs increased actual and inflationary), ROW was determined to not be required, and CN (Construction) could be reduced to keep the project scope and funding in balance.
- The adjustments to the project limits exceed the 1-mile threshold for administrative adjustments and triggers the need for the changes to be complete via a formal/full amendment to the MTIP.



Project Location and Limits in Beaverton along OR8



METRO REQUIRED PROJECT AMENDMENT REVIEWS

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. They primarily are designed to ensure the MTIP is fiscally constrained, consistent with the approved RTP, and provides transparency in their updates, changes, and/or implementation. The programming factors include ensuring that the project amendments:

- Are eligible and required to be programmed in the MTIP.
- Properly demonstrate and fiscal constraint as a result of the required changes..

- Pass the RTP consistency review which requires a confirmation that the project(s) are identified in the current approved constrained RTP either as a stand- alone project or in an approved project grouping bucket.
- Are consistent with RTP project costs when compared with programming amounts in the MTIP.
- If a capacity enhancing project, the project is identified in the approved Metro modeling network and has completed required air conformity analysis and transportation demand modeling.
- Supports RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP.
- Contains applicable project scope elements that can be applied to Metro’s performance requirements.
- Verified to be part of the Metro’s annual Unified Planning Work Program (UPWP) for planning projects that may not be specifically identified in the RTP.
- Verified that the project location is part of the Metro regional transportation network, and is considered regionally significant, or required to be programmed in the MTIP per USDOT direction.
- Verified that the project and lead agency are eligible to receive, obligate, and expend federal funds.
- Does not violate supplemental directive guidance from FHWA/FTA’s approved Amendment Matrix.
- Reviewed and evaluated to determine if Performance Measurements will or will not apply.
- Successfully complete the required 30-day Public Notification/Opportunity to Comment period.
- Meets other MPO responsibility actions including project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.

APPROVAL STEPS AND TIMING

Metro’s approval process for formal amendment includes multiple steps. The required approvals for the November FFY 2024 Formal MTIP amendment (NV24-02-NOV) will include the following:

<u>Action</u>	<u>Target Date</u>
• TPAC Agenda mail-out.....	October 27, 2023
• Initiate the required 30-day public notification process.....	October 31, 2023
• TPAC notification and approval recommendation.....	November 3, 2023
• JPACT approval and recommendation to Council.....	November 16, 2023
• Completion of public notification process.....	December 1, 2023
• Metro Council approval.....	December 7, 2023

Notes:

* The above dates are estimates. JPACT and Council meeting dates could change.

** If any notable comments are received during the public comment period requiring follow-on discussions, they will be addressed by JPACT.

USDOT Approval Steps (The below timeline is an estimation only):

<u>Action</u>	<u>Target Date</u>
• Final amendment package submission to ODOT & USDOT.....	December 13 ,2023
• USDOT clarification and final amendment approval.....	Mid-January 2024

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:**
 - a. Amends the 2024-27 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5335 on July 20, 2023 (FOR THE PURPOSE OF ADOPTING THE 2024-2027 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA)
 - b. Oregon Governor approval of the 2021-24 MTIP on September 13, 2023.
 - c. 2024-2027 Statewide Transportation Improvement Program (STIP) Approval and 2024 Federal Planning Finding on September 25, 2023.
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds, or obtain the next required federal approval step as part of the federal transportation delivery process.
4. **Metro Budget Impacts:** A follow-on budget change will occur to the TSMO program as follows:
 - a. The funding source for the newly awarded TSMO projects will be from three existing project grouping buckets (in Keys 20886, 22168, and 23209) with prior approved TSMO program funding. Funding from the buckets is being split off and combined into the new TSMO projects to cover their funding award amounts. The funding commits STBG-U from Metro prior year approved allocations.
 - b. The STBG-U funds are part of the RFFA Step 1 allocation to the TSMO program. Fund approval occurred through the TransPort Subcommittee to TPAC. The approval of the TSMO awards dates back to April 2023.
 - c. Since the funds are already prior approved by Metro through the RFFA Step 1 process, the overall action reflects a lateral move for the funds. There is no direct budget impact from the TSMO funding actions upon Metro budget.
 - d. A total of Metro approved \$9,626,945 is being split of the TSMO project grouping buckets in Keys 20886, 22168, and 23209 to support the seven new TSMO projects.

RECOMMENDED ACTION:

JPACT approved Resolution 23-5365 on November 16, 2023 and now recommends Metro Council provide the final approval of Resolution 23-5365 to add and amend the eleven projects to the 2024-27 MTIP.

No Attachments.

**Resolution No. 23-5363 For the
Purpose of Authorizing the Chief
Operating Officer to Issue a
Renewed Non-System License to
Republic Services of for Transport
of Commercial Food Waste and
Yard Debris Mixed with Residential
Food Waste to the Pacific Region
Compost Facility
Consent Agenda**

Metro Council Meeting
Thursday, December 7, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 23-5363
CHIEF OPERATING OFFICER TO ISSUE A)	
RENEWED NON-SYSTEM LICENSE TO)	Introduced by Chief Operating Officer
REPUBLIC SERVICES FOR TRANSPORT OF)	Marissa Madrigal in concurrence with
COMMERCIAL FOOD WASTE AND YARD)	Council President Lynn Peterson
DEBRIS MIXED WITH RESIDENTIAL FOOD)	
WASTE TO THE PACIFIC REGION COMPOST)	
FACILITY)	

WHEREAS, Metro Code Chapter 5.05 requires a non-system license (“NSL”) of any person that transports solid waste generated from within the Metro jurisdictional boundary to a non-system facility; and

WHEREAS, an NSL includes certain requirements to ensure that solid waste generated within the region is transported to an authorized facility and properly managed; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties jointly hold Metro NSL No. N-005-22(4) that expires on December 31, 2023, and authorizes the transport of source-separated commercial food waste and yard debris mixed with residential food waste to Pacific Region Compost, which is a non-system solid waste facility located in Benton County, Oregon; and

WHEREAS, Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties filed a complete application in August 2023 seeking a renewed NSL to transport commercial food waste and yard debris mixed with residential food waste to Pacific Region Compost under the provisions of Metro Code Chapter 5.05, “Solid Waste Flow Control”; and

WHEREAS, Metro Code Chapter 5.05 provides that the Chief Operating Officer will review an application for an NSL for putrescible waste and that the Metro Council will determine whether to approve or deny the application; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under Metro Code Section 5.05.140; and

WHEREAS, the Chief Operating Officer recommends that Metro issue a renewed NSL jointly to Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties with specific conditions as provided in Exhibit A to this Resolution; now therefore,

BE IT RESOLVED that the Metro Council:

1. Approves the NSL application of Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. Authorizes the Chief Operating Officer to issue to Willamette Resources, Inc. and Republic Services of Clackamas and Washington Counties a renewed NSL substantially similar to the one attached as Exhibit A with a term of two years.

ADOPTED by the Metro Council this 7th day of December 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



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

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

No. N-005-24(4)

LICENSEE:
Willamette Resources, Inc. & Republic Services of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070
CONTACT PERSON:
Jason Jordan Phone: 503-404-4180 Email: jason.jordan@republicservices.com
MAILING ADDRESS:
Willamette Resources, Inc. & Republic Services of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070

ISSUED BY METRO:

Warren Johnson
Policy and Compliance Program Director

Date



1	NATURE OF WASTE COVERED BY LICENSE
	<ol style="list-style-type: none">1. Source-separated commercial food waste and residential food waste that is generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with its Metro solid waste facility franchise; and2. Source-separated commercial food waste and residential food waste that is generated within the Metro boundary and collected by Republic Services of Clackamas and Washington Counties.
2	CALENDAR YEAR TONNAGE LIMITATION
	The licensee is authorized to transport to the non-system facility listed in Section 3 up to 25,000 tons per calendar year of the waste described in Section 1.
3	NON-SYSTEM FACILITY
	<ol style="list-style-type: none">1. The licensee is authorized to transport the waste described in Section 1 to the following non-system facility for processing and composting: <p style="margin-left: 40px;">Pacific Region Compost Facility 29969 Camp Adair Road Corvallis, OR 97330</p>2. This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro determines that this non-system facility is not authorized to accept such waste, Metro may immediately amend, suspend or terminate this license pursuant to Section 10.
4	TERM OF LICENSE
	January 1, 2024 to December 31, 2025, unless amended, suspended, revoked or terminated as provided in this license.
5	COVERED LOADS
	To prevent spillage of waste while in transit, the licensee must suitably contain and cover, on all sides, all loads of the waste described in Section 1 that are transported under authority of this license to the non-system facility listed in Section 3.
6	REPORTING OF ACCIDENTS AND CITATIONS
	The licensee must report to Metro within five business days any significant incidents (such as a fire), accident, or citation involving any vehicle transporting the solid waste authorized by this license.

7	MATERIAL MANAGEMENT
	<p>The licensee is authorized to deliver the waste described in Section 1 to the non-system facility listed in Section 3 under the following conditions:</p> <ol style="list-style-type: none"> 1. The non-system facility must accept all solid waste that is transported under authority of this license for the sole purpose of processing and composting on-site. The licensee must not dispose of any source-separated recyclable material, except as provided in Section 8; and 2. The non-system facility must receive, manage, process, and compost all solid waste that is transported under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.
8	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The licensee is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The waste described in Section 1 is exempt from regional system fee and excise tax in accordance with Metro Code Chapters 5.02 and 7.01, provided that it is delivered transported under the authority of this license and is accepted and composted at the non-system facility listed in Section 3 in accordance with all applicable regulations. 2. If the licensee transports waste under this license to the non-system facility listed in Section 3, but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the licensee must pay to Metro an amount equal to the: <ol style="list-style-type: none"> (a) Regional system fee, as provided in Metro Code Chapter 5.02, for each ton or portion thereof of waste transported to the non-system facility that is ultimately transported to a disposal site. (b) Excise tax, as provided in Metro Code Chapter 7.01, for each ton or portion thereof of waste transported to the non-system facility that is ultimately delivered to a disposal site.
9	RECORD KEEPING AND REPORTING
	<ol style="list-style-type: none"> 1. The licensee must keep and maintain accurate records of the amount of all waste that the licensee transports to the non-system facility listed in Section 3. These records include the information specified in the Metro document titled, <i>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</i>. 2. The licensee must report to Metro the records required under Section 9.1 no later than fifteen days following the end of each month in the form and format prescribed by Metro. An authorized representative of the licensee must certify that the report is accurate. 3. The licensee must make available to Metro (or Metro's designated agent) all records from which Section 9.1 is derived for its inspection or copying or both, as long as Metro provides at least three business days written notice of an intent to inspect or copy documents. The licensee must also sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3.

	<ol style="list-style-type: none"> 4. Metro may require the licensee to report the information required by this section on a weekly or daily basis. 5. If the licensee fails to submit the records or payments to Metro by the timeline set forth in Section 9, each day by which the licensee exceeds the due date may constitute a separate violation subject to a penalty of up to \$500 per violation, in accordance with Metro Code Chapter 5.05.
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10	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The transport of solid waste to the non-system facility listed in Section 3 is subordinate to any subsequent Metro decision to direct the solid waste described in this license to any other facility. 2. Metro may amend, suspend, revoke or terminate this license pursuant to Metro Code in the event that Metro determines that: <ol style="list-style-type: none"> (a) There has been sufficient change in any circumstances under which Metro issued this license; (b) Metro’s solid waste system or the public will benefit from, and will be better served by, transporting the waste described in Section 1 to a facility other than the one listed in Section 3; (c) The non-system facility listed in Section 3 fails to manage the waste subject to this license in accordance with the material management requirements described in Section 7; (d) The non-system facility listed in Section 3 does not control and minimize odors that are detectable off-site; or (e) The Metro Council adopts legislation or other policy which affects food waste management practices in the region. 3. The licensee cannot transfer or assign any right or interest in this license without Metro’s prior written approval. 4. Metro may amend or terminate this license upon the execution of a designated facility agreement with a facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1. 5. This license authorizes transport of solid waste only to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro. 6. Metro may direct the licensee’s waste flow under this non-system license to Metro Central Transfer Station or Metro South Transfer Station with a minimum of 24 hours written notice. Any redirection of the waste flow by Metro is effective immediately. 7. If the licensee exceeds the calendar year limitation set forth in Section 2, each ton or portion thereof by which the licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500, in accordance with Metro Code Chapter 5.05. 8. Unless otherwise specified, all terms are as defined in Metro Code Chapter 5.00. <ol style="list-style-type: none"> (a) “Food waste” means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste

	<p>includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.</p> <p>(b) “Residential Food Waste” means source-separated yard debris mixed with residential food waste from a curbside collection program adopted or otherwise authorized by a local government.</p>
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11	COMPLIANCE WITH LAW
	<p>The licensee must fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license. This includes all applicable Metro Code provisions and administrative rules regardless of whether this license specifically mentions or cites those provisions. All conditions imposed on the collection and hauling of the licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth.</p>

12	INDEMNIFICATION
	<p>The licensee must defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses arising out of or related in any way to the issuance or administration of this non-system license. Expenses include, but are not limited to, all attorneys’ fees, whether incurred before litigation is commenced, during litigation or on appeal.</p>

IN CONSIDERATION OF RESOLUTION NO. 23-5363 FOR THE PURPOSE OF
AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-
SYSTEM LICENSE TO REPUBLIC SERVICES FOR TRANSPORT OF COMMERCIAL
FOOD WASTE AND YARD DEBRIS MIXED WITH RESIDENTIAL FOOD WASTE TO
THE PACIFIC REGION COMPOST FACILITY

Date: 11/9/2023
Department: WPES
Meeting Date: 12/07/2023

Prepared by: Will Ennis
will.ennis@oregonmetro.gov

ISSUE STATEMENT

Willamette Resources, Inc. (WRI) and Republic Services of Clackamas and Washington Counties (Republic) seek to renew their joint non-system license to transport source-separated commercial food waste and yard debris mixed with residential food waste generated in the Metro region to the Pacific Region Compost Facility (PRC) located in Benton County, Oregon for composting. Metro Code Section 5.05.160 states that the Metro Council will determine whether to approve or deny a non-system license application for putrescible waste.

ACTION REQUESTED

Adopt Resolution No. 23-5363 which will authorize the Chief Operating Officer (COO) to issue a renewed non-system license jointly to WRI and Republic with a term of two years.

IDENTIFIED POLICY OUTCOMES

Adoption of this resolution will authorize WRI and Republic to continue to transport source-separated commercial food waste and yard debris mixed with residential food waste to PRC for composting and will enable Metro to continue to track the amount and types of putrescible waste being transported out of the Metro region.

POLICY QUESTION(S)

Should the Metro Council approve WRI's and Republic's joint NSL application and grant the COO authority to issue a renewed non-system license to WRI and Republic to transport source-separated commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting, according to the provisions of Metro Code 5.05.160 and as described in Resolution No. 23-5363?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Adopt Resolution No. 23-5363 as proposed to authorize the COO to issue a renewed non-system license jointly to WRI and Republic to transport source-separated commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting.
2. Amend Resolution No. 23-5363 to issue the renewed non-system license with different conditions other than those recommended by staff.

3. Do not adopt Resolution No. 23-5363.

STAFF RECOMMENDATION

Staff recommends that Council adopt Resolution No. 23-5363 to authorize the COO to issue a renewed NSL jointly to WRI and Republic to transport source-separated commercial food waste and yard debris mixed with residential food waste to PRC in Benton County for composting. If Council adopts this resolution, the renewed non-system license (No. N-005-24(4)) will become effective on January 1, 2024 with a term of two years.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

NSLs allow Metro to closely monitor the region's solid waste to ensure that it is transported to authorized facilities and properly managed.

KNOWN OPPOSITION / SUPPORT / COMMUNITY FEEDBACK

There is no known opposition to the proposed NSL.

LEGAL ANTECEDENTS

Metro Code Section 5.05.040 prohibits any person from utilizing a non-system facility without an appropriate license from Metro. Additionally, Metro Code Section 5.05.140 provides that, when determining whether to approve an NSL application, the Metro Council will consider the following factors:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed NSL authorizes the transport of source-separated commercial food waste and yard debris mixed with residential food waste to PRC, a yard debris and food waste composting facility that is well known to Metro staff. The facility accepts composting feedstock that consists primarily of source-separated food waste, yard debris and wood waste.

The environmental risk from the use of this facility is presumed to be minimal because it is fully regulated and monitored by the appropriate local and state authorities. Metro relies on the local land use authority and the state environmental agency to monitor the site and staff is not aware of any environmental or human health risks posed at the facility.

- (2) The non-system facility owner's and operator's regulatory compliance record with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Metro staff's investigation of the destination facility revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations during the term of the current NSL. PRC is permitted by the Department of Environmental Quality (DEQ permit No. 1418). DEQ has indicated that the facility is in compliance with its permit requirements. Additionally, PRC

operates under a franchise agreement with Benton County. Benton County staff report that the facility is compliance with the terms of its franchise agreement and no enforcement actions were issued between January 2022 and September 2023. PRC self-reported receiving and responding to two odor notices from community members in 2022 and none in 2023 through October 25.

(3) The adequacy of the non-system facility's operational practices and management controls;

PRC operates under the authority of a solid waste disposal site permit for a composting facility issued by DEQ and a franchise agreement with Benton County. The facility manages all of the waste it receives, including commercial food waste, in accordance with the requirements of its DEQ-issued permit and franchise agreement.

(4) The expected impact on the region's recycling and waste reduction efforts;

The waste subject to the proposed NSL will be delivered to PRC for the purpose of composting rather than disposal. Based on the waste management hierarchy, composting is considered to be a higher and better management option than land disposal. As such, approval of the proposed NSL is likely to continue having a positive impact on the region's recycling and waste reduction efforts.

(5) The proposed non-system license's effect with Metro's existing contractual arrangements;

This proposed license will not affect Metro's existing contractual agreements.

(6) The applicant's record regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and

Metro staff's investigation of the applicant revealed a good record of compliance with local and state agencies responsible for health, safety and environmental regulations.

(7) Any other factor the Chief Operating Officer considers appropriate.

The proposed NSL will renew the applicant's current authorization. PRC provides important processing and composting capacity for the region that supports Metro's goal of diverting organics away from disposal and into recovery outlets.

ANTICIPATED EFFECTS

Adoption of Resolution No. 23-5363 will authorize the Chief Operating Officer to issue a renewed NSL jointly to WRI and Republic to transport up to 25,000 tons per calendar year of commercial food waste and yard debris mixed with residential food waste to PRC for composting.

FINANCIAL IMPLICATIONS

The proposed NSL covers source-separated commercial food waste and yard debris mixed with residential food waste that will be transported to PRC for composting. As such, the proposed waste is exempt from regional system fee and excise tax payments. This is the renewal of a longstanding NSL and the historical diversion of this material for composting has already been factored into Metro's fee-setting and budget. There are no expected financial implications resulting from the proposed license renewal.

BACKGROUND

Republic Services Inc., a waste management company headquartered in Phoenix, Arizona, is the parent company of WRI, Republic and PRC. WRI and Republic have transported waste to PRC under Metro authorization since 2009. The term of the current non-system license commenced on January 1, 2022 and is scheduled to expire on December 31, 2023.

On August 2, 2023, WRI and Republic submitted an application requesting renewal of their joint NSL along with the \$50 application fee. The application was deemed complete on August 8, 2023. The current NSL authorizes WRI and Republic to transport up to 25,000 tons per calendar year of commercial food waste and yard debris mixed with residential food waste to PRC. In its renewal application, the licensee requested the same per calendar limit for waste transported to PRC. The licensee transported 16,580 tons of food waste to PRC in 2022, and 7,200 tons from January through September 2023.

As part of Metro's ongoing efforts to improve clarity and establish more uniform requirements, staff is proposing to include definitions describing "food waste" and "residential food waste" in the body of the NSL that will better align it with other Metro authorizations.

ATTACHMENTS

- A. Exhibit A to Resolution No. 23-5363: Draft non-system license No. N-005-24(4).

**Resolution No. 23-5361 For the
Purpose of Metro Council's
Acceptance of the Results of the
Independent Audit for Financial
Activity During Fiscal Year Ending
June 30, 2023**
Resolutions

Metro Council Meeting
Thursday, December 7, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF METRO COUNCIL’S) RESOLUTION NO. 23-5361
ACCEPTANCE OF THE RESULTS OF THE)
INDEPENDENT AUDIT FOR FINANCIAL) Introduced by Chief Operating Officer
ACTIVITY DURING FISCAL YEAR ENDING) Marissa Madrigal in concurrence with
JUNE 30, 2023) Council President Lynn Peterson

WHEREAS, Oregon Revised Statutes 297.425 requires an annual independent audit of Metro’s financial statements; and

WHEREAS, Metro Code Section 2.15.080 requires the Metro Auditor to appoint the external certified public accountant to conduct certified financial statement audits as specified in state and local laws; and

WHEREAS, Metro engaged in Contract No. 936766 with Moss Adams LLP, independent Certified Public Accountants to provide the following audit services for each of the fiscal years ending June 30, 2020-2024:

1. Audit of Metro’s financial statements including the Single Audit of Federal awards;
2. Additional reports related to certain voter-approved bond and tax expenditures; and
3. Applicable management recommendations and comments.

WHEREAS, the annual independent audit for fiscal year ended June 30, 2023 has been completed and an unmodified opinion received from Moss Adams LLP (Exhibit A); and

WHEREAS, additional reports related to certain voter-approved bond and tax expenditures were provided (Exhibits B); and

WHEREAS, separate letters were delivered to management and management plans of action completed (Exhibit C); now, therefore,

BE IT RESOLVED that the Metro Council hereby acknowledges and receives the results of the independent audit for fiscal year ended June 30, 2023 (Exhibit A).

ADOPTED by the Metro Council this 7TH day of December 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



Annual Comprehensive Financial Report

For the fiscal year ended June 30, 2023

If you picnic at Blue Lake or take your kids to the Oregon Zoo, enjoy symphonies at the Schnitz or auto shows at the convention center, put out your trash or drive your car – we’ve already crossed paths.

So, hello. We’re Metro – nice to meet you.

In a metropolitan area as big as Portland, we can do a lot of things better together. Join us to help the region prepare for a happy, healthy future.

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Metro Council President

Lynn Peterson

Metro Councilors

Ashton Simpson, District 1

Christine Lewis, District 2

Gerritt Rosenthal, District 3

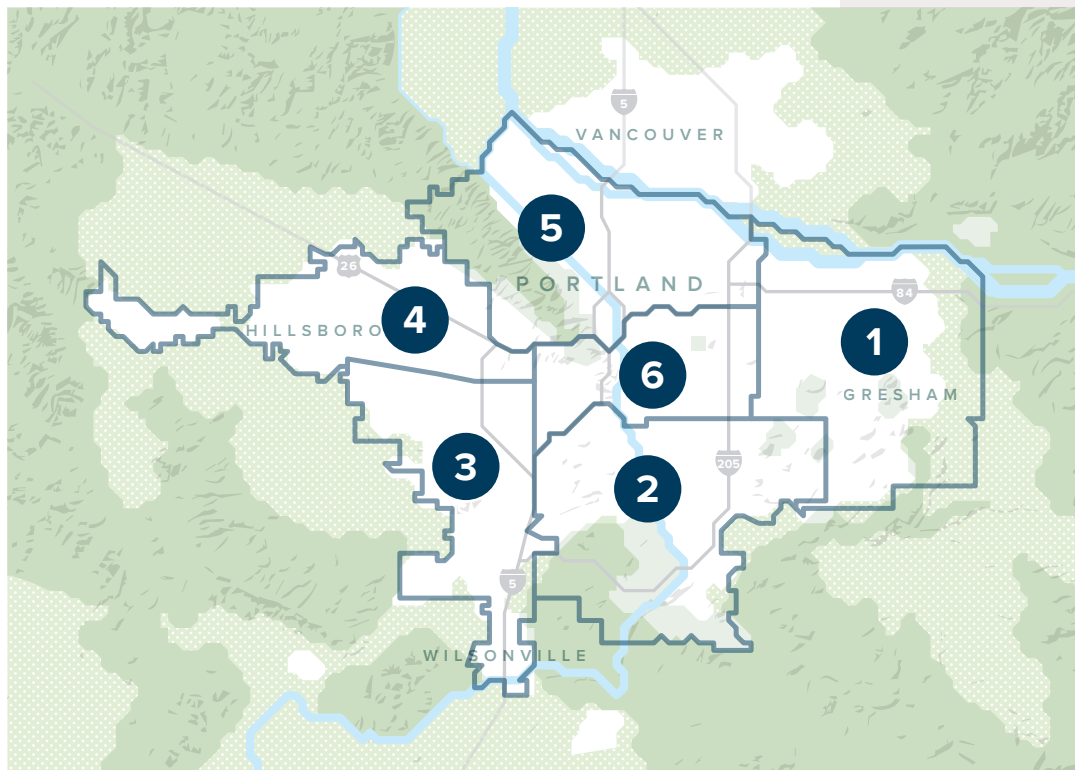
Juan Carlos González, District 4

Mary Nolan, District 5

Duncan Hwang, District 6

Auditor

Brian Evans





Annual Comprehensive Financial Report

For the fiscal year ended June 30, 2023

Finance and Regulatory Services Department

Chief Financial Officer
Brian Kennedy

Deputy Chief Financial Officer
W. Caleb Ford, CPFO

Prepared by
Accounting Services Division

Controller
Melissa Weber, CPA

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A photograph of the Portland sign, a tall, vertical, green sign with white lettering that reads "PORTLAND". The sign is set against a brick building, which is the Arlene Schnitzer Concert Hall. The building features a large, ornate archway. The scene is framed by lush green trees, and a blue hexagonal overlay is positioned in the lower center of the image.

PORTLAND

Introductory
Section

ARLENE SCHNITZER CONCERT HALL

CITY BACK
PORTLAND SIGN



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

November 27, 2023

To the Council and Residents of the Metro Region:

In accordance with ORS §297.425, we are pleased to present the Annual Comprehensive Financial Report of Metro for the fiscal year ended June 30, 2023, accompanied by the report of Metro’s independent auditors, Moss Adams LLP.

This Annual Comprehensive Financial Report (ACFR) presents the financial position of Metro and the results of its operations, as well as cash flows for its proprietary fund types, for the fiscal year ended June 30, 2023. The financial statements and supporting schedules have been prepared by management in accordance with accounting principles generally accepted in the United States of America (GAAP), meet the requirements of the standards as prescribed by the Oregon Secretary of State and are in conformance with the guidelines for financial reporting developed by the Government Finance Officers Association of the United States and Canada.

The ACFR provides meaningful financial information to legislative bodies, creditors, investors and the public. There are four main sections in this report, including a section with reports from our independent certified public accountants required by Oregon Administrative Rules and federal regulations. These reporting requirements are incorporated in the Minimum Standards for Audits of Municipal Corporations, as prescribed by the Secretary of State, Government Auditing Standards and Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

Metro management is responsible for the completeness and reliability of all the information and representations presented in this ACFR, based upon a comprehensive internal control framework established for this purpose. This framework is designed to provide reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition and that accounting transactions are executed in accordance with management’s authorization and properly recorded, so that the financial statements can be prepared in conformity with GAAP. The design and operation of internal controls also ensures that federal and state financial assistance funds are expended in compliance with applicable laws and regulations related to those programs. Because the cost of internal controls should not outweigh their benefits, Metro’s comprehensive framework of internal controls has been designed to provide reasonable rather than absolute assurance that the financial statements will be free from material misstatement. We assert that, to the best of our knowledge and belief, this financial report is complete and reliable in all material respects.

In accordance with Oregon law, Metro’s financial statements have been audited by Moss Adams LLP. The auditor issued an unmodified (“clean”) opinion on Metro’s financial statements for the year ended June 30, 2023 (see pages 13-16). The independent audit of the financial statements was performed in accordance with applicable auditing standards as described by Moss Adams LLP in their reports included in this document.

Management’s Discussion and Analysis (MD&A) immediately follows the independent auditor’s report and provides a narrative introduction, overview and analysis of the basic financial statements. MD&A complements this letter of transmittal and should be read in conjunction with it.

Profile of Metro

Metro crosses city limits and county lines to make our communities safe, livable and ready for tomorrow. From protecting our region's air, water and natural beauty to supporting neighborhoods, businesses and farms that thrive, Metro makes our region a great place. Metro serves more than 1.8 million residents in Clackamas, Multnomah and Washington counties, and the 24 cities in the Portland, Oregon metropolitan area.

The voters of the region approved a constitutional amendment to allow the creation of a home rule regional government in the Portland metropolitan area in 1990, then a home rule charter for Metro in 1992 and a charter amendment in 2000. Metro is a directly-elected regional government and is governed by a council president, elected region wide, and six councilors elected by district. The charter established the elected position of Metro Auditor. Ordinances are passed by a simple majority vote of the seven council members.

Services. The primary responsibility of Metro, as authorized by its charter, is to provide regional land use planning. The charter further recognizes the significant role Metro has in other regional issues. As such, Metro provides the following services that focus on issues that cross local boundaries:

- **Planning and Development:** Manages the regional urban growth boundary, prepares the Regional Transportation Plan, allocates federal highway and transit funds for the region, and conducts all regional transit and light rail planning. Coordinates data and research activities with governmental partners and develops regional economic and travel forecasts.
- **Housing:** Facilitates the creation of affordable housing across the region and funds the supportive housing services through administration and oversight of 2018 Affordable Housing Bond and 2020 Supportive Housing Services Measure.
- **Solid Waste Management:** Operates regional solid waste transfer stations, household hazardous waste facilities, and develops the Regional Solid Waste Management Plan.
- **Parks and Natural Areas:** Provides regional natural areas, parks, and trails, including historical cemeteries, a golf course, and marine facilities. Purchases land and restores natural habitats.
- **Visitor Venues:** Operates the Oregon Zoo, Oregon Convention Center, Portland Expo Center, and the Portland's Centers for the Arts.

Budget. The annual adopted budget serves as the foundation for Metro's financial planning and control. Metro prepares a budget for each fund in accordance with the modified accrual basis of accounting and legal requirements set forth in Oregon Local Budget Law, ORS §294.305 to §294.565. The Council adopts the budget for all funds by ordinance prior to the beginning of Metro's fiscal year (July 1). Expenditures for each fund cannot legally exceed the appropriation levels set by the authorizing ordinance. The legal level of budgetary control for each fund is set by department, with separate designations within the fund for the categories of debt service, interfund transfers and contingency. Unexpected additional resources and budget revisions may be added to the budget by use of a supplemental budget or, under certain conditions, by an ordinance passed by the Council amending the budget. The original and any supplemental budgets require hearings before the public, publication in newspapers, and approval by the Council. Management may amend the budget within the appropriated levels of control without Council approval. Appropriations that have not been expended at year-end lapse and subsequent actual expenditures are charged against the ensuing year's appropriations.

Reporting entity. For financial reporting purposes, Metro is a primary government under the provisions of Governmental Accounting Standards Board (GASB) Statements No. 14, 39 and 61. This report includes all organizations and activities for which the elected officials exercise financial control. In addition, the Oregon Zoo Foundation (OZF) warrants inclusion in the report because of the nature and significance of its relationship with Metro, including its on-going financial support of Metro's Oregon Zoo. The OZF is a legally separate, tax-exempt

organization created to encourage and aid the development of the Oregon Zoo. The financial statements of OZF are included in this report as a discretely presented component unit.

The information presented in the financial statements is best understood when it is considered from the broader perspective of the specific environment within which Metro operates.

Local economy. The Portland metropolitan region (i.e., the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area (MSA)) is home to more than 2.5 million residents, with over 1.8 million of those residing within the Metro boundary. The Portland MSA ranks 25th in the nation of large U.S. metropolitan areas; regional population shrunk by 0.1% in 2022 (U.S. Census Bureau).

The economic region is comprised of five counties in Oregon and two counties in Washington State. The region is a hub for financial activities, domestic and international trade, transportation and services for all of Oregon, southwest Washington and the Columbia River basin. The Portland MSA has non-farm payroll employment totaling almost 1.2 million jobs (Bureau of Labor Statistics), with over 80 percent of those jobs located inside the Metro boundary. The Metro Area unemployment rate was 3.3% in August 2023, which is approaching the record low of 3% reached just prior to the pandemic in February 2019.

The region has largely recovered from the sharp pandemic economic downturn, but weak spots remain, particularly in Portland's urban core. Federal government support to households in the forms of child tax credits and stimulus checks, as well as paycheck protection program loans to businesses, helped the economy perform much better than anticipated over the last couple of years. However, certain industries and geographies are left with structural economic changes that will, in some cases, likely take at least a decade to recover. Those include urban real estate markets, particularly for office space. Meanwhile consumer spending has remained strong, as goods purchases made during the depths of the pandemic have been replaced with service-sector spending in industries like leisure and hospitality. Job cuts during the pandemic peaked at nearly 150,000 employees in the Portland MSA, with the market returning to pre-pandemic employment levels in August 2022, and adding approximately 18,000 jobs (1.5%) in the last year.

Economic outlook. Broad economic data remain largely positive, as strong labor markets continue to support robust consumer spending. However, a recent survey of consumer finances noted that wealth inequality grew during the pandemic. Many homeowners experienced significant home value appreciation that has largely remained even as mortgage rates top 8%. As the robust federal stimulus wanes and student debt holders are required to restart payments, those particularly at the lower end of the income spectrum will face headwinds. A year ago, many economic observers believed a recession was imminent. Thus far, the Federal Reserve, by raising interest rates just enough so that inflation falls but unemployment does not increase, appears to have engineered somewhat of a soft landing from the heights of nearly double-digit inflation.

Housing is currently in a tenuous position as generation-high mortgage rates limit the volume of sales and people with 3% mortgages on their current home cannot afford to buy a similar or larger new home under higher mortgage rates. Sales from homebuilders are making up a larger proportion of sales than is typical as they have more financing flexibility than the standard mortgage market. Meanwhile, rents remain high due to a continued shortage of units in the market. Current expectations are that interest rates will remain relatively higher than previously thought and for a relatively longer timeframe. The resilience of the economy – in particular, the labor market – will make the Fed reluctant to lower rates.

In spite of the negative news, base economic data remains largely positive. Most economists expect that the economy will continue to grow, albeit at a slower pace than in the last couple of years. A recession, while possible, does not appear imminent and some of the inflation pressures have eased significantly, which should make the economy more durable. That said, actions in Ukraine and the Israel/Palestine conflict are illustrations of an increasingly unstable geopolitical environment that can disrupt global markets. Thus far, consumers have

shown that they will continue to spend, even if it means increasing credit purchases in the short run. The global economy will also provide a drag on the economic conditions, as inflation remains higher in most of the world and commodities markets are disrupted by ongoing conflicts. The bottom line is that the regional economic outlook is showing resilience, as fears of a recession have waned, but slower growth should be expected in the short run.

Long-term financial planning. Metro’s strong financial policies and disciplined practices have ensured operational stability, as evidenced by the necessary decisions made at the outset and during the COVID-19 pandemic. An important tool for building Metro’s budget is the five-year forecast for its primary operating funds: the General Fund, the Parks and Nature Operating Fund, the Solid Waste Revenue Fund, the Oregon Zoo Operating Fund and the Metropolitan Exposition Recreation Commission (MERC) Fund. Each budget cycle begins with a review of how the funds are performing, what factors affect the funds that are global assumptions and what factors are related to the specific nature of the operations that result in individual assumptions. Metro adheres to common-sense operation practices such as maintaining its assets, using one-time funds for one-time purposes, and ensuring enterprise activities manage to the bottom line.

Significant effort goes into revenue projections, ensuring a balanced budget. Property taxes are a significant component, funding general government and parks operations as well as debt service. Metro is subject to tax abatements granted by the three counties in which Metro operates; more detail is available in Note IV.S to the financial statements. Metro’s abated property taxes total \$10,883,802 for fiscal year 2022-23 and had no material effect on financial stability or service delivery.

Metro’s budgets are anchored by a series of frameworks that guide decision making and prioritization. Prior to the pandemic, the region’s six desired outcomes served as the primary decision-making framework for Metro. Developed by the region and adopted by the Metro Council in 2008 as part of the region’s growth management policies, the six outcomes help all leaders and their communities focus on what makes this region a great place: Vibrant Communities, Economic Prosperity, Safe and Reliable Transportation, Climate Change Leadership, Equity, and Clean Air, Water and Healthy Ecosystems. Metro used these outcomes to guide its strategic decision-making by testing department activities and programs against whether they were making these outcomes more likely over time. The six desired outcomes are still in place, but additional frameworks have been developed in the ensuing years.

In addition, Metro is guiding budgetary decisions with its Strategic Recovery Framework, embodying Metro’s values of Safety, Public Service, and Resilience through the organization-wide guiding principles of Racial Justice, Climate Justice and Resilience, and Shared Prosperity. Each of Metro’s departments applies that framework to day-to-day decision making and creating high level department specific goals in concert with budget development. These goals help each department to look ahead and identify key opportunities to make progress on the desired outcomes and ensure that decisions made today will be sustainable and strategic for the next three to five years.

Lastly, nested within the Strategic Recovery Framework are Strategic Targets. During the development of the 2023-24 budget, Metro Council directed the Chief Operating Officer to develop ambitious yet achievable five-year targets in the areas of environment, economy, and housing. These targets are intended to help prioritize investments and focus areas for the organization, while fostering cross-departmental and regional collaboration to make progress. Metro Council will vote on targets in each area in advance of the 2024-25 budget development and department leadership will be asked to use these targets to inform budgetary decision making.

Metro also prepares a five-year Capital Improvement Plan (CIP) with annual updates as part of its financial planning responsibilities. The Metro Council annually reviews Metro’s capital asset management policies as part of the budget process.

Major initiatives. The budget for fiscal year 2022-23 was driven by the strategic goals and key initiatives identified by the Metro Council that guide the agency and region. It represents a continuation of Metro’s recovery from pandemic disruptions, building back services and staffing in a way that creates more equitable and accessible systems and services for employees and the public. Additionally, it includes increases in spending levels in critical areas to address community needs and strengthen the central functions that support front-line services. The 2022-23 Budget included:

Focusing on livability in the region. Metro Council designated a series of strategic priorities to position Metro to continue to inspire, teach, engage, and invite people to enhance the quality of life and environment for the region’s current and future generations. Metro’s budget invested in improving regional coordination and support for the supportive housing services program. Additionally, investments were also made to address accessibility needs at Metro properties, including an ADA coordinator and funding for a community advisory body.

Implementing our goals and strategies for equity, diversity and inclusion. In June 2016, Metro Council adopted the agency’s Strategic Plan to Advance Racial Equity, Diversity, and Inclusion and in May 2017, Council considered an update to our Diversity Action Plan. Council has made increasing the diversity of our workforce, increasing the percentage and dollar value of the contracts we award to minority-owned, women-owned, and emerging small businesses, improving our relationships with historically underserved communities, and ensuring that all the region’s residents have access to critical services a high priority for our departments. Metro’s budget includes funding to implement a civic engagement capacity building grant program, as well as centralization and coordination of equity metrics and tracking across departments and venues. The budget also includes funding for programs and activities to support diversity, equity, and inclusion in every department of Metro.

Regional recovery. Specific programs were expanded during the year to address acute needs in the region. The Regional Illegal Dumping program increased the number of crews from six to eight after tripling the year prior to respond to increased illegal dumping. Staffing in the affordable and supportive housing services programs was expanded to ensure speed and precision in distributing funds to our area partners and resulted in breaking these programs out as a standalone Metro department during fiscal year 2022-23. Supplemental funding was added to stabilize the visitor venues, ensuring continued service delivery to our clients while staffing levels recover, without deepening budget deficits in those departments.

Relevant financial policies. Comprehensive financial policies are reviewed annually and provide the basic framework for the overall fiscal management of the agency. The policies are designed to operate independently of changing circumstances and conditions and help safeguard Metro’s assets, promote effective and efficient operations, and support the achievement of Metro’s strategic goals. The policies were re-adopted by the Metro Council on June 22, 2023 (Resolution No. 23-5334), as published in the adopted budget.

Oregon Local Budget Law requires that total resources equal total requirements in each fund. In addition to this legal requirement, Metro considers a budget to be balanced whenever budgeted revenues equal or exceed budgeted expenditures. Metro’s Council established financial policies to make significant investments in the future by using a disciplined “pay yourself first” rule to ensure that all funds maintain appropriate reserves to safeguard against dips in the economic climate and to protect the public’s investment in Metro’s physical assets. Metro policy provides that it will designate or assign fund balance amounts that are appropriate to the needs of each fund and that targeted assignment levels shall be established and reviewed annually as part of the budget review process. The policy requires that a new program or service be evaluated before it is implemented to determine its affordability and that Metro will annually prepare a five-year forecast of revenues, expenditures, other financing sources and uses and staffing needs for each of its major funds, identifying major anticipated changes and trends, and highlighting significant items which require the attention of the Metro Council.

Metro has set aside fund balance amounts within the General Fund for potential additional Public Employee Retirement System pension liabilities and for future debt service on the full faith and credit bonds issued to refinance Metro Regional Center. This fund balance also includes amounts for cash flow and fund stabilization. Metro’s policies historically called for a minimum of 7 percent of operating revenues be set aside for either contingency or stabilization to guard against unexpected downturns in revenues and to stabilize resulting budget actions. That target provided a 90 percent confidence level that revenues would only dip below this amount once every ten years. After weathering the economic impact from the COVID pandemic, the reserve policy was updated to require a minimum level of 16.5 percent of key general fund revenues be set aside.

Debt management policies provide that Metro shall issue long-term debt only to finance capital improvements (including land acquisition) that cannot be readily financed from current revenues or to reduce the cost of long-term financial obligations. Metro will not use short-term borrowing to finance operating needs unless specifically authorized by Council. Further, Metro will repay all debt issued within a period not to exceed the expected useful life of the improvements financed by the debt.

Metro’s revenue policies provide that the agency will strive to maintain a diversified and balanced revenue system to protect it from short-term fluctuations in any one revenue source. A further detailed discussion of Metro’s financial policies and plans for the future can be found in Metro’s 2023-24 Adopted Budget.

Awards and Acknowledgements

The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to Metro for its annual comprehensive financial report for the fiscal year ended June 30, 2022. This was the thirty-first consecutive year that the government has achieved this prestigious award. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized annual comprehensive financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe that our current annual comprehensive financial report continues to meet the Certificate of Achievement Program’s requirements and we are submitting it to GFOA to determine its eligibility for another certificate.

The preparation of this report would not have been possible without the cooperation of employees across the Metro organization. We especially acknowledge Melissa Weber, Controller, Erica Gallucci, Financial Reporting Program Manager, and the staff in the Accounting Services Division of the Finance and Regulatory Services Department for their efforts in the preparation of this report. We wish to acknowledge the professional and technical assistance of the audit staff of Moss Adams LLP. Finally, we extend our appreciation to the Metro Council, Metro Auditor, and the many Metro managers for their leadership and commitment to financial excellence.

Respectfully submitted,



Marissa Madrigal
Chief Operating Officer



Brian Kennedy
Chief Financial Officer



Government Finance Officers Association

Certificate of
Achievement
for Excellence
in Financial
Reporting

Presented to

**METRO
Oregon**

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

June 30, 2022

Christopher P. Morill

Executive Director/CEO

METRO

Elected Officials (as of June 30, 2023)

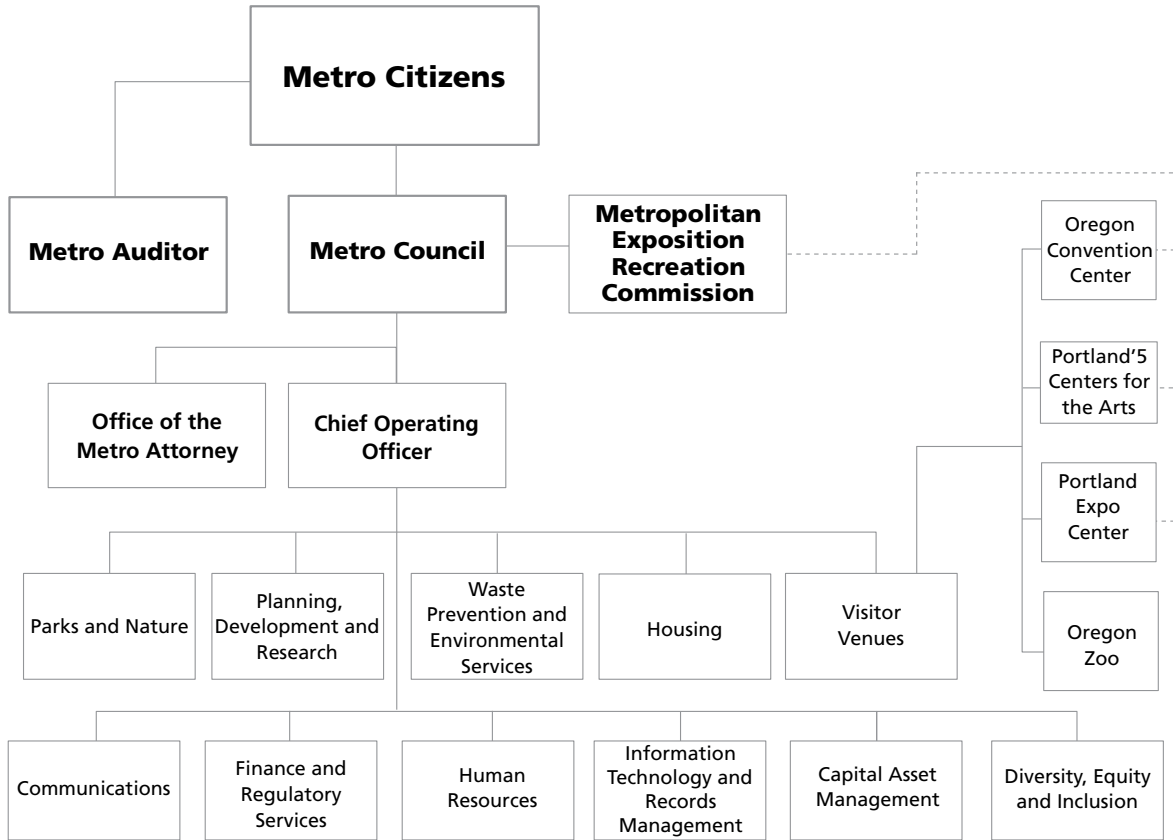
Name	Position	Term expires
Lynn Peterson	Metro Council President	January 2027
Ashton Simpson	Councilor-District 1	January 2027
Christine Lewis	Councilor-District 2	January 2027
Gerritt Rosenthal	Councilor-District 3	January 2025
Juan Carlos Gonzalez	Councilor-District 4	January 2027
Mary Nolan	Councilor-District 5	January 2025
Duncan Hwang	Councilor-District 6	January 2027
Brian Evans, CIA	Metro Auditor	January 2027

Appointed Officials

Name	Position
Marissa Madrigal	Chief Operating Officer
Andrew Scott	Deputy Chief Operating Officer
Holly Calhoun	Deputy Chief Operating Officer
Carrie MacLaren	Metro Attorney
Brian Kennedy	Chief Financial Officer
Julio Garcia	Human Resources Director
Ryan Kinsella	Capital Asset Management Director
Lia Waiwaiole	Communications Director
Rachel Tull	Information Technology and Records Management Director
Heidi Rahn	Oregon Zoo Director
Catherine Ciarlo	Planning, Development and Research Director
Sebrina Owens-Wilson	Diversity, Equity, and Inclusion Director
Patricia Rojas	Housing Director
Marta McGuire	Waste Prevention and Environmental Services Director
Jon Blasher	Parks and Nature Director
Steve Faulstick	General Manager of Visitor Venues
Craig Stroud	Oregon Convention Center Director
Matthew Rotchford	Portland Expo Center Director
Robyn Williams	Portland's 5 Centers for the Arts Director

Organizational Structure

as of June 30, 2023





Brian Evans
Metro Auditor

600 NE Grand Ave
Portland, OR 97232-2736
TEL 503 797 1892

November 27, 2023

To the Metro Council and Residents of the Metro Region:

Oregon State law requires an annual audit of Metro's financial records and transactions by independent certified public accountants. The Metro Auditor is required by Metro Code to appoint certified public accountants to conduct this audit. In 2020, after completing a competitive process, I appointed Moss Adams LLP to conduct the audit of Metro. My office coordinated and monitored this audit.

Following this letter is the independent auditor's report on Metro's financial statements as of June 30, 2023. In addition to the above report, Metro is required to have an audit of its expenditures of federal awards in accordance with Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the provisions of *Government Auditing Standards* issued by the Comptroller General of the United States. The necessary reports pertaining to Metro's internal control, compliance with applicable laws, regulations, grants and the Schedule of Expenditures of Federal Awards for the year ended June 30, 2023 are included in the last section of this report, Audit Comments and Disclosures Required by State and Federal Regulations.

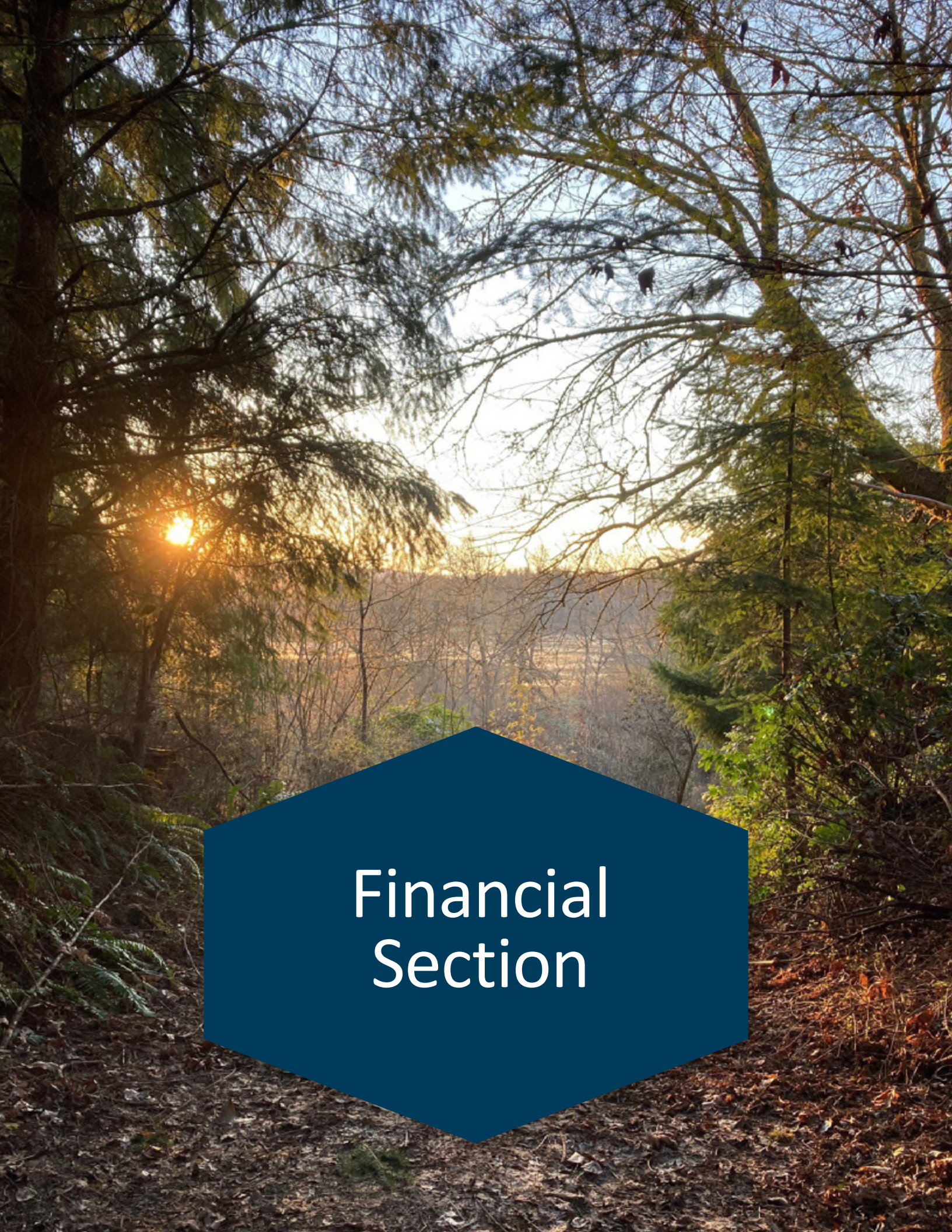
I appreciate the work by Metro and Moss Adams employees to make the audit process run smoothly and I want to thank them for completing the audit on time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian Evans".

Brian Evans
Metro Auditor





Financial Section

Report of Independent Auditors

The Metro Council and Metro Auditor
Metro

Report on the Audit of the Financial Statements

Opinions

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements as listed in the table of contents.

In our opinion, based on our audit and the report of other auditors, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of June 30, 2023, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

We did not audit the financial statements of The Oregon Zoo Foundation, a discretely presented component unit, which represents 100% of the assets, net position, and revenues of the discretely presented component unit of Metro. Those financial statements were audited by other auditors, whose report thereon has been furnished to us, and our opinion, insofar as it relates to the amounts included for The Oregon Zoo Foundation, is based solely on the report of the other auditors.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards (Government Auditing Standards)*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Metro and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions. The financial statements of The Oregon Zoo Foundation were not audited in accordance with *Government Auditing Standards*.

Emphasis of Matter

As discussed in Note 2 to the financial statements, Metro adopted the provisions of GASB Statements No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*, and No.96, *Subscription-Based Information Technology Arrangements*, effective July 1, 2022. The financial statements have been retroactively restated in accordance with the requirements of the new accounting standards. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Metro's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Metro's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that management's discussion and analysis and the required supplementary information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise Metro's basic financial statements. The other supplementary information, as listed in the table of contents, and the schedule of expenditures of federal awards as required by Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Information

Management is responsible for the other information included in the annual report. The other information comprises the introductory and statistical sections but does not include the basic financial statements and our auditor's report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated November 27, 2023, on our consideration of Metro's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of Metro's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Metro's internal control over financial reporting and compliance.

Other Reporting Required by *Minimum Standards for Audits of Oregon Municipal Corporations*

In accordance with the *Minimum Standards for Audits of Oregon Municipal Corporations*, we have also issued our report dated November 27, 2023, on our consideration of Metro's compliance with certain provisions of laws, regulations, contracts, and grant agreements, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-010-0000 through 162-010-0330 of *the Minimum Standards for Audits of Oregon Municipal Corporations*. The purpose of that report is to describe the scope of our testing of compliance and the results of that testing and not to provide an opinion on compliance.



Ashley Osten, Partner for
Moss Adams LLP
Portland, Oregon
November 27, 2023



Management's Discussion and Analysis

As management of Metro, Oregon, we provide readers of Metro's financial statements this narrative overview and analysis of the financial activities of Metro for the fiscal year ended June 30, 2023. We encourage readers to consider the information presented here in conjunction with the additional information that we have furnished in our letter of transmittal, which can be found on pages 1 - 6 of this report. This information is based upon currently known facts, decisions or conditions.

FINANCIAL HIGHLIGHTS

- Metro's assets and deferred outflows of resources exceed its liabilities and deferred inflows of resources (also defined as *net position*) by \$954,933,194 at June 30, 2023, which reflects an increase of 20.3 percent or \$161,051,352 over the prior fiscal year.
- Metro completed the fiscal year with its governmental funds reporting *combined* fund balances of \$1,126,968,462. Of the total amount of governmental combined fund balance, \$44,980,771 or 4.0 percent, is considered available for spending at Metro's discretion (*unassigned* fund balance).
- At the end of fiscal year 2023, unrestricted spendable fund balance (the total of the *committed*, *assigned* and *unassigned* components of fund balance) in the general fund totaled \$55,553,756 and represents 89.2 percent of total general fund expenditures.
- Metro's total outstanding long-term liabilities decreased by \$69,565,307 or 6.4 percent during the current fiscal year. This reflects no debt issuances during the fiscal year outside of refundings as well as the repayment of existing debt.
- The regional supportive housing services program approved by voters in May 2020 generated \$347,044,362 in revenue in this fiscal year, a 43.0 percent increase from the prior fiscal. This source of revenue is now Metro's largest, surpassing charges for services and property taxes.
- Program revenues of Metro's business-type activities (Solid Waste, Oregon Zoo and MERC operations) totaled \$214,063,662, up \$18,903,821 or 9.7 percent, attributable to the increased activity following necessary pandemic-related closures in prior years as well as increases to solid waste rates.

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to Metro's basic financial statements, which consist of the following three components: 1) the *government-wide financial statements*, 2) the *fund financial statements*, and 3) the *notes to the financial statements*. This report also includes *supplementary information* intended to furnish additional detail to support the basic financial statements.

Government-wide financial statements. The government-wide financial statements are designed to provide readers with a broad overview of Metro's finances using accounting methods similar to those used by private-sector businesses. Government-wide financial statements provide both short-term *and* long-term information about Metro's overall financial status.

The *Statement of Net Position* includes all of Metro's assets, liabilities, and deferred outflows/inflows of resources, with the net difference between these elements reported as net position. Over time, increases or decreases in Metro's net position may serve as a useful indicator of whether the financial position of Metro is improving or deteriorating.

The *Statement of Activities* accounts for all of the current fiscal year's revenues and expenses. The statement presents information showing how Metro's net position changed during the fiscal year. Such changes are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows.

Management Discussion and Analysis

For the fiscal year ended June 30, 2023

Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., uncollected property taxes and earned but unused vacation leave).

Each government-wide financial statement is divided into three categories:

Governmental activities – Activities supported principally by general revenue sources including various taxes that provide Metro’s basic governmental services. These services include the *general government operations* functions of the Council office and various administrative functions; *planning, development and research* which includes regional transportation and land use planning; *housing* which includes affordable and supportive housing activities; *culture and recreation* which includes regional parks and natural areas, community enhancement activities near Metro area solid waste facilities and management of Smith and Bybee Wetlands and Pioneer Cemeteries.

Business-type activities – Activities supported by charges for services and fees to customers to help cover the costs of certain services. These activities consist of the Solid Waste, Oregon Zoo, and Metropolitan Exposition-Recreation Commission (MERC) operations. Solid waste operations include the operation of two transfer stations and recycling centers (Metro South and Metro Central), household hazardous waste collection centers, paint recycling center and other solid waste system programs. Oregon Zoo operations include zoo visitor experience, environmental education, and animal conservation and research. MERC operations include the Oregon Convention Center (OCC), Portland’s Centers for the Arts (Portland’s) and Portland Expo Center (Expo) facilities.

Component unit – Metro includes The Oregon Zoo Foundation (OZF) as a discretely presented component unit. OZF is considered a component unit as the sole purpose of this legally separate non-profit organization is to provide support and significant additional funding for Metro’s Oregon Zoo.

The government-wide financial statements can be found on pages 33 - 36 of this report.

Fund financial statements. A *fund* is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. Like other state and local governments, Metro uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements – including bond covenants and Oregon local budget law requirements. The funds of Metro can be classified into two categories:

- **Governmental funds** are used to account for essentially the same functions as reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, these statements focus on *near-term inflows and outflows of spendable resources*, as well as on balances of spendable resources available at the end of the fiscal year. Thus, the governmental funds statements provide a detailed short-term view that helps the reader determine the comparative level of financial resources that can be spent in the near future to finance Metro’s programs.

Because this information does not encompass the additional long-term focus of the government-wide statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, the reader may better understand the long-term impact of Metro’s near-term financing decisions. A reconciliation that follows the governmental funds statements explains the differences between the two statements to facilitate this comparison between *governmental funds* and *governmental activities*.

Metro maintains ten individual governmental funds. Information is presented separately in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures, and changes in fund balance for the seven funds considered major: General, Parks and Nature Operating, Affordable Housing, Supportive Housing Services, General Obligation Bond Debt Service, Natural Areas and Parks and Nature Bond funds. Data from the other three governmental funds (Smith and Bybee Wetlands, Community Enhancement, and Cemetery Perpetual Care) are combined into a single, aggregated presentation. Individual

fund data for each of these non-major governmental funds is provided in the form of *combining statements* elsewhere in this report.

Of special note, a portion of one budgetary fund (the General Revenue Bond Fund) and one additional entire budgetary fund (General Asset Management Fund) are allocated to the General Fund and combined with those operating activities for reporting in conformance with generally accepted accounting principles (GAAP) in the governmental fund financial statements. The remaining portions of the budgetary General Revenue Bond Fund is allocated to the MERC Fund for proprietary fund presentation noted below.

The governmental fund financial statements can be found on pages 39 - 45 of this report.

- **Proprietary funds** provide the same type of information as the government-wide financial statements, only in more detail, including cash flows. Metro includes two different types:

Enterprise funds are used to report the same functions as *business-type activities* in the government-wide financial statements. Metro uses enterprise funds to account for its Solid Waste, Oregon Zoo and MERC operations, all three of which are considered major funds. The entire budgetary fund Oregon Zoo Asset Management Fund is combined with the Oregon Zoo for the proprietary fund presentation.

Internal service funds are an accounting device used to accumulate and allocate costs internally among Metro's various functions. Metro uses an internal service fund to account for the management of its retained risks. The revenues and expenses of the internal service fund that are duplicated in other funds through cost allocations are eliminated in the government-wide statements, with the remaining balances included in governmental activities in the government-wide financial statements.

The proprietary fund financial statements can be found on pages 46 - 51 of this report.

Notes to the financial statements. The notes to the financial statements provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages 52 - 99 of this report.

Required Supplementary Information (RSI). In addition to the basic financial statements and accompanying notes, this report also presents certain required supplementary information concerning budget-to-actual results for Metro's General Fund and its major special revenue funds, and pension and post-employment benefit disclosures. RSI can be found on pages 100 - 115.

The combining statements referred to earlier in connection with nonmajor governmental funds are presented immediately following the required supplementary information. Combining and individual fund statements and schedules can be found on pages 117 - 140.

FINANCIAL ANALYSIS OF METRO AS A WHOLE (Government-Wide)

Net position. As noted earlier, net position may serve over time as a useful indicator of a government's financial position. Metro's assets and deferred outflows of resources exceed liabilities and deferred inflows of resources (defined as *net position*) by \$954,933,194 at June 30, 2023. The table on the following page reflects the condensed Government-wide Statement of Net Position.

Metro's governmental activities account for a total net position – totaling \$568,076,233, or 59.5 percent, whereas business-type activities account for \$386,856,961 or 40.5 percent.

Of Metro's total net position, 67.8 percent reflects its net investment in capital assets (e.g., headquarters offices, zoo exhibits, natural areas property, transfer stations, convention center, and other significant assets), less any related outstanding debt that was used to acquire those assets. Metro uses these capital assets to provide services to its citizens; therefore, this amount is not available for future spending. Although Metro's investment in its

Management Discussion and Analysis

For the fiscal year ended June 30, 2023

capital assets is reported net of the related debt, it should be noted that the resources needed to repay this debt must come from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

Metro’s restricted net position (53.2 percent) represents resources that are subject to external restrictions on how they may be used. External restrictions for specific purposes include areas such as parks and natural areas local option levy, Transit-Oriented Development (TOD), Smith and Bybee Wetlands management plan, supportive housing initiatives, and capital projects funded by bond or restricted proceeds. The restricted component of net position increased \$165,874,788 or 48.4 percent from the amount at June 30, 2022, reflecting income tax revenue restricted to supportive housing services received by Metro and distributed to partner agencies but not yet spent.

Metro’s Net Position

	Governmental Activities		Business-type Activities		Total - Primary Government	
	2023	2022	2023	2022	2023	2022
Current and other assets	\$ 1,173,511,725	1,085,367,122	178,554,340	134,630,215	1,352,066,065	1,219,997,337
Capital assets	399,594,950	388,865,314	343,511,666	351,994,984	743,106,616	740,860,298
Total assets	<u>1,573,106,675</u>	<u>1,474,232,436</u>	<u>522,066,006</u>	<u>486,625,199</u>	<u>2,095,172,681</u>	<u>1,960,857,635</u>
Total deferred outflows of resources	<u>18,016,510</u>	<u>23,520,217</u>	<u>17,031,724</u>	<u>20,618,740</u>	<u>35,048,234</u>	<u>44,138,957</u>
Long-term liabilities outstanding	959,197,166	1,030,858,747	65,328,345	63,232,071	1,024,525,511	1,094,090,818
Other liabilities	35,020,864	21,876,470	32,343,445	27,023,529	67,364,309	48,899,999
Total liabilities	<u>994,218,030</u>	<u>1,052,735,217</u>	<u>97,671,790</u>	<u>90,255,600</u>	<u>1,091,889,820</u>	<u>1,142,990,817</u>
Total deferred inflows of resources	<u>28,828,922</u>	<u>36,765,108</u>	<u>54,568,979</u>	<u>31,358,825</u>	<u>83,397,901</u>	<u>68,123,933</u>
Net position:						
Net investment in capital assets	344,469,479	331,538,185	326,037,270	333,384,655	647,808,583	623,668,341
Restricted	502,757,659	334,925,580	5,523,549	7,480,840	508,281,208	342,406,420
Unrestricted	(279,150,905)	(258,211,437)	55,296,142	44,764,019	(201,156,597)	(172,192,919)
Total net position	<u>\$ 568,076,233</u>	<u>408,252,328</u>	<u>386,856,961</u>	<u>385,629,514</u>	<u>954,933,194</u>	<u>793,881,842</u>

The remaining \$201,156,597 is an unrestricted deficit, which represents the part of net position that can be used to finance day-to-day operations without constraints established by debt covenants, enabling legislation, or other legal requirements. Of this amount, \$55,296,142 is attributable to Metro’s business-type activities which cannot be used to make up for the deficit reported in governmental activities. Unrestricted net position decreased \$20,939,468 (to a total deficit of \$279,150,905) in governmental activities primarily due to transfers to other governments for affordable housing projects. A portion of this deficit can be attributed to the allocable proportion of the Oregon Public Employees Pension System liability, as discussed in Note IV.H.1. Metro has several bonds that are accounted for in governmental activities without a corresponding asset such as the proceeds from Dedicated Tax Revenue bonds for the Oregon Convention Center hotel which were distributed to the developer in prior years and there is no asset owned by Metro. Similar transactions contributed to the unrestricted net deficit such as the local share and capital grant components of the Natural Areas and Parks and Nature bond, and housing projects funded by the Affordable Housing bond. It should further be noted that all of these bond issuances are supported by dedicated tax revenues (property taxes and site-specific transient lodging taxes) and current accounting standards only allow the recording of taxes as they are levied. Unrestricted net position in business-type activities increased \$10,532,123 or 23.5 percent which is explained later in this analysis.

Changes in net position. Overall, Metro’s net position increased 20.3 percent or \$161,051,352 over the prior fiscal year. Governmental activities’ net position increased \$159,823,905, while business-type activities’ net position increased \$1,227,447 for the fiscal year ended June 30, 2023. The components of the change in net position are reflected in the condensed information from Metro’s Statement of Activities presented in the table below. The reasons for the changes noted here are discussed in the following sections for governmental activities and business-type activities.

Governmental activities. Governmental activities program revenues decreased \$14,631,695 or 32.1% and totaled \$30,905,694. This was mostly related to a \$14,769,588 decrease in operating grants, primarily in the regional planning function while charges for services and capital grants and contributions remained flat.

Metro’s Changes in Net Position

	Governmental Activities		Business-type Activities		Total - Primary Government	
	2023	2022	2023	2022	2023	2022
Revenues:						
Program revenues						
Charges for services	\$ 10,830,388	10,699,686	181,498,589	156,105,000	192,328,977	166,804,686
Operating grants and contributions	20,033,360	34,802,948	31,670,020	38,683,686	51,703,380	73,486,634
Capital grants and contributions	41,946	34,755	895,053	371,155	936,999	405,910
General revenues						
Property taxes	112,919,912	108,386,146	-	-	112,919,912	108,386,146
Personal and business income taxes	347,044,362	242,650,036	-	-	347,044,362	242,650,036
Excise taxes	20,439,427	21,631,175	-	-	20,439,427	21,631,175
Other	19,614,823	(12,174,204)	2,802,953	(2,305,304)	22,417,776	(14,479,508)
Total revenues	530,924,218	406,030,542	216,866,615	192,854,537	747,790,833	598,885,079
Expenses:						
General government operations	9,665,907	10,172,047	-	-	9,665,907	10,172,047
Planning, development and research	22,085,632	167,988,989	-	-	22,085,632	167,988,989
Housing	258,576,138	-	-	-	258,576,138	-
Culture and recreation	39,097,568	43,987,029	-	-	39,097,568	43,987,029
Interest on long-term debt	27,331,869	29,286,520	-	-	27,331,869	29,286,520
Solid Waste	-	-	105,381,938	91,608,851	105,381,938	91,608,851
Oregon Zoo	-	-	50,082,803	37,814,691	50,082,803	37,814,691
MERC	-	-	74,517,626	55,992,846	74,517,626	55,992,846
Total expenses	356,757,114	251,434,585	229,982,367	185,416,388	586,739,481	436,850,973
Increase in net position before transfers	174,167,104	154,595,957	(13,115,752)	7,438,149	161,051,352	162,034,106
Transfers	(14,343,199)	(14,795,385)	14,343,199	14,795,385	-	-
Increase in net position	159,823,905	139,800,572	1,227,447	22,233,534	161,051,352	162,034,106
Net Position, July 1	408,252,328	268,451,756	385,629,514	363,395,980	793,881,842	631,847,736
Net Position, June 30	\$ 568,076,233	408,252,328	386,856,961	385,629,514	954,933,194	793,881,842

Metro’s general government operations expenses totaled \$9,665,907 or 1.6 percent of Metro’s total program expenses, which was a decrease of \$506,140 or 5.0 percent from that reported in the prior fiscal year. This is reflective of fewer repair and maintenance expenses during the year as several remodeling projects at the Metro headquarters concluded during fiscal year 2022. Metro’s planning, development and research program had total costs of \$22,085,632, down \$145,903,357 or an 86.9 percent decrease from the prior fiscal year. This decrease represents a reporting structure change Metro made during the fiscal year to separate housing-related functions from regional planning. Metro’s housing program had total costs of \$258,576,138 during the fiscal year. This includes an increase of approximately \$111 million from the prior fiscal year not visible in the table above due to the reporting change. This increase is the result of increased projects and administrative costs for the affordable and supportive housing programs. Metro’s culture and recreation expenses totaled \$39,097,568 or 6.7 percent of Metro’s total program expenses, which was a decrease of \$4,889,461 or 11.1 percent from

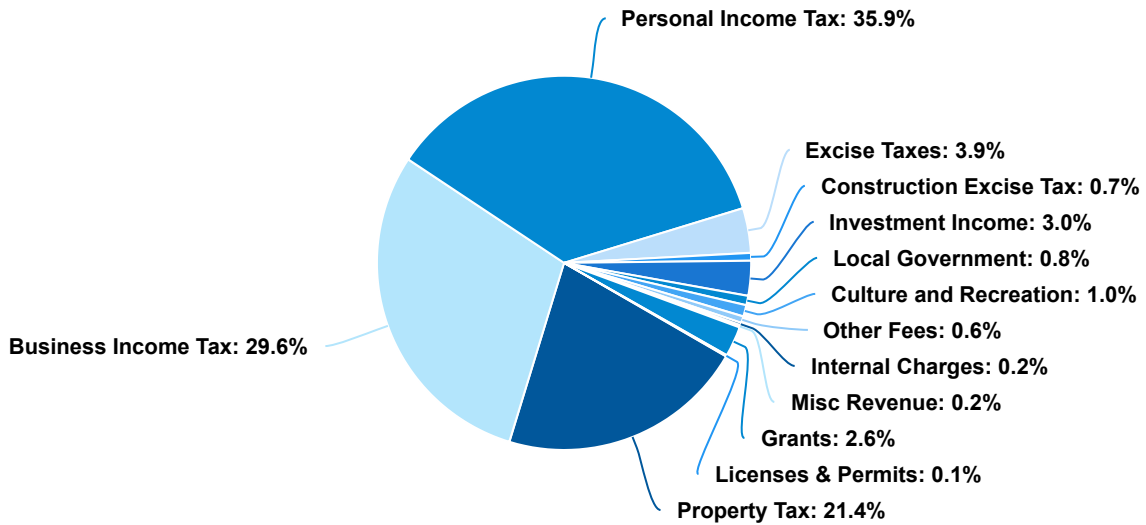
Management Discussion and Analysis

For the fiscal year ended June 30, 2023

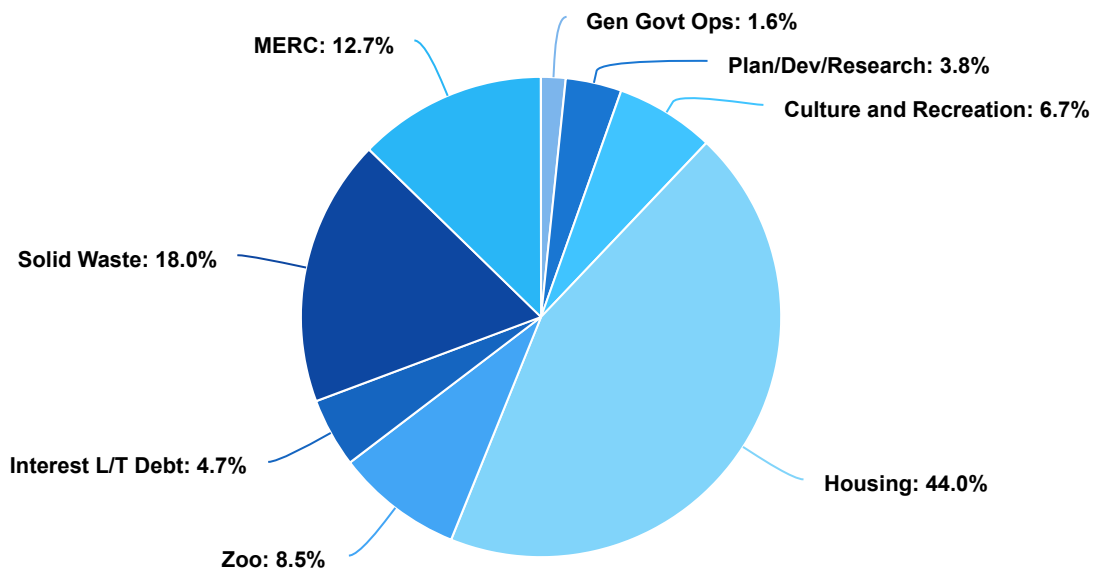
that reported in the prior fiscal year. This is reflective of a large one-time expense in the prior year related to a pollution remediation qualifying event within the parks and nature program.

Interest on long-term debt decreased by \$1,954,651 or 6.7 percent from the prior fiscal year and totaled \$27,331,869 or 4.7 percent of Metro’s total program costs, down from 6.7 percent in the prior fiscal year, reflecting a relatively stable amount of debt and its corresponding repayment.

Metro Governmental Activities Sources of Revenue



Metro Function/Program Expenses



Business-type activities. Program revenues of Metro's business-type activities (Solid Waste, the Oregon Zoo and MERC operations) totaled \$214,063,662, up \$18,903,821 or 9.7 percent. Metro's business-type activities were the most directly impacted by the COVID-19 pandemic. However, this fiscal year, attendance at the visitor venues was at or above pre-pandemic levels. This increased attendance drove much of the 16.3 percent increase in charges for services. The Oregon Zoo had a 4.7 percent increase in charges for services revenue, amounting to \$1.1 million and the MERC fund had a 43.9 percent increase in charges for services revenue, amounting to \$15.6 million. Additionally, tonnage at Metro-owned facilities decreased 3.3 percent over the prior year and rates increased 7.2%, to \$123.45 per ton. The Regional System Fee increased from \$25.65 to \$29.37; corresponding with those increases, charges for services revenue increased \$8.7 million, or 9.0 percent. Operating grants and contributions revenue decreased 18.1 percent compared to the prior fiscal year. This decline is primarily attributed to the conclusion of COVID-related grant funding from the previous year, which was partially offset by the receipt of grant revenue related to regional clean-up within the Solid Waste program in the current year.

Total expenses increased \$44,565,979 or 24.0 percent to a total of \$229,982,367. Solid Waste program expenses increased \$13,773,087, or 15.0 percent. This can be attributed to increased operating costs at the transfer stations, expanded illegal dumping clean-up programming, as well as the distribution of several grants aimed at waste reduction. Oregon Zoo program expenses increased \$12,268,112, or 32.4 percent, and MERC expenses increased \$18,524,780, or 33.1 percent. These increases are both the result of increased staffing and operating costs resulting from the lifting of COVID restrictions and increased attendance at the visitor venues.

General revenues. Previously the most significant general revenue, property taxes currently account for 15.1 percent of all primary government activities revenues. Property taxes are dedicated to repayment of general obligation bond debt, for programs authorized by the Parks and Natural Areas Local Option Levy or allocated by the Council in support of governmental activities. The total amount of property taxes increased \$4,533,766 or 4.2 percent from the prior fiscal year. This is a typical change for governments in the region, based on the 3.0% maximum assessed value increase allowed in the Oregon Constitution and growth from new construction. Metro began to receive personal and business income tax revenue in the fiscal year ending June 30, 2021, and receipts grew substantially in the subsequent fiscal years. The prior fiscal year had \$242,650,036 recorded and the current year revenues are \$347,044,362, a 43.0 percent increase. This large increase is representative of more collection and enforcement efforts deployed during the current fiscal year. This type of variation is not expected in the future, but some fluctuations are anticipated due to the nature of income taxes.

FINANCIAL ANALYSIS OF METRO'S FUNDS

As noted earlier, Metro uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds. The focus of Metro's *governmental funds* financial statements is to provide information on near-term inflows, outflows and balances of spendable resources. Such information is useful in assessing Metro's financing requirements. In particular, unassigned fund balances may serve as a useful measure of a government's net resources available for discretionary spending at the end of the fiscal year.

At June 30, 2023, Metro's governmental funds reported *combined* fund balances of \$1,126,968,462. This is up \$73,081,869 or 6.9 percent. The majority of this increase is due to the collection of income tax proceeds for supportive housing services which improved over the prior year due to the aforementioned collection and enforcement efforts. This resulted in increased restricted and non-spendable fund balances of \$176,960,440 or 100.1 percent. A total of \$290,998,876 is recorded as an advance in the Supportive Housing Services fund, reflecting the transfer of resources to our regional partners. The advance will be reduced as regional partners spend the tax proceeds on eligible activities, reducing net position simultaneously. Of the total amount of

Management Discussion and Analysis

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governmental combined fund balance above, \$44,980,771 or 4.0 percent, is considered *unassigned* fund balance and available for spending at Metro's discretion.

The remainder of the fund balance is either *nonspendable*, *restricted*, *committed* or *assigned*. *Nonspendable* fund balance represents amounts not in spendable form and the corpus of the permanent fund, which totals \$388,447,027 at June 30, 2023. Fund balances *restricted* for particular purposes, such as parks and natural areas, bonded capital projects, the Willamette Falls Legacy project, debt service, and affordable and supportive housing totaled \$682,979,031. Metro has \$9,900,092 of fund balance *committed* by Metro Council resolution and consists of proceeds from the Coronavirus Response and Relief Supplemental Appropriation Act. *Assigned* fund balance totaled \$661,541 and is dedicated to cemetery maintenance and encumbered fund balance.

Note II.D.16 and Note IV.Q provide further information on Metro's fund balance classifications for all governmental funds.

The General Fund is the primary operating fund of Metro. At the end of fiscal year 2023, unassigned fund balance of the general fund was \$44,992,123. Total fund balance increased \$4,983,796 to a total of \$126,108,549 at June 30, 2023. As a measure of the general fund's liquidity, it may be useful to compare both the unassigned fund balance and total fund balance to total General Fund expenditures. Unassigned fund balance represents 72.3 percent of total general fund expenditures, while total fund balance represents 202.6 percent of that same amount.

The General Fund expended \$11,530,084 for general government operations. These operational expenditures included the general government share of costs for the Council Office, Metro Auditor, Office of Metro Attorney, Communications, Diversity, Equity and Inclusion, Human Resources, Finance and Regulatory Services, and Information Technology. Expenditures increased by \$4,592,875 compared to the previous year. This increase can be attributed to the expansion of central service staffing and programmatic spending, aimed at bolstering the agency's capacity in response to the post-pandemic environment and the pressing housing initiatives.

Metro collected \$3,598,048 in CET during the fiscal year ended June 30, 2023, down \$279,627 or 7.2 percent from the prior fiscal year. This tax is imposed on new construction within the region, with limited exceptions, and is intended to provide funds to local governments for the planning of future expansion areas, future urban reserves, and planning that enables redevelopment of centers, corridors and employment areas within the existing Urban Growth Boundary. Even with a decrease in the current year, collections are still at relatively high levels, corresponding with the high level of construction activity in the region.

Metro's other major governmental funds also include the Parks and Nature Operating Fund, Affordable Housing, Supportive Housing Services, the General Obligation Bond Debt Service Fund, Natural Areas, and Parks and Nature Bond Funds. All of these funds carry restricted or non-spendable fund balances because they were established for specific purposes by the passage of various ballot measures.

The restricted and non-spendable positions in other governmental funds changed from \$932,772,069 to \$1,000,871,265 or an increase of \$68,099,196. The Affordable Housing fund had a reduction in restricted funds while the Supportive Housing Services fund experienced a substantial increase, driving an overall increase in total restricted and nonspendable net position. Local partners have been able to build affordable housing projects depleting the fund balance, while the supportive housing program is still building staffing and programming capacity, leading to unspent funds. Future balances are anticipated to decrease as local partners expand their supportive housing programs.

There was an increase in expenditures in the Affordable Housing Fund, from \$76.0 million to \$99.8 million. The Supportive Housing Services fund also had substantially higher activity, with expenditures amounting to \$158.8 million, as regional partners started to ramp up their programs addressing the housing crisis.

The Natural Areas Fund is winding down; there were 34.0 percent fewer expenditures in the current fiscal year and a remaining fund balance of \$3,416,925. The Parks and Nature Bond, however, was passed in November 2019 and has a substantial fund balance (\$163.4 million) and bond authorization remaining. Total expenditures were similar to the prior fiscal year and will continue to increase in future years as capital projects complete planning and start construction.

Proprietary funds. Metro's proprietary fund statements provide the same type of information found in the government-wide financial statements on pages 46 -51, but in more detail.

At the end of fiscal year 2023, *unrestricted net position* of the Solid Waste Fund, Oregon Zoo Fund, and MERC Fund amounted to \$21,115,124, \$15,599,465, and \$22,979,707, respectively. The total change in *unrestricted net position* for each fund equaled increases of \$6,570,424, \$2,533,536, and \$2,129,990, respectively. Solid Waste increased their rates in line with program expenditures. The Oregon Zoo and MERC experienced operational stability in the current fiscal year, leading to increases in unrestricted net position. These outcomes can be attributed to the easing of COVID-related attendance restrictions, which resulted in a substantial increase in visitor attendance at these venues.

BUDGETARY HIGHLIGHTS

As noted earlier, Metro's General Fund is used to account for general government operations and the programs of planning, development and research and culture and recreation. Over the course of the fiscal year, the Metro Council revised the budget for the General Fund four times, and total appropriations came to \$160,190,835. The total budgeted appropriation for expenditures and transfers increased \$21,145,086 as the agency recovered from the economic impacts of the pandemic.

Revenue from government contributions was \$0, but budgeted at \$3,600,373; this is a combination of annual support from TriMet for TOD and transportation planning that was not received within 60 days of fiscal year end. Expenditures in planning, development and research were \$15,645,392 less than budgeted; Metro routinely budgets in a manner to ensure there is sufficient appropriation for potential TOD program purchases. Other significant variances in estimated and actual revenues include miscellaneous revenue and investment income. Miscellaneous revenue came in higher compared to budget due to the timing of refunds and reimbursements. Investment income increased due to favorable market trends in contrast to the conditions at the time the budget was prepared.

Year over year, the total revised budget across all funds was \$1,634,659,324, up 4.4% from Fiscal Year 2021-22. A large portion of this budget is unappropriated fund balance in the Affordable Housing and Parks and Nature Bond funds. The Affordable Housing funds are expected to be fully committed in the next two to three years. The Parks and Nature Bond program is forecasted to fully spend the voter approved bonding authority over the next eight to ten years; the unappropriated fund balance related to that program will fluctuate as bonds are issued and funds expended.

Metro’s Capital Assets
(Net of accumulated depreciation and amortization)

	Governmental Activities		Business-type Activities		Total Primary Government	
	2023	2022	2023	2022	2023	2022
Land	\$ 315,250,863	311,457,111	24,155,600	21,045,160	339,406,463	332,502,271
Leased land	-	-	8,649,438	8,817,907	8,649,438	8,817,907
Intangible - easements	11,929,884	12,248,393	-	-	11,929,884	12,248,393
Artwork	484,645	274,486	1,184,358	1,184,358	1,669,003	1,458,844
Buildings and exhibits	21,585,943	22,740,173	263,254,968	271,999,866	284,840,911	294,740,039
Leased buildings and exhibits	407,539	603,157	5,728,812	6,429,518	6,136,351	7,032,675
Improvements	26,720,506	28,209,890	19,558,141	19,734,623	46,278,647	47,944,513
Equipment and vehicles	2,747,478	2,806,538	13,745,839	14,941,083	16,493,317	17,747,621
Leased equipment and vehicles	70,096	140,191	-	-	70,096	140,191
Intangible - software	2,062,557	1,104,237	116,535	120,263	2,179,092	1,224,500
Right to use asset - software	921,862	-	685,036	-	1,606,898	-
Office furniture/equip	330,624	480,670	391,993	491,247	722,617	971,917
Railroad equip/facilities	-	-	1,069,752	1,418,781	1,069,752	1,418,781
Construction in progress	17,082,953	8,800,468	4,971,194	5,812,178	22,054,147	14,612,646
Total	\$ 399,594,950	388,865,314	343,511,666	351,994,984	743,106,616	740,860,298

CAPITAL ASSET AND DEBT ADMINISTRATION

Capital assets. Metro’s capital assets for its governmental and business-type activities total \$743,106,616 (net of accumulated depreciation and amortization) as of June 30, 2023.

This investment includes land, buildings and exhibits, improvements, and various types of equipment. The total increase (including additions and deductions) in Metro’s investment in capital assets for the current fiscal year was \$2,246,318 or 0.3 percent, net of accumulated depreciation and amortization. Metro reflects an increase of \$10,729,636 or 2.8 percent in capital assets attributable to governmental activities and a decrease of \$8,483,318 or 2.4 percent in business-type activity capital assets (additional capital assets, less increases in accumulated depreciation and amortization). Additional information on Metro’s capital assets can be found in Note IV.E to the financial statements.

Metro implemented GASB Statement No. 96 Subscription-Based Information Technology Arrangements (SBITA) in the current year. The implementation required the recognition of contracts that convey control of the right to use another party’s IT software for a specific period of time in an exchange or exchange-like transaction. Additional information on Metro’s lease and SBITA assets can be found in Notes IV.E, IV.K, and IV.L to the financial statements.

Long-term debt. At the end of the current fiscal year, Metro had total debt outstanding of \$919,647,181, net of unamortized premiums and discounts. Of this amount, \$821,771,917 comprises debt backed by property tax assessments and \$81,236,628 represents bonds secured by a broad pledge of Metro revenues, including property taxes used to support operations, and excise taxes levied on users of certain Metro services. Leases and SBITA payable make up the remainder of the balance.

The table below provides a summary of Metro’s debt activity. Bonds are reflected net of unamortized premiums and discounts as disclosed in the notes to the financial statements.

Metro’s total debt decreased \$73,545,445 or 7.4 percent during the current fiscal year. This is reflective of scheduled debt and lease repayments as well as the refunding of portions of the outstanding 2012A Series Natural Areas and Oregon Zoo Infrastructure General Obligation Bonds. The refunding resulted in a reduction of debt service of \$2,384,090 over 5 years and a net present value savings of \$452,785. The repayments and refunding savings are offset slightly by increases to total debt related to SBITA payable recognition during the aforementioned GASB 96 adoption.

Metro’s Outstanding Debt

	Governmental Activities		Business-type activities		Total - Primary Government	
	2023	2022	2023	2022	2023	2022
General Obligation bonds	\$ 821,771,917	878,162,868	-	-	821,771,917	878,162,868
Full Faith & Credit/Revenue	79,134,719	95,695,835	2,101,909	3,145,022	81,236,628	98,840,857
Leases payable	478,343	723,596	14,753,779	15,465,305	15,232,122	16,188,901
SBITA payable	787,812	-	618,702	-	1,406,514	-
Total	\$ 902,172,791	974,582,299	17,474,390	18,610,327	919,647,181	993,192,626

In March 2020, Standard & Poor’s reaffirmed its AAA rating on Metro general obligation bonds, while Moody’s Investor Services reaffirmed its Aaa rating. The rating agencies’ reports emphasized the strong financial reserves of the agency, the low debt ratio, a significantly broad tax base and the strength of its financial policies. In May 2020, Moody’s issued a credit opinion on Metro’s 2017 Dedicated Tax Revenue Bonds affirming their Aa3 rating due to strong reserves, historically robust coverage, and solid mechanisms for bond repayment. However, they were assigned a negative outlook because of the expected declines in tourism due to the COVID-19 pandemic. In April 2022, Moody’s revised the outlook to stable, reflecting strong management, solid reserves, and an expectation that hotel tax revenue would likely improve as business travel and tourism resume. The 2022 rating action affirmed the Aa3 rating on the special tax bonds and the Aaa rating on general obligation unlimited tax.

State statutes limit the amount of general obligation debt a governmental entity may issue to 10 percent of its total assessed valuation. The current debt limitation for Metro is \$42,373,303,340, which is significantly in excess of Metro’s outstanding general obligation debt.

Additional information on Metro’s long-term debt can be found in Notes IV.K through IV.N in the financial statements.

ECONOMIC FACTORS AND NEXT YEAR’S BUDGET AND RATES

By law, Metro must present a balanced budget. When accounting for all resources and requirements, the budget for Fiscal Year 2023-24 totals \$1,800,169,046, up 10.1 percent from Fiscal Year 2022-23. A detailed discussion can be found in Metro’s 2023-24 Adopted Budget.

Budgetary assumptions impacting Metro’s budget are:

- Property taxes reflect Metro’s permanent operating rate of \$0.0966/\$1,000 of assessed value; and the local option levy rate of \$0.0960/\$1,000 of assessed value. FY 2023-24 is the first year of the third five-year local option levy approved for renewal approved by voters in 2022. All levies assume a 4.0 percent increase in assessed value and a 94.5 percent collectible rate.
- Local government revenues include the Transient Lodging Tax (TLT) collected by Multnomah County to support operations of OCC and Portland’s and capital funding for OCC and Expo, and the Visitor Facilities Trust Account (VFTA) allocations to OCC and Portland’s. Those revenues are expected to increase as the region continues to recover from the COVID-19 pandemic.
- Enterprise revenues include a 30.5 percent increase at MERC, a 35.4 percent increase at the Oregon Zoo, and an 11.9 percent increase in solid waste revenues.

Management Discussion and Analysis

For the fiscal year ended June 30, 2023

- Personnel services costs increased by 14.4 percent. The increase is mainly related to staff additions needed to provide quality services for internal and external stakeholders. A large percentage of Metro staff are represented and salary increases are based on specific collective bargaining agreements, contributing to the personnel services cost increase.
- The number of authorized positions increased in the adopted fiscal year 2023-24 budget from the amended 2022-23 budget by a net 46.85 FTE to a total of 1,148.95 FTE as additional staffing needs were identified to support the housing programs and to meet operational and programmatic requirements in central services.
- Voters in greater Portland approved a supportive housing services tax in May 2020, levying a 1% tax on personal taxable income above \$125,000 for individuals and \$200,000 for those filing jointly, and a 1% tax on net business income for businesses with gross receipts in excess of \$5.0 million. The budget anticipates \$234.4 million in revenues and \$226.2 million in payments to other governmental agencies for the implementation of the supportive housing services program, related tax collection, and program administration and oversight.
- Significant capital and bond project expenditures in fiscal year 2024 include \$244 million to local partners for approved affordable housing projects and site acquisition, \$28 million in payments to grantees and other governmental agencies for parks and natural area projects, \$30.7 million for land acquisition and infrastructure work within the parks and nature portfolio, \$13 million for infrastructure-related work at the MERC facilities, and \$14.0 million for solid waste facility capital projects including a building acquisition for the regional illegal dumping program.

Metro's financial policies are the backbone of Metro's financial accountability and transparency. The fiscal year 2023-24 budget is a chance to prepare both for the coming fiscal year and for the longer term. Preparing for the future is a core element of Metro's charter and organizational culture.

REQUESTS FOR INFORMATION

This financial report is designed to provide a general overview of Metro's finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Chief Financial Officer, Metro, 600 NE Grand Avenue, Portland, Oregon, 97232-2736.

Basic Financial Statements

METRO | Annual Comprehensive Financial Report 2023







Government-Wide Financial Statements

METRO
Statement of Net Position
June 30, 2023

	Primary Government			Component Unit
	Governmental Activities	Business-type Activities	Total	Oregon Zoo Foundation
ASSETS				
Equity in internal cash and investment pool	\$ 59,876,479	124,263,835	184,140,314	2,682,447
Investments	-	-	-	19,356,124
Receivables (net of allowance for uncollectibles):				
Property taxes	418,125	-	418,125	-
Trade	21,433	12,052,557	12,073,990	183,743
Other	2,702,051	10,935,431	13,637,482	563,196
Interest	255,611	489,483	745,094	-
Grants	-	162,391	162,391	-
Internal balances	4,398,158	(4,398,158)	-	-
Lease receivable	1,336,646	-	1,336,646	-
Public-private partnership receivable	-	32,599,099	32,599,099	-
Inventories	-	531,912	531,912	-
Prepaid items	1,040,096	119,456	1,159,552	-
Net OPEB asset	935,610	881,046	1,816,656	-
Other assets	493,054	52,010	545,064	111,964
Restricted assets:				
Equity in internal cash and investment pool	160,210,828	865,278	161,076,106	-
Investments	482,331,186	-	482,331,186	-
Receivables (net of allowance for uncollectibles):				
Property taxes	2,068,662	-	2,068,662	-
Personal and business income taxes	43,191,606	-	43,191,606	-
Other	4,130,951	-	4,130,951	-
Interest	2,661,928	-	2,661,928	-
Grants	6,638,279	-	6,638,279	-
Assets held for resale	12,917,367	-	12,917,367	-
Advances	387,259,522	-	387,259,522	-
Prepaid items	204,390	-	204,390	-
Loans receivable	419,743	-	419,743	-
Capital assets:				
Land, intangibles, artwork and construction in progress	344,748,345	30,311,152	375,059,497	-
Other capital assets (net of accumulated depreciation and amortization)	54,846,605	313,200,514	368,047,119	19,500
Total assets	1,573,106,675	522,066,006	2,095,172,681	22,916,974
DEFERRED OUTFLOWS OF RESOURCES				
Deferred pension amounts	17,888,936	16,868,921	34,757,857	-
Deferred OPEB amounts	127,574	162,803	290,377	-
Total deferred outflows of resources	18,016,510	17,031,724	35,048,234	-
LIABILITIES				
Accounts payable	28,614,179	15,374,229	43,988,408	293,736
Accrued salaries and benefits	2,723,491	2,643,251	5,366,742	-
Contracts payable	73,742	451,975	525,717	2,625,567
Accrued interest payable	2,286,685	45,023	2,331,708	-
Accrued self-insurance claims	733,000	-	733,000	-
Unearned revenue	559,581	10,282,326	10,841,907	302,147
Deposits payable	22,486	2,971,800	2,994,286	-
Other liabilities	7,700	574,841	582,541	-

(Continued)

METRO
Statement of Net Position, *continued*
June 30, 2023

	Primary Government			Component Unit Oregon Zoo Foundation
	Governmental Activities	Business-type Activities	Total	
LIABILITIES, Continued				
Non-current liabilities:				
Due within one year:				
Leases payable	\$ 253,633	624,920	878,553	-
SBITA payable	519,594	257,431	777,025	-
Bonds payable	59,328,477	965,000	60,293,477	-
Post-closure costs payable	-	907,450	907,450	-
Compensated absences	5,010,413	3,919,623	8,930,036	-
Due in more than one year:				
Leases payable	224,710	14,128,859	14,353,569	-
SBITA payable	268,218	361,271	629,489	-
Bonds payable (net of unamortized premium or discount)	841,578,159	1,136,909	842,715,068	-
Total OPEB liability	943,006	1,236,539	2,179,545	-
Post-closure costs payable	-	1,925,246	1,925,246	-
Pollution remediation obligation	8,940,969	95,000	9,035,969	-
Compensated absences	54,354	93,588	147,942	-
Net pension liability	42,075,633	39,676,509	81,752,142	-
Total liabilities	994,218,030	97,671,790	1,091,889,820	3,221,450
DEFERRED INFLOWS OF RESOURCES				
Deferred lease amounts	1,267,251	-	1,267,251	-
Deferred public-private partnership amounts	-	32,229,835	32,229,835	-
Deferred charge on refunding	4,080,994	-	4,080,994	-
Deferred pension amounts	22,708,379	21,413,563	44,121,942	-
Deferred OPEB amounts	772,298	925,581	1,697,879	-
Total deferred inflows of resources	28,828,922	54,568,979	83,397,901	-
NET POSITION				
Net investment in capital assets (1)	344,469,479	326,037,270	647,808,583	19,500
Restricted for:				
Parks and natural areas operations				
Expendable	10,009,597	-	10,009,597	-
Non-expendable	12,665	-	12,665	-
Supportive housing services	353,663,765	-	353,663,765	-
Transit-oriented development projects	19,515,888	-	19,515,888	-
Planning projects	30,749,450	-	30,749,450	-
Smith and Bybee Wetlands management plan	1,204,481	-	1,204,481	-
Community enhancement	1,449,451	-	1,449,451	-
Willamette Falls Legacy project	15,291,859	-	15,291,859	-
Debt service	2,624,348	-	2,624,348	-
Capital projects	67,488,408	5,523,549	73,011,957	-
Perpetual care: Non-expendable	747,747	-	747,747	-
Unrestricted	(279,150,905)	55,296,142	(201,156,597)	19,676,024
Total net position	\$ 568,076,233	386,856,961	954,933,194	19,695,524

(1) See Note II.D.16 in the notes to the financial statements

The notes to the financial statements are an integral part of this statement.

METRO
Statement of Activities
For the fiscal year ended June 30, 2023

	Expenses	Program Revenues		
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions
FUNCTIONS/PROGRAMS				
Primary Government:				
Governmental activities:				
General government operations	\$ 9,665,907	823,350	3,603,488	-
Planning, development and research	22,085,632	1,940,465	15,662,721	-
Housing	258,576,138	14,400	-	-
Culture and recreation	39,097,568	8,052,173	767,151	41,946
Interest on long-term debt	27,331,869	-	-	-
Total governmental activities	356,757,114	10,830,388	20,033,360	41,946
Business-type activities:				
Solid Waste	105,381,938	105,294,626	6,587,581	-
Oregon Zoo	50,082,803	24,918,459	3,849,665	855,053
MERC	74,517,626	51,285,504	21,232,774	40,000
Total business-type activities	229,982,367	181,498,589	31,670,020	895,053
Total primary government	\$ 586,739,481	192,328,977	51,703,380	936,999
Component Unit:				
Oregon Zoo Foundation	\$ 9,940,522	5,779,176	5,593,700	-
General revenues:				
Property taxes				
Personal and business income taxes				
Excise taxes				
Construction excise tax				
Cemetery revenue surcharge				
Unrestricted investment earnings (loss)				
Transfers				
Total general revenues and transfers				
Change in net position				
Net position - July 1, 2022				
Net position - June 30, 2023				

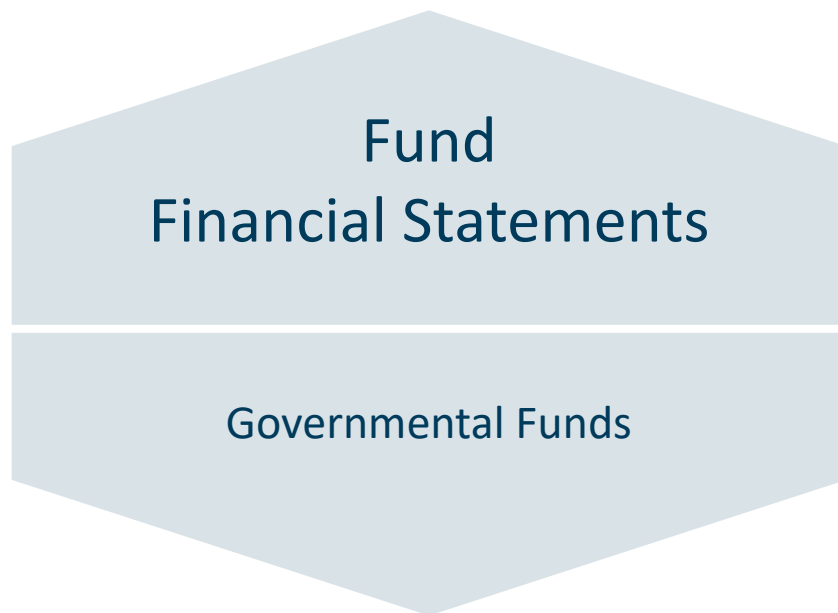
The notes to the financial statements are an integral part of this statement.

Net (Expense) Revenue and Changes in Net Position			
Primary Government			Component Unit
Governmental Activities	Business-type Activities	Total	Oregon Zoo Foundation
(5,239,069)	-	(5,239,069)	
(4,482,446)	-	(4,482,446)	
(258,561,738)	-	(258,561,738)	
(30,236,298)	-	(30,236,298)	
(27,331,869)	-	(27,331,869)	
(325,851,420)	-	(325,851,420)	
-	6,500,269	6,500,269	
-	(20,459,626)	(20,459,626)	
-	(1,959,348)	(1,959,348)	
-	(15,918,705)	(15,918,705)	
(325,851,420)	(15,918,705)	(341,770,125)	
			1,432,354
112,919,912	-	112,919,912	-
347,044,362	-	347,044,362	-
20,439,427	-	20,439,427	-
3,598,048	-	3,598,048	-
60,039	-	60,039	-
15,956,736	2,802,953	18,759,689	1,480,785
(14,343,199)	14,343,199	-	-
485,675,325	17,146,152	502,821,477	1,480,785
159,823,905	1,227,447	161,051,352	2,913,139
408,252,328	385,629,514	793,881,842	16,782,385
\$ 568,076,233	386,856,961	954,933,194	19,695,524



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Fund Financial Statements



Major Funds

General Fund

The *General Fund* accounts for all activities not required to be accounted for in another fund. This fund accounts for Metro’s primary governmental programs and support services including Council, Office of the Auditor, Office of Metro Attorney, Information Services, Communications, Finance and Regulatory Services, Human Resources, Capital Asset Management (construction project management and Metro Regional Center building operations components), Parks and Nature, Planning, Development and Research (land use, urban growth management, research, and environmental and transportation planning), and special and non-departmental appropriations. The principal resources of the fund are charges for services, grants, property taxes, construction excise tax, and excise taxes on Metro’s facilities and services levied in accordance with the Metro Code.

The budgetary General Fund is combined with two other budgetary funds, the General Revenue Bond Fund – General and the General Asset Management Fund, to become one fund in accordance with accounting principles generally accepted in the United States of America.

Special Revenue Funds

Parks and Nature Operating Fund

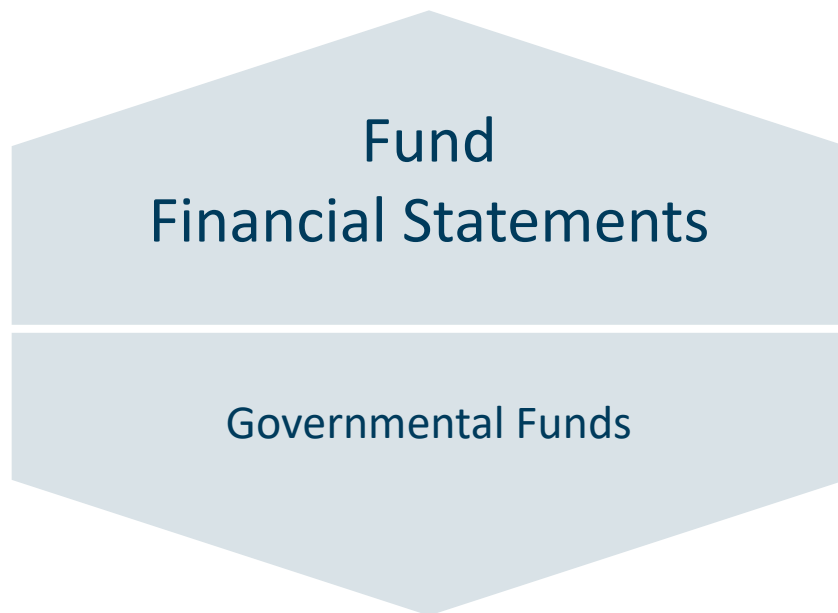
This fund accounts for a dedicated local option levy and other funding that is used to improve water quality and restore wildlife habitat, wetlands, and floodplains in the region, as well as needed upkeep to parks, nature education and community partnerships throughout the region.

Affordable Housing Fund

This fund was established to account for bond proceeds and expenditures related to the 2018 Affordable Housing Measure. Metro sold \$652.8 million in taxable bonds in May 2019 to fund affordable housing for low-income families, seniors, veterans and people with disabilities in the greater Portland region.

Supportive Housing Services Fund

This fund was established to account for income tax proceeds and expenditures related to the 2020 Supportive Housing Services Measure. Specifically, funds will provide funding for housing assistance and wraparound services. The principal source of revenue is personal income taxes and business income taxes.



Major Funds

Debt Service Fund

The General Obligation Bond Debt Service Fund accounts for payments of general obligation bond principal and interest to bondholders. The principal resources are property taxes and investment income.

Capital Projects Funds

Natural Areas Fund

This fund accounts for activities to acquire and preserve natural areas and stream frontages, maintain and improve water quality, and protect fish and wildlife habitat. The principal resources are investment income and grants.

Parks and Nature Bond Fund

This fund accounts for activities to protect natural areas, water quality, and fish and wildlife habitat and connecting people to nature. The principal sources of revenue are bonds issued, premium on bonds issued, and investment income.

Nonmajor Funds

Other Governmental Funds

Other governmental funds include Smith and Bybee Wetlands Fund, Community Enhancement Fund, and Cemetery Perpetual Care Fund.

METRO
Balance Sheet and Reconciliation to Statement of Net Position
Governmental Funds
June 30, 2023

	General	Special Revenue		
		Parks and Nature Operating	Affordable Housing	Supportive Housing Services
ASSETS				
Equity in internal cash and investment pool	\$ 117,508,588	13,494,526	23,081,054	21,038,403
Investments	-	-	348,710,066	-
Receivables:				
Property taxes	418,125	387,427	-	-
Personal and business income taxes	-	-	-	43,191,606
Trade	423	21,010	-	-
Other	6,515,180	93,747	-	-
Interest	436,899	53,778	1,667,564	74,703
Grants	6,638,279	-	-	-
Lease receivable	1,058,092	278,554	-	-
Assets held for resale	4,717,367	-	8,200,000	-
Advances	-	-	96,260,646	290,998,876
Prepaid items	427,003	11,356	-	-
Other assets	201,200	13,132	-	200,000
Loans receivable	419,743	-	-	-
Restricted assets:				
Equity in internal cash and investment pool	3,657,328	-	-	-
Total assets	\$ 141,998,227	14,353,530	477,919,330	355,503,588
LIABILITIES				
Accounts payable	\$ 8,386,058	2,687,866	14,298,868	1,723,830
Accrued salaries and benefits	1,935,710	493,557	35,652	46,636
Contracts payable	70,875	-	-	-
Unearned revenue	388,105	154,467	-	-
Deposits payable	11,955	9,331	1,200	-
Other liabilities	5,239	1,991	-	-
Total liabilities	10,797,942	3,347,212	14,335,720	1,770,466
DEFERRED INFLOWS OF RESOURCES				
Unavailable revenue-property taxes	322,397	291,488	-	-
Unavailable revenue-other	3,750,802	-	-	-
Deferred lease amounts	1,018,537	248,714	-	-
Total deferred inflows of resources	5,091,736	540,202	-	-
FUND BALANCES				
Nonspendable	427,003	11,356	96,260,646	290,998,876
Restricted	70,127,790	10,454,760	367,322,964	62,734,246
Committed	9,900,092	-	-	-
Assigned	661,541	-	-	-
Unassigned	44,992,123	-	-	-
Total fund balances	126,108,549	10,466,116	463,583,610	353,733,122
Total liabilities, deferred inflows of resources and fund balances	\$ 141,998,227	14,353,530	477,919,330	355,503,588

Amounts reported for governmental activities in the statement of net position are different because:

Capital assets used in governmental activities are not financial resources and therefore are not reported in the funds.

The net pension liability, net OPEB liability, and related deferred outflows and inflows of resources are not available/payable in the current period and therefore are not reported in the funds.

Property taxes and certain other revenues are not available to pay for current period expenditures and therefore are reported as unavailable revenue in the funds.

An internal service fund is used by management to charge the costs of insurance and risk management to individual funds. The assets and liabilities of the internal service fund are included in governmental activities in the statement of net position.

Long-term liabilities (including bonds payable) and related deferred inflows of resources, are not due and payable in the current period and therefore are not reported in the funds.

Net position of governmental activities

The notes to the financial statements are an integral part of this statement.

General Obligation Bond Debt Service	Capital Projects		Other Governmental Funds	Total Governmental Funds
	Natural Areas	Parks and Nature Bond		
3,010,718	3,640,358	30,217,989	3,138,300	215,129,936
-	-	133,621,120	-	482,331,186
1,681,235	-	-	-	2,486,787
-	-	-	-	43,191,606
-	-	-	-	21,433
-	-	-	59,871	6,668,798
7,707	13,627	644,447	12,490	2,911,215
-	-	-	-	6,638,279
-	-	-	-	1,336,646
-	-	-	-	12,917,367
-	-	-	-	387,259,522
-	-	991	408	439,758
-	-	8,722	-	423,054
-	-	-	-	419,743
7	-	-	-	3,657,335
<u>4,699,667</u>	<u>3,653,985</u>	<u>164,493,269</u>	<u>3,211,069</u>	<u>1,165,832,665</u>
-	236,121	904,714	337,568	28,575,025
-	939	194,353	-	2,706,847
-	-	2,867	-	73,742
-	-	17,008	-	559,580
-	-	-	-	22,486
-	-	470	-	7,700
-	<u>237,060</u>	<u>1,119,412</u>	<u>337,568</u>	<u>31,945,380</u>
1,286,885	-	-	-	1,900,770
-	-	-	-	3,750,802
-	-	-	-	1,267,251
<u>1,286,885</u>	-	-	-	<u>6,918,823</u>
-	-	991	748,155	388,447,027
3,412,782	3,416,925	163,372,866	2,136,698	682,979,031
-	-	-	-	9,900,092
-	-	-	-	661,541
-	-	-	(11,352)	44,980,771
<u>3,412,782</u>	<u>3,416,925</u>	<u>163,373,857</u>	<u>2,873,501</u>	<u>1,126,968,462</u>
<u>4,699,667</u>	<u>3,653,985</u>	<u>164,493,269</u>	<u>3,211,069</u>	
				399,594,950
				(47,547,196)
				5,651,572
				5,953,141
				(922,544,696)
				<u>\$ 568,076,233</u>

METRO
Statement of Revenues, Expenditures and Changes in Fund Balances
Governmental Funds
For the fiscal year ended June 30, 2023

	General	Special Revenue		
		Parks and Nature Operating	Affordable Housing	Supportive Housing Services
REVENUES				
Property taxes	\$ 18,804,903	18,155,164	-	-
Excise taxes	20,439,429	-	-	-
Personal and business income taxes	-	-	-	347,044,362
Construction excise tax	3,598,048	-	-	-
Cemetery revenue surcharge	60,039	-	-	-
Investment income	2,407,496	403,608	9,582,803	727,251
Government fees	1,980	13,825	-	-
Culture and recreation fees	4,149,189	1,081,896	14,400	-
Solid waste fees	-	-	-	-
Other fees	992,062	706,488	-	-
Internal charges for services	1,205,481	-	-	-
Licenses and permits	587,155	-	-	-
Miscellaneous revenue	281,988	688,928	-	-
Grants	13,637,797	119,675	-	-
Local government shared revenues	3,615,032	663,986	-	-
Government contributions	-	28,812	-	-
Capital grants	-	16,946	-	-
Total revenues	69,780,599	21,879,328	9,597,203	347,771,613
EXPENDITURES				
Current:				
General government operations	11,530,084	-	-	-
Planning, development and research	24,017,210	-	-	-
Housing	-	-	99,785,866	158,753,889
Culture and recreation	3,933,490	25,286,584	-	-
Debt service:				
Principal	16,145,000	-	-	-
Interest	3,707,616	-	-	-
Capital outlay	2,911,787	394,896	-	-
Total expenditures	62,245,187	25,681,480	99,785,866	158,753,889
Revenues over (under) expenditures	7,535,412	(3,802,152)	(90,188,663)	189,017,724
OTHER FINANCING SOURCES (USES)				
Refunding bonds issued	-	-	-	-
SBITA	1,418,401	195,400	-	-
Sale of capital assets	41,450	3,850	-	-
Transfers in	14,502,692	2,606,000	-	-
Payment to refunded bond escrow agent	-	-	-	-
Transfers out	(18,514,159)	(732,587)	(19,958)	(12,057,284)
Total other financing sources (uses)	(2,551,616)	2,072,663	(19,958)	(12,057,284)
Net change in fund balances	4,983,796	(1,729,489)	(90,208,621)	176,960,440
Fund balances - July 1, 2022	121,124,753	12,195,605	553,792,231	176,772,682
Fund balances - June 30, 2023	\$ 126,108,549	10,466,116	463,583,610	353,733,122

The notes to the financial statements are an integral part of this statement.

General Obligation Bond Debt Service	Capital Projects		Other Governmental Funds	Total Governmental Funds
	Natural Areas	Parks and Nature Bond		
76,186,943	-	-	-	113,147,010
-	-	-	-	20,439,429
-	-	-	-	347,044,362
-	-	-	-	3,598,048
-	-	-	-	60,039
980,657	114,397	1,576,796	81,582	15,874,590
-	-	-	-	15,805
-	-	-	-	5,245,485
-	-	-	1,313,889	1,313,889
-	-	-	-	1,698,550
-	-	-	-	1,205,481
-	-	-	-	587,155
-	-	4,252	-	975,168
-	-	-	-	13,757,472
-	-	-	-	4,279,018
-	-	-	-	28,812
-	-	-	-	16,946
<u>77,167,600</u>	<u>114,397</u>	<u>1,581,048</u>	<u>1,395,471</u>	<u>529,287,259</u>
80,380	-	-	-	11,610,464
-	-	-	-	24,017,210
-	-	-	-	258,539,755
-	1,163,500	5,493,332	1,556,504	37,433,410
48,485,000	-	-	-	64,630,000
27,142,185	-	-	-	30,849,801
-	39,871	12,232,705	-	15,579,259
<u>75,707,565</u>	<u>1,203,371</u>	<u>17,726,037</u>	<u>1,556,504</u>	<u>442,659,899</u>
<u>1,460,035</u>	<u>(1,088,974)</u>	<u>(16,144,989)</u>	<u>(161,033)</u>	<u>86,627,360</u>
40,873,920	-	-	-	40,873,920
-	-	-	-	1,613,801
-	-	-	-	45,300
-	-	-	-	17,108,692
(41,750,751)	-	-	-	(41,750,751)
-	(563)	(94,080)	(17,822)	(31,436,453)
<u>(876,831)</u>	<u>(563)</u>	<u>(94,080)</u>	<u>(17,822)</u>	<u>(13,545,491)</u>
583,204	(1,089,537)	(16,239,069)	(178,855)	73,081,869
<u>2,829,578</u>	<u>4,506,462</u>	<u>179,612,926</u>	<u>3,052,356</u>	<u>1,053,886,593</u>
<u>3,412,782</u>	<u>3,416,925</u>	<u>163,373,857</u>	<u>2,873,501</u>	<u>1,126,968,462</u>

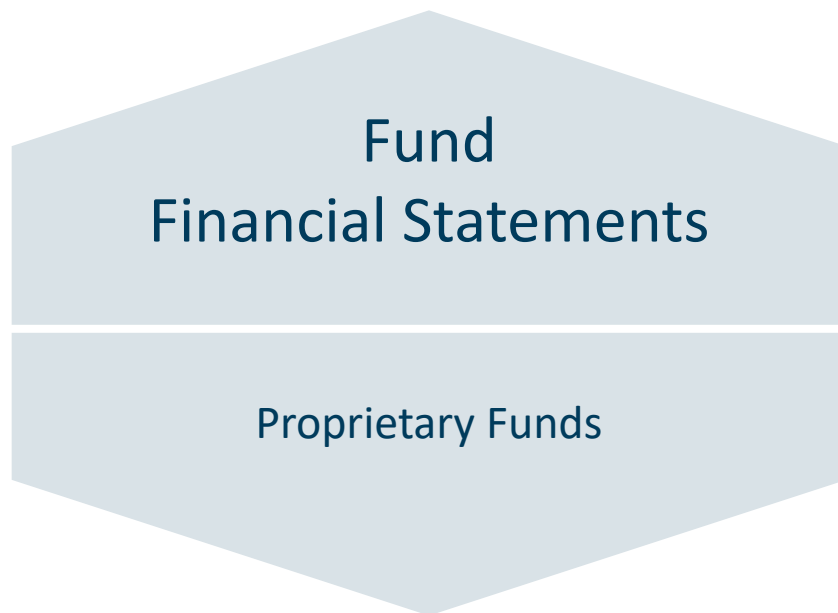
METRO

Reconciliation of the Statement of Revenues, Expenditures and Changes in Fund Balances of Governmental Funds to the Statement of Activities For the year ended June 30, 2023

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund balances-total governmental funds	\$	73,081,869
<p>Governmental funds report capital outlays as expenditures, while governmental activities report depreciation expense to allocate those expenditures over the life of the assets. This is the amount by which capital outlays exceeded depreciation and amortization</p>		
Expenditures for capital assets	13,946,490	
Less current year depreciation and amortization	<u>(4,532,469)</u>	9,414,021
<p>Governmental funds purchase capital assets that are subsequently transferred and then owned and depreciated by a proprietary fund in the statement of activities</p>		
		(7,426)
<p>In the statement of activities, only the gain or loss on the disposal of capital assets is reported, while in governmental funds, the entire proceeds from sales increase financial resources. The change in net position differs from the change in fund balance by the book values of the assets disposed.</p>		
		(412,796)
<p>Revenues in the statement of activities that do not provide current financial resources are not reported as revenues in the funds.</p>		
Change in unavailable revenue-property taxes	(227,098)	
Change in unavailable revenue-other	<u>1,756,912</u>	1,529,814
<p>An internal service fund is used by management to charge the costs of insurance and risk management to individual funds. The net revenue of certain activities of the internal service fund is included in governmental activities in the statement of activities.</p>		
		(69,222)
<p>The issuance of long-term debt provides current financial resources to governmental funds, but issuance of debt increases long-term liabilities in the statement of net position. The repayment of principal on long-term debt uses current financial resources of governmental funds, but repayment of debt reduces long-term liabilities in the statement of net position. Also, governmental funds report the effect of issuance costs, premiums, discounts, and similar items when debt is first issued, whereas premiums and discounts are deferred and amortized in the statement of activities. These are the effects of the differences in the treatment of long-term debt and related items.</p>		
Bonds issued	(40,873,920)	
Principal payments on bonds	64,630,000	
Payment to refunded bond escrow agent	41,750,751	
Amortization of unamortized premium or discount	<u>3,364,243</u>	68,871,074
<p>Expenses in the statement of activities that do not require the use of current financial resources are not reported as expenditures in the funds.</p>		
Pollution remediation liability	101,973	
Other postemployment benefits	161,539	
Compensated absences	(465,443)	
Amortization of deferred charge on refunding	(12,792)	
Accruals associated with pension related obligations	6,310,834	
Leases payable	245,253	
SBITA payable	914,652	
Accrued interest payable	<u>160,555</u>	7,416,571
Change in net position of governmental activities		<u>\$ 159,823,905</u>

The notes to the financial statements are an integral part of this statement.



Enterprise Funds

Major Funds

Solid Waste Fund

This fund accounts for revenues, primarily from charges for services for the disposal of solid waste, and expenses for the implementation, administration and enforcement of Metro’s Solid Waste Management Plan. This fund also accounts for Metro South Station and Metro Central Station solid waste transfer and recycling facilities, and the closed St. Johns Landfill.

Oregon Zoo Fund

This fund accounts for revenues and expenses related to the management and operation of the Oregon Zoo. The principal sources of revenue are charges for services such as admission and membership fees, and food, beverage and gift sales. Expenses consist primarily of facility operation costs and payroll. This fund consists of three budgetary funds (Oregon Zoo Operating Fund, Oregon Zoo Asset Management Fund and General Revenue Bond Fund-Oregon Zoo) that are combined as one Enterprise Fund to be in accordance with accounting principles generally accepted in the United States of America.

MERC Fund

This fund accounts for revenues and expenses related to the management and operation of facilities managed by MERC, including the OCC, Expo Center, and Portland’5. The principal sources of revenue are charges for services and local government shared revenue. Expenses consist primarily of management, food and beverage and operation costs. This fund consists of two budgetary funds (MERC Fund and General Revenue Bond Fund-MERC) that are combined as one Enterprise Fund to be in accordance with accounting principles generally accepted in the United States of America.

Internal Service Fund

Major Funds

Risk Management Fund

This fund accounts for risk management and self-insurance programs performed for other organizational units within Metro. The primary revenue is charges for services to user funds. Primary expenses are insurance premiums, claims costs, and studies related to insurance issues.

METRO
Statement of Net Position
Proprietary Funds
June 30, 2023

	Business-type Activities-Enterprise Funds				Governmental Activities- Internal Service Fund
	Solid Waste	Oregon Zoo	MERC	Total	Risk Management
ASSETS					
Current assets:					
Equity in internal cash and investment pool	\$ 43,406,968	38,745,950	42,110,917	124,263,835	1,300,036
Receivables:					
Trade	6,695,276	504,519	4,852,762	12,052,557	-
Other	3,045,775	632,519	7,257,137	10,935,431	164,204
Interest	160,684	161,458	167,341	489,483	6,324
Grants	-	162,391	-	162,391	-
Due from other funds	513,839	-	-	513,839	-
Public-private partnership receivable	-	2,638,561	1,315,047	3,953,608	-
Inventories	531,912	-	-	531,912	-
Prepaid items	77,672	7,925	33,859	119,456	804,728
Other assets	-	52,010	-	52,010	70,000
Total current assets	54,432,126	42,905,333	55,737,063	153,074,522	2,345,292
Noncurrent assets:					
Restricted equity in internal cash and investment pool	-	-	865,278	865,278	-
Public-private partnership receivable	-	15,182,110	13,463,381	28,645,491	-
OPEB asset	287,259	310,759	283,028	881,046	-
Capital assets, net	38,378,889	160,784,009	144,348,768	343,511,666	122,036
Total noncurrent assets	38,666,148	176,276,878	158,960,455	373,903,481	122,036
Total assets	93,098,274	219,182,211	214,697,518	526,978,003	2,467,328
DEFERRED OUTFLOWS OF RESOURCES					
Deferred pension amounts	6,260,740	5,293,187	5,314,994	16,868,921	-
Deferred OPEB amounts	58,819	56,184	47,800	162,803	-
Total deferred outflows of resources	6,319,559	5,349,371	5,362,794	17,031,724	-
LIABILITIES					
Current liabilities:					
Accounts payable	7,641,929	1,840,295	5,892,009	15,374,233	39,166
Accrued salaries and benefits	961,552	845,918	835,781	2,643,251	16,644
Contracts payable	178,163	145,190	128,622	451,975	-
Accrued interest payable	10,031	1,960	33,032	45,023	222
Accrued self-insurance claims	-	-	-	-	733,000
Unearned revenue	3,475,554	681,832	6,124,940	10,282,326	-
Deposits payable	19,101	84,876	2,867,823	2,971,800	-
Other liabilities	543	562,816	11,482	574,841	-
Due to other funds	-	513,839	-	513,839	-
Leases payable-current	545,907	-	79,013	624,920	-
SBITA payable-current	5,940	14,652	236,839	257,431	44,109
Bonds payable-current	-	-	965,000	965,000	-
Post-closure costs payable-current	907,450	-	-	907,450	-
Compensated absences-current	1,352,766	1,278,762	1,288,095	3,919,623	22,887
Total current liabilities	15,098,936	5,970,140	18,462,636	39,531,712	856,028

(Continued)

METRO
Statement of Net Position
Proprietary Funds, *continued*
June 30, 2023

	Business-type Activities-Enterprise Funds				Governmental Activities- Internal Service Fund Risk Management
	Solid Waste	Oregon Zoo	MERC	Total	
LIABILITIES, <i>continued</i>					
Noncurrent liabilities:					
Leases payable	\$ 5,394,772	-	8,734,087	14,128,859	-
SBITA payable	20,187	49,795	291,289	361,271	44,552
Bonds payable (net of unamortized premium or discount)	-	-	1,136,909	1,136,909	-
Total OPEB liability	450,035	426,025	360,479	1,236,539	-
Post-closure costs payable	1,925,246	-	-	1,925,246	-
Pollution remediation obligation	-	-	95,000	95,000	-
Compensated absences	-	7,013	86,575	93,588	11,763
Net pension liability	14,725,560	12,449,829	12,501,120	39,676,509	-
Total non-current liabilities	22,515,800	12,932,662	23,205,459	58,653,921	56,315
Total liabilities	37,614,736	18,902,802	41,668,095	98,185,633	912,343
DEFERRED INFLOWS OF RESOURCES					
Deferred pension amounts	7,947,441	6,719,220	6,746,902	21,413,563	-
Deferred public-private partnership amounts	-	17,611,560	14,618,275	32,229,835	-
Deferred OPEB amounts	328,450	320,707	276,424	925,581	-
Total deferred inflows of resources	8,275,891	24,651,487	21,641,601	54,568,979	-
NET POSITION					
Net investment in capital assets	32,412,082	160,719,557	132,905,631	326,037,270	33,374
Restricted for:					
Capital projects	-	4,658,271	865,278	5,523,549	-
Unrestricted	21,115,124	15,599,465	22,979,707	59,694,296	1,521,611
Total net position	\$ 53,527,206	180,977,293	156,750,616	391,255,115	1,554,985
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds				(4,398,154)	
Net position of business-type activities				\$ 386,856,961	

The notes to the financial statements are an integral part of this statement.

METRO
Statement of Revenues, Expenses and Changes in Net Position
Proprietary Funds
For the fiscal year ended June 30, 2023

	Business-type Activities-Enterprise Funds				Governmental Activities- Internal Service Fund Risk Management
	Solid Waste	Oregon Zoo	MERC	Total	
OPERATING REVENUES					
Charges for services	\$ 105,298,823	24,918,459	51,285,504	181,502,786	846,735
Internal charges for services	-	-	-	-	1,644,988
Total operating revenues	105,298,823	24,918,459	51,285,504	181,502,786	2,491,723
OPERATING EXPENSES					
Payroll and fringe benefits	19,676,065	21,539,574	22,556,944	63,772,583	406,370
Depreciation and amortization	2,417,234	7,460,799	5,149,488	15,027,521	44,377
Administration	10,625,126	7,281,217	8,724,483	26,630,826	-
Facility operations	25,111,974	11,332,276	18,558,048	55,002,298	(76,800)
Marketing	-	-	5,104,564	5,104,564	-
Food and beverage	-	-	10,818,615	10,818,615	-
Disposal fees	10,814,337	-	-	10,814,337	-
Waste transport	16,456,951	-	-	16,456,951	-
Special waste disposal fees	1,088,582	-	-	1,088,582	-
Landfill post-closure (reduction)	808,614	-	-	808,614	-
Consulting services	7,258,213	2,197,166	646,218	10,101,597	2,000
Charges for services	-	-	132,293	132,293	-
Insurance	-	-	-	-	2,366,623
Claims	-	-	-	-	377,497
Actuarial claims (reduction)	-	-	-	-	96,000
Other materials and services	3,888,326	-	-	3,888,326	119,625
Total operating expenses	98,145,422	49,811,032	71,690,653	219,647,107	3,335,692
Operating income (loss)	7,153,401	(24,892,573)	(20,405,149)	(38,144,321)	(843,969)
NON-OPERATING REVENUES (EXPENSES)					
Investment income	913,311	1,062,439	827,203	2,802,953	82,148
Grants	6,587,581	1,248,435	486,303	8,322,319	-
Local government shared revenue	-	-	18,714,330	18,714,330	-
Government contributions	-	-	1,903,584	1,903,584	-
Contributions and donations	-	2,601,230	128,557	2,729,787	-
Contributions to other governments	-	-	(2,066,279)	(2,066,279)	-
Gain (loss) on disposal of capital assets	(274,400)	(7,876)	(106,735)	(389,011)	-
Gain (loss) on right to use modification	(4,197)	-	-	(4,197)	-
Waste reduction grants	(6,749,989)	-	-	(6,749,989)	-
Interest expense	(116,259)	(21,550)	(290,345)	(428,154)	(1,220)
Total non-operating revenues (expenses)	356,047	4,882,678	19,596,618	24,835,343	80,928
Income (loss) before transfers and capital contributions	7,509,448	(20,009,895)	(808,531)	(13,308,978)	(763,041)
Capital contributions	-	855,053	47,426	902,479	-
Transfers in	-	15,304,880	603,279	15,908,159	-
Transfers out	(708,770)	(431,574)	(432,042)	(1,572,386)	(8,012)
Change in net position	6,800,678	(4,281,536)	(589,868)	1,929,274	(771,053)
Total net position - July 1, 2022	46,726,528	185,258,829	157,340,484		2,326,038
Total net position - June 30, 2023	\$ 53,527,206	180,977,293	156,750,616		1,554,985
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds				(701,831)	
Change in net position of business-type activities				\$ 1,227,443	

The notes to the financial statements are an integral part of this statement.

METRO
Statement of Cash Flows
Proprietary Funds
For the fiscal year ended June 30, 2023

	Business-type Activities- Enterprise Funds				Governmental Activities- Internal Service Fund
	Solid Waste	Oregon Zoo	MERC	Total	Risk Management
Cash flows from operating activities:					
Receipts from customers	\$ 103,823,108	24,582,967	53,366,702	181,772,777	846,735
Receipts from interfund services provided	-	-	-	-	1,644,988
Payments to suppliers for goods and services	(62,642,973)	(13,263,805)	(32,153,846)	(108,060,624)	(3,395,783)
Payments for claims	-	-	-	-	(377,497)
Payments to employees for services	(23,349,377)	(21,410,418)	(22,213,114)	(66,972,909)	(400,072)
Payments for interfund services used	(10,625,126)	(7,281,217)	(8,724,483)	(26,630,826)	-
Net cash provided by (used in) operating activities	7,205,632	(17,372,473)	(9,724,741)	(19,891,582)	(1,681,629)
Cash flows from noncapital financing activities:					
Grants received	6,587,581	1,209,144	584,421	8,381,146	(164,204)
Local government shared revenues	-	-	18,048,269	18,048,269	-
Government contributions	-	-	1,903,584	1,903,584	-
Contributions and donations	-	2,601,230	128,557	2,729,787	-
Contributions to other governments	-	-	(2,066,279)	(2,066,279)	-
Grants to others	(6,749,990)	-	-	(6,749,990)	-
Principal collected (paid) on interfund loans	419,000	(419,000)	-	-	-
Interest collected (paid) on interfund loans	19,590	(19,590)	-	-	-
Transfers from other funds	-	15,304,880	603,279	15,908,159	-
Transfers to other funds	(708,770)	(431,573)	(432,041)	(1,572,384)	(8,012)
Net cash provided by (used in) noncapital financing activities	(432,589)	18,245,091	18,769,790	36,582,292	(172,216)
Cash flows from capital and related financing activities:					
Capital grants and contributions	-	855,053	47,426	902,479	-
Principal payment on bonds	-	-	(950,000)	(950,000)	-
Principal payment on leases	(578,457)	-	(175,207)	(753,664)	-
Principal payment on SBITA	(7,731)	(19,070)	(300,876)	(327,677)	(77,752)
Interest payments	(116,277)	-	(379,157)	(495,434)	(999)
Acquisition and construction of capital assets	(2,359,098)	(3,242,010)	(366,981)	(5,968,089)	-
Net proceeds from sale of capital assets	19,200	-	-	19,200	-
Net cash used in capital and related financing activities	(3,042,363)	(2,406,027)	(2,124,795)	(7,573,185)	(78,751)
Cash flows from investing activities:					
Investment income	825,451	994,477	744,278	2,564,206	83,499
Net cash provided (used) by investing activities	825,451	994,477	744,278	2,564,206	83,499
Net increase (decrease) in cash including restricted amounts	4,556,131	(538,932)	7,664,532	11,681,731	(1,849,097)
Cash at beginning of year including restricted amounts	38,850,837	39,284,882	35,311,663	113,447,382	3,149,133
Cash at end of year including restricted amounts	\$ 43,406,968	38,745,950	42,976,195	125,129,113	1,300,036

(Continued)

METRO
Statement of Cash Flows
Proprietary Funds, *continued*
For the fiscal year ended June 30, 2023

	Business-type Activities- Enterprise Funds				Governmental Activities- Internal Service Fund
	Solid Waste	Oregon Zoo	MERC	Total	Risk Management
Equity in internal cash and investment pool	\$ 43,406,968	38,745,950	42,110,917	124,263,835	1,300,036
Restricted equity in internal cash and investment pool	-	-	865,278	865,278	-
Total	<u>\$ 43,406,968</u>	<u>38,745,950</u>	<u>42,976,195</u>	<u>125,129,113</u>	<u>1,300,036</u>
Reconciliation of operating income (loss) to net cash provided by (used in) operating activities:					
Operating income (loss)	\$ 7,153,401	(24,892,573)	(20,405,149)	(38,144,321)	(843,969)
Adjustments to reconcile operating income (loss) to net cash provided by (used in) operating activities:					
Depreciation and amortization	2,417,234	7,460,799	5,149,488	15,027,521	44,377
Change in assets and liabilities:					
Trade/other accounts receivable	(1,475,714)	(335,490)	2,081,201	269,997	-
Public-private partnership	-	(209,111)	(160,153)	(369,264)	-
Inventories	405,505	-	-	405,505	-
Prepaid items	60,800	536	21,124	82,460	-
Other assets	-	(17,010)	-	(17,010)	(89,335)
Accounts payable	(917,021)	(124,233)	2,092,428	1,051,174	(895,000)
Accrued salaries, benefits and compensated absences	(3,673,314)	129,152	343,833	(3,200,329)	6,298
Contracts payable	(177,013)	(8,629)	(119,307)	(304,949)	-
Accrued self-insurance claims	-	-	-	-	96,000
Unearned revenue	3,475,554	85,731	1,654,253	5,215,538	-
Deposits payable	(23)	(19,955)	(291,474)	(311,452)	-
Other liabilities	158	558,310	(90,985)	467,483	-
Post-closure costs payable	(63,935)	-	-	(63,935)	-
Total adjustments	<u>52,231</u>	<u>7,520,100</u>	<u>10,680,408</u>	<u>18,252,739</u>	<u>(837,660)</u>
Net cash provided by (used in) operating activities	<u>\$ 7,205,632</u>	<u>(17,372,473)</u>	<u>(9,724,741)</u>	<u>(19,891,582)</u>	<u>(1,681,629)</u>
Noncash investing, capital, and financing activities:					
Acquisition of capital assets by means of a lease	\$ -	-	78,940	78,940	-
Acquisition of capital assets by means of a SBITA	33,858	83,517	108,345	225,720	-

The notes to the financial statements are an integral part of this statement.



**Notes to the Financial
Statements**

I. HISTORICAL INTRODUCTION

Metro, the nation's only directly elected regional government, was organized under the provisions of Oregon Revised Statutes (ORS) Chapter 268 to make available, in the Portland, Oregon metropolitan area, public services not adequately available through previously authorized governmental agencies. Under the 1992 Metro Charter, Metro's primary function is regional planning services. Metro is also authorized to exercise the following functions and is permitted by Charter to assume additional functions if approved by ordinance:

- Acquisition, development, maintenance and operation of:
 - a metropolitan zoo,
 - public cultural, trade, convention, exhibition, sports, entertainment, and spectator facilities,
 - facilities for disposal of solid and liquid wastes, and
 - a system of parks, open spaces and recreational facilities of metropolitan concern
- Metropolitan aspects of natural disaster planning and response coordination
- Development and marketing of data
- Performance of any other function required by state law or assigned to Metro by voters

The Metro Council is the governing body and consists of six part-time councilors, each elected on a nonpartisan basis from a single district within the Metro area. The Council President, who both administers the agency and presides over the policy-making of the Council, is elected from the Metro area at large. A Chief Operating Officer, appointed by the Council President and confirmed by the Council, is responsible for day-to-day administration of Metro, under the guidance of the Council President and the full Council. The Metro Auditor is elected at large, and that office performs financial and performance audits and makes reports to the Council and Chief Operating Officer.

The Metropolitan Exposition-Recreation Commission (MERC) was established by Metro ordinance to operate, maintain and renovate metropolitan convention, trade and spectator facilities pursuant to appropriate state statutes. The Commission consists of seven members, five recommended to the Council by local governments and two directly appointed by the Council President, and all confirmed by the Council. MERC is not legally separate from Metro.

II. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of Metro have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

The following summary of Metro's significant accounting policies is presented to assist the reader in interpreting the financial statements and other data in this report. These policies, as presented, should be viewed as an integral part of the accompanying financial statements.

A. THE REPORTING ENTITY

1. Primary Government

Metro is a municipal corporation governed by a Council President and six Councilors. As required by GAAP, Metro's financial statements present Metro (the primary government) and its component unit – the Oregon Zoo Foundation (OZF), a legally separate non-profit organization whose sole purpose is to provide support and

significant additional funding for Metro's Oregon Zoo (the Zoo). This discretely presented component unit is reported in a separate column in the government-wide financial statements to emphasize that it is legally separate from Metro. For materiality reasons, disclosures accompanying Metro's financial statements have generally been limited to those of the primary government.

2. Discretely Presented Component Unit

OZF - The legally separate OZF exists exclusively for the support and benefit of the Zoo. It is a public benefit corporation organized and operated under Section 501(c)(3) of the Internal Revenue Code. The OZF conducts fundraising efforts on behalf of the Zoo, receiving donations from both individuals and corporations that are provided as financial support to the Zoo. The OZF is included in Metro's report under provisions of GASB Statement No. 39. Complete financial statements for OZF can be obtained from the Finance Manager at 4001 SW Canyon Road, Portland, OR 97221-2799.

B. BASIC FINANCIAL STATEMENTS

1. Government-wide financial statements (the statement of net position and the statement of activities) report information on all of the activities of the primary government and its component unit. For the most part, the effect of interfund activity has been eliminated from these statements. *Governmental activities*, which normally are supported by taxes, intergovernmental revenues, and other nonexchange transactions, are reported separately from *business-type activities*, which rely to a significant extent on fees and charges for support. The primary government is reported separately from its legally separate component unit.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment and 3) capital grants and contributions. Taxes and other items not properly included among program revenues are reported instead as *general revenues*, as are internally dedicated resources.

2. Fund financial statements are presented for governmental funds and proprietary funds. Major individual governmental funds and major individual enterprise funds are reported in separate columns in the fund financial statements.

C. MEASUREMENT FOCUS, BASIS OF ACCOUNTING, AND FINANCIAL STATEMENT PRESENTATION

The government-wide financial statements are reported using an *economic resources measurement focus* and the *accrual basis of accounting*, as are the proprietary fund financial statements. All transactions affecting increases (revenues) and decreases (expenses) in total net position during the period are reported. Under the accrual basis of accounting, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of the timing of the related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants are recognized as revenue when all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using a *current financial resources measurement focus* and the *modified accrual basis of accounting*. Governmental funds' operating statements present increases (revenues and other financing sources) and decreases (expenditures and other financing uses) of net current position during a period. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they are both "measurable and available"). "Measurable" means the amount

of the transaction can be determined and “available” means collectible within the current period or soon enough thereafter to pay liabilities of the current period. Metro considers revenue arising from federal and state grants to be available in the period when the underlying related expenditures for reimbursement based grants have been incurred, if it is known that all eligibility requirements that allow for billing of the amount to the grantor agency under the applicable grant agreement have been satisfied. All other revenue is considered available if received within 60 days of fiscal year end. Expenditures are recorded when the related fund liability is incurred, except for unmatured principal and interest on long-term debt, including lease liabilities, that are recorded when due and certain compensated absences which are recognized when the obligations are expected to be liquidated with expendable available financial resources. General capital asset acquisitions, including intangible right-to-use lease assets and subscription-based information technology arrangement assets, are reported as expenditures in governmental funds. Issuance of long-term debt and financing through leases are reported as other financing sources.

Property taxes, income taxes, excise taxes, construction excise tax, cemetery revenue surcharges, grants, local government shared revenues, government contributions, charges for services, and investment income are susceptible to accrual. Contributions and donations and other receipts become measurable and available when cash is received and are recognized as revenue at that time.

The accounts of Metro are organized on the basis of funds, each of which is a separate accounting entity with self-balancing accounts that comprise its assets, deferred outflows of resources, liabilities, deferred inflows of resources, fund balance, revenues, and expenditures or expenses, as appropriate. The segregation by fund is for the purpose of carrying on specific activities or attaining certain objectives in accordance with ordinances, special regulations, restrictions or limitations. The various funds are grouped by fund type and classified into two broad fund categories: governmental and proprietary.

Major funds are those whose revenues, expenditures/expenses, assets plus deferred outflows of resources, or liabilities plus deferred inflows of resources (excluding extraordinary items) are at least 10 percent of corresponding totals for all governmental or enterprise funds and at least 5 percent of the aggregate amount for all governmental and enterprise funds for the same item. Additional funds may be reported as a major fund if Metro’s officials believe that fund is particularly important to financial statement users. Metro reports the following major governmental funds:

General Fund – This fund accounts for all activities not required to be accounted for in another fund: Metro’s primary governmental programs and support services including Council, Office of the Auditor, Office of Metro Attorney, Information Services, Communications, Finance and Regulatory Services, Human Resources, Capital Asset Management (construction project management and Metro Regional Center building operations components), Parks and Nature, Planning and Development (land use, urban growth management, and environmental and transportation planning), and special non-departmental appropriations. The budgetary General Fund is combined with two other budgetary funds, the General Revenue Bond Fund – General and the General Asset Management Fund, to become one fund in accordance with accounting principles generally accepted in the United States of America.

Special Revenue Funds – Special revenue funds account for revenues (other than fiduciary resources or major capital projects) that are legally restricted to expenditures for specific purposes. Metro’s major special revenue funds are:

Parks and Nature Operating Fund– This fund accounts for a dedicated local option levy and other funding that is used to improve water quality and restore wildlife habitat, wetlands, and floodplains in the region, as well as needed upkeep to parks, nature education and community partnerships throughout the region.

Affordable Housing Fund— This fund was established to account for bond proceeds and expenditures related to the 2018 Affordable Housing Measure. Metro sold \$652.8 million in taxable bonds in May 2019 to fund affordable housing for low-income families, seniors, veterans and people with disabilities in the greater Portland region.

Supportive Housing Services Fund— This fund was established to account for income tax proceeds and expenditures related to the 2020 Supportive Housing Services Measure. Specifically, funds will provide funding for housing assistance and wraparound services.

Debt Service Fund – The *General Obligation Bond Debt Service Fund* accounts for payments of general obligation bond principal and interest to bondholders.

Capital Projects Funds - This fund type is used to account for resources to be used for the acquisition or construction of major capital facilities (other than those financed by proprietary funds). Metro's major capital projects funds are:

Natural Areas Fund – This fund accounts for activities to acquire and preserve natural areas and stream frontages, maintain and improve water quality, and protect fish and wildlife habitat.

Parks and Nature Bond Fund – This fund accounts for activities to protect natural areas, water quality, and fish and wildlife habitat and connecting people to nature.

Metro reports the following major proprietary funds:

Enterprise Funds - These funds account for the financing of predominantly self-supporting activities that are funded through service charges and user fees to customers. Metro's enterprise funds are:

Solid Waste Fund - This fund accounts for revenues, primarily from charges for services for the disposal of solid waste, and expenses for the implementation, administration and enforcement of Metro's Solid Waste Management Plan. This fund also accounts for Metro South Station and Metro Central Station solid waste transfer and recycling facilities, and the closed St. Johns Landfill.

Oregon Zoo Fund - This fund accounts for revenues and expenses related to the management and operation of the Oregon Zoo. The principal sources of revenue are charges for services such as admission and membership fees, and food, beverage and gift sales. Expenses consist primarily of facility operation costs and payroll. This fund consists of three budgetary funds (Oregon Zoo Operating Fund, Oregon Zoo Asset Management Fund and General Revenue Bond Fund-Oregon Zoo) that are combined as one Enterprise Fund to be in accordance with accounting principles generally accepted in the United States of America.

MERC Fund - This fund accounts for revenues and expenses related to the management and operation of facilities managed by MERC, including the Metro-owned Oregon Convention Center (OCC) and the Portland Expo Center (Expo). In addition, under the provisions of an intergovernmental agreement with the City of Portland, MERC is responsible for the operation and management of the City-owned Portland's Centers for the Arts (Portland's 5). This fund consists of two budgetary funds (MERC Fund and General Revenue Bond Fund-MERC) that are combined as one Enterprise Fund to be in accordance with accounting principles generally accepted in the United States of America.

Internal Service Fund - Internal service funds are used to account for activities or services furnished by designated departments to other organizational units. Charges are made to the user departments to support these activities. Metro's internal service fund is:

Risk Management Fund - This fund accounts for risk management and self-insurance programs performed for other organizational units within Metro.

Metro also reports *nonmajor* funds of the following fund types:

Special Revenue Funds

Permanent Fund - This fund type is used to account for resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs.

Generally, the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions are direct charges for services between various funds that represent services provided and used. Elimination of these charges would distort the measurement of the cost of individual functional activities. Certain indirect costs for central administration and support have been included as part of program expenses reported for the various functions in the government-wide financial statements.

Proprietary funds distinguish *operating* revenues and expenses from *nonoperating* items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the Solid Waste Fund, Oregon Zoo Fund, MERC Fund, and of the internal service fund are charges to customers for sales and services. Operating expenses for enterprise funds and the internal service fund include the cost of sales and services, administrative expenses, and depreciation and amortization on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

D. ASSETS, LIABILITIES, DEFERRED OUTFLOWS/INFLOWS OF RESOURCES, AND NET POSITION/FUND BALANCES

1. Cash and Investments

Metro maintains a cash and investment pool that is available for use by all funds for investment purposes, excluding the component unit. Interest earned on pooled investments is allocated monthly based upon each fund's average monthly cash balance. Investments are presented at fair value within the fair value hierarchy established by GAAP. Fair value is determined annually as of June 30.

For purposes of the statement of cash flows, cash is considered to be cash on hand, demand deposits, cash in restricted accounts and equity in the internal cash and investment pool. All pooled investment purchases and maturities are part of Metro's cash management activity and are considered cash and cash equivalents.

As authorized by State statutes, policies recommended by Metro's Investment Advisory Board and adopted by the Metro Council authorize Metro to invest in obligations of U.S. government agencies, U.S. Government Sponsored Enterprises (USGSE), the U.S. Treasury, certificates of deposit, repurchase agreements, money market investments, bankers' acceptances, commercial paper, certain corporate promissory notes, State of Oregon and local government securities, debt obligations of the states of California, Idaho and Washington and their political subdivisions, and the State Treasurer's Local Government Investment Pool (LGIP).

2. Receivables and Payables

Activity between funds that are representative of lending/borrowing arrangements outstanding at fiscal year-end are referred to as "due to/from other funds" (short-term) and "advances to/from other funds" (long-term) in the fund financial statements. The residual balances outstanding between governmental activities and business-type activities, along with the other interfund balances described above, are reported in the government-wide financial statements as "internal balances."

Uncollected property taxes receivable collected and remitted to Metro by county treasurers within approximately 60 days of fiscal year-end are recognized as revenue. The remaining balance is recorded as unavailable revenue because it is not deemed available to finance operations of the current period. Under state law, county

governments are responsible for extending authorized property tax levies, computing tax rates, billing and collecting all property taxes, and making periodic remittances of collections to entities levying taxes. Property taxes are assessed and become a lien against the property as of July 1 each year. Since property taxes may be collected by foreclosure, no allowance for doubtful accounts is deemed necessary. Property taxes are levied on November 15 and are payable in three installments that are due on November 15, February 15 and May 15. Taxes unpaid and outstanding after May 16 are considered delinquent.

Income tax receivable is considered measurable once received by the tax collector. Estimated payments received prior to the due date are recorded as revenue.

Other receivable consists primarily of contracts receivable, lodging tax receivable, and other miscellaneous receivable. The underlying revenue is recorded when earned and included in other receivable until collected.

Receivables are stated net of an allowance for uncollectibles when required.

Metro allocates indirect costs, primarily of an administrative nature, to grants in compliance with cost allocation plans that are subject to the approval of Metro's oversight agency. The plan in effect for fiscal year 2023 allocated indirect costs to grants at a rate of approximately 58.7 percent of the related direct personnel costs.

3. Public-Private Partnership (PPP) Receivable

PPP receivables and deferred inflows of resources are reported in the government-wide and proprietary fund financial statements. At the commencement of a PPP contract, the receivable is initially measured at the present value of payments expected to be received during the contract term. Subsequently, the PPP receivable is reduced by the principal portion of payments received. The deferred inflow of resources is initially measured as the initial amount of the PPP receivable, adjusted for payments received at or before the contract commencement date. Subsequently, the deferred inflow of resources is recognized as revenue over the contract term.

Metro uses its estimated incremental borrowing rate as the discount rate for PPPs where Metro is the transferor. The contract term includes the noncancellable period of the PPP. Receipts included in the measurement of the PPP receivable are composed of fixed payments to be received from the operator over the term of the contract.

4. Advances

Payments made to other jurisdictions or grantees in advance of spending on eligible activity are recorded as advances. Expenses and expenditures are recognized once funds are expended on the eligible purpose.

5. Inventories and Prepaid Items

Inventories are valued at lower of cost or market and are charged as expenses when consumed. The method used to determine the cost of inventories is first-in, first-out method. Payments to vendors for services that will benefit future periods are recorded as prepaid items using the consumption method.

6. Animal Collections

In accordance with industry practice, animal collections of the Zoo are recorded at the nominal amount of \$1, as there is no objective basis for establishing value. Differences in attributes such as species, age, sex, endangered status, and breeding potential make it impracticable to assign value. Acquisitions are recorded as expenses of the operating activity.

7. Transit-Oriented Development (TOD) Program Easements

Metro purchases easements on various TOD projects from developers. These easements contain property use conditions for periods of up to 30 years to accomplish the goals of the TOD program. Metro does not consider the substance of such easements as assets, but rather project funding and amounts paid are reflected as a period cost. This policy is based on the concept that assets are resources that Metro controls and that have a

present capacity to provide services, directly or indirectly. TOD easements, while a contractual or property right controlled by Metro, are entered into for the purposes of developing properties that increase transit ridership. The transit system is a service function of a wholly separate government entity. In the broadest sense, success of the program through TOD easements can enable the region and its individual government entities to maximize future resources. As such, there is no increase in Metro’s present capacity to provide service and TOD easements are effectively contributions to the programs and service capacity of other governments.

8. Restricted Assets

Resources for future payment of bonds and certain long-term liabilities or activities have been classified as restricted assets on the statement of net position because their use is limited by certain applicable agreements or state laws. Assets of the Parks and Nature Operating Fund are restricted by Measure 26-178, a voter-approved five-year local option property tax levy. Assets of the Debt Service, Natural Areas, Affordable Housing, and Parks and Nature Funds are restricted by state law controlling the use of bond proceeds. Assets of the Smith and Bybee Wetlands Fund, and portions of the General Fund related to the TOD program and Willamette Falls Legacy project are restricted by contractual agreements with third parties. Assets of the Community Enhancement, Construction Excise Tax, Supportive Housing Services, and the Cemetery Perpetual Care Funds are restricted by state law and/or Metro Code.

9. Capital Assets

Capital assets, which include land, intangible easements, artwork, construction in progress, buildings and exhibits, improvements, equipment and vehicles, lease assets, subscription-based information technology arrangements, intangible software, office furniture and equipment, and railroad equipment and facilities, are reported in the applicable governmental or business-type activities column in the government-wide financial statements. Capital assets are defined as assets with an initial cost of \$50,000 or more, and an estimated useful life in excess of one year. Capital assets are recorded at cost (except for lease assets and subscription-based information technology arrangements assets, the measurement of which is discussed in note 12 and 13 below), and donated capital assets are stated at acquisition value when received, which is the price that would be paid to acquire an asset with equivalent service potential in an orderly market transaction at the acquisition date. Normal maintenance and repairs are charged to operations as incurred. Replacements exceeding \$50,000 that improve or extend the lives of property are capitalized.

Capital assets are recorded as capital outlay expenditures in the governmental funds statements when purchased. Capital assets in the enterprise and internal service funds are capitalized when purchased. Interest expense incurred before the end of a construction period is recognized as an expense in the period in which the cost is incurred and is not capitalized as part of the asset’s historical cost.

Depreciation/amortization is computed using the straight-line method over the following estimated useful lives:

Asset	Years
Buildings and exhibits	20-50
Improvements	10-65
Equipment and vehicles	8-20
Intangible-software	5-20
Office furniture and equipment	5-20
Railroad equipment and facilities	10
Lease assets	1-60
SBITA assets	1-5

Pursuant to an intergovernmental agreement with the City of Portland, Metro (through MERC) operates and manages activities for Portland’s, but capital assets purchased from funds derived from these operations become property of the City. As such, these expenses are reflected as contributions to other governments and are not capitalized.

10. Deferred Outflows/Inflows of Resources

In addition to assets, the statement of net position reports a separate section for *deferred outflows of resources*, which represents a consumption of net assets that applies to future periods and will *not* be recognized as an outflow of resources (expense/expenditure) until that time. Metro reports two items in the government-wide statement of net position: deferred pension amounts and deferred OPEB amounts. Deferred pension and OPEB amounts are contributions to the pension plan subsequent to the measurement date of the plan for reporting purposes and are recognized as outflows of resources in the following fiscal year.

In addition to liabilities, the statement of net position reports a separate section for *deferred inflows of resources*, which represents an acquisition of net assets that applies to future periods and will *not* be recognized as an inflow of resources (revenue) until that time. The government-wide statement of net position reports deferred pension and OPEB amounts which represent the net difference between projected and actual earnings on pension plan investments and the changes in proportionate share of contributions. The government-wide statement of net position also reports deferred lease amounts and deferred public-private partnership amounts which represents the net present value of future receipts. In addition, the government-wide statement of net position also reports a deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. This amount is deferred and amortized over the shorter of the life of the refunded or refunding debt. Metro also has *unavailable revenue*, which arises only under a modified accrual basis of accounting and so is reported only in the governmental funds balance sheet. The governmental funds report unavailable revenues from three sources: deferred leases, property taxes and other. All deferred inflows are recognized as inflows of resources in the period that the amounts become available.

11. Pension Plan

For purposes of measuring the net pension liability, deferred outflows of resources and deferred inflows of resources related to pensions, pension expense, information about the fiduciary net position of the Oregon Public Employees Retirement System (PERS) and additions to/deductions from PERS fiduciary net position have been determined on the same accrual basis as they are reported by PERS. For this purpose, revenues are recognized when earned. Contributions are recognized when due, pursuant to formal commitments, as well as statutory and PERS Board requirements. Expenses are recognized when incurred. Benefit payments (including refunds of employee contributions) are recognized when currently due and payable in accordance with the benefit terms. Withdrawals are recognized in the month they are due and payable. Investments are reported at fair value.

12. Leases

Lessee Arrangements: Lease liabilities and intangible right-to-use lease assets (lease assets) are reported in the government-wide and proprietary fund financial statements. Metro recognizes lease liabilities with an initial, individual value of \$50,000 or more. At the commencement of the lease, lease liabilities are measured at the present value of payments expected to be made during the lease term. Subsequently, the lease liability is reduced by the principal portion of lease payments made. The lease asset is initially measured as the initial amount of the lease liability, adjusted for lease payments made at or before the lease commencement date, plus certain initial direct costs. Subsequently, the lease asset is amortized on a straight-line basis over its useful life.

The interest rate charged by the lessor is used as the discount rate. When the interest rate charged by the lessor is not provided, Metro's estimated incremental borrowing rate is used. The lease term includes the noncancellable period of the lease. Lease payments included in the measurement of the lease liability are composed of fixed payments and purchase option price that is reasonably certain to be exercised.

Lease assets are reported with capital assets and leases payables are reported as liabilities on the statement of net position.

Lessor Arrangements: Lease receivables and deferred inflows of resources are reported in the government-wide and fund financial statements. At the commencement of a lease, the lease receivable is initially measured at the present value of payments expected to be received during the lease term. Subsequently, the lease receivable is reduced by the principal portion of lease payments received. The deferred inflow of resources is initially measured as the initial amount of lease receivable, adjusted for lease payments received at or before the lease commencement date. Subsequently, the deferred inflow of resources is recognized as revenue over the life of the lease term.

Metro uses its estimated incremental borrowing rate as the discount rate for leases where Metro serves as the lessor. The lease term includes the noncancellable period of the lease. Lease receipts included in the measurement of the lease receivable are composed of fixed payments to be received from the lessee over the term of the lease.

13. Subscription-Based Information Technology Arrangements (SBITA)

SBITA liabilities and intangible right-to-use SBITA assets are reported in the government-wide and proprietary fund financial statements. Metro recognizes SBITA liabilities with an initial, individual value of \$50,000 or more. At the commencement of the agreement, SBITA liabilities are measured at the present value of payments expected to be made during the contract term. Subsequently, the SBITA liability is reduced by the principal portion of payments made. The SBITA asset is initially measured as the initial amount of the SBITA liability, adjusted for payments made at or before the contract commencement date, plus certain initial direct costs. Subsequently, the SBITA asset is amortized on a straight-line basis over its useful life.

The interest rate charged by the SBITA vendor is used as the discount rate. When the interest rate charged by the vendor is not provided, Metro's estimated incremental borrowing rate is used. The SBITA term includes the noncancellable period of the agreement. SBITA payments included in the measurement of the liability are composed of fixed or fixed in substance payments.

SBITA assets are reported with capital assets and SBITA payables are reported as liabilities on the statement of net position.

14. Long-term Obligations

In the government-wide financial statements, and in proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or proprietary fund type statement of net position. Bond premiums, discounts, and deferred charge on refunding amounts are amortized over the life of the bonds using the straight-line method. Bonds payable are reported on the statement of net position net of the unamortized portion of premiums or discounts.

For governmental fund types in the fund financial statements, bond premiums, discounts and issuance costs are recognized in the period incurred. The face amount of debt issued plus any premium received on issuance is reported as other financing sources. Discounts on issuance are reported as other financing uses. Issuance costs are reported as expenditures.

15. Liability for Compensated Absences

Accumulated unpaid vacation benefits are accrued as earned in government-wide and proprietary fund financial statements. Accumulated unpaid vacation benefits are recorded as liabilities in the governmental fund types only if they have matured as the result of employee resignations or retirements. Calculated amounts of vacation leave payable include salary-related payments associated with the leave, such as Metro's share of Social Security and Medicare taxes. The amount due within one year is estimated on a historical average of leave taken during a fiscal year. Accumulated sick leave does not vest and is, therefore, recorded in all funds when leave is taken.

16. Fund Balances and Net Position

Fund balance is classified in the governmental fund financial statements in five components to give users information necessary to understand any constraints imposed upon the resources and how those constraints may be modified or eliminated. Fund balance is classified as *nonspendable* when amounts cannot be spent because they are either in nonspendable form, such as prepaid expenditures, advances, long-term receivables, or inventory, or are legally required to remain intact, such as the corpus of a permanent fund. Amounts classified as *restricted* fund balance are amounts with constraints imposed externally by creditors, grantors, contributors, or the laws and regulations of other governments, or imposed by law through constitutional provisions or enabling legislation. The Metro Council is the highest level of decision-making authority for Metro that can, by adopting an ordinance, place constraints on resources that are reported as *committed* fund balance. These commitments can be modified or rescinded only by Council adoption of subsequent ordinances. *Assigned* fund balances are amounts intended to be used for specific purposes but do not meet the criteria to be classified as committed. Metro Council has, by resolution, authorized the Chief Operating Officer to assign fund balance. Metro's assigned fund balance category also reflects the appropriation of a portion of existing fund balance to eliminate a projected deficit in the subsequent year's adopted budget, as well as the encumbered amounts that represent commitments of resources. *Unassigned* fund balance is available for other uses and only the general fund may report a positive unassigned fund balance amount. It is Metro's policy to use restricted resources first, then unrestricted resources as needed when both restricted and unrestricted resources are available for use. Within unrestricted amounts, committed amounts are considered to have been spent first, followed by assigned amounts, and then unassigned amounts when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

In the government-wide statement of net position and the statement of net position for proprietary funds, limitations on how the net position may be used are reported as restrictions. Restrictions may be placed by an external party providing the resources, by enabling legislation, or by the nature of the asset.

The government-wide statement of net position includes the result of Metro financing capital assets for the business-type activities through the issuance of general obligation bonds, a governmental activities function. The amount of long-term debt outstanding on the bonds is reflected as a liability (and as a component of unrestricted net position) in the governmental activities column, whereas the associated capital assets financed by this debt are reflected as assets (and as a component of net investment in capital assets) in the business-type activities column. The primary government total column has been adjusted to match the debt against the assets in the net investment in capital assets category.

E. ADOPTION OF NEW GASB PRONOUNCEMENTS

During the fiscal year ended June 30, 2023, Metro implemented the following GASB Statements that were applicable to Metro's operations:

GASB Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*. Issued March 2020, the primary objective of this Statement is to improve financial reporting by addressing

issues related to public-private and public-public partnership arrangements plus provide guidance for availability payment arrangements.

GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*. Issued May 2020, the primary objective of this Statement is to provide guidance on the accounting and financial reporting for subscription-based information technology arrangements for government end users.

GASB Statement No. 99, *Omnibus 2022*. Issued April 2022, the primary objective of this Statement is to enhance comparability in accounting and financial reporting and to improve the consistency of authoritative literature.

F. FUTURE ADOPTION OF GASB PRONOUNCEMENTS

Metro will implement future GASB pronouncements no later than the required effective date. Metro is currently evaluating the applicability of the following GASB pronouncements for their impact on Metro’s financial statements in subsequent years:

- GASB Statement No. 101, *Compensated Absences*, effective for reporting periods beginning after December 15, 2023.

III. RECONCILIATION OF GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS

Explanation of Certain Differences Between the Governmental Fund Balance Sheet and the Government-Wide Statement of Net Position

The governmental fund balance sheet includes a reconciliation between fund balance-total governmental funds and net position-governmental activities as reported in the government-wide statement of net position. Elements of that reconciliation explain that capital assets, net pension liability and related amounts, and long-term liabilities/deferred outflows are either not reported or are reported as unavailable in the funds. The details of these differences are:

	Capital assets	Net pension and OPEB liability and related amounts	Long-term liabilities/deferred inflows
Capital assets	\$ 443,841,117	-	-
Accumulated depreciation and amortization	(44,246,167)	-	-
Deferred pension amounts (deferred outflows)	-	17,888,936	-
Net pension liability	-	(42,075,633)	-
Deferred pension amounts (deferred inflows)	-	(22,708,379)	-
Net OPEB asset	-	935,610	-
Deferred OPEB amounts (deferred outflows)	-	127,574	-
Net OPEB liability	-	(943,006)	-
Deferred OPEB amounts (deferred inflows)	-	(772,298)	-
Accrued interest payable	-	-	(2,286,685)
Leases payable	-	-	(478,343)
SBITA payable	-	-	(820,965)
Bonds payable (net of unamortized premium/discount)	-	-	(900,906,636)
Pollution remediation obligation	-	-	(8,940,969)
Compensated absences	-	-	(5,030,104)
Deferred charge on refunding (deferred inflows)	-	-	(4,080,994)
Net adjustment to fund balance-total governmental funds to arrive at net position-governmental activities	\$ 399,594,950	(47,547,196)	(922,544,696)

IV. DETAILED NOTES ON ALL FUNDS CASH AND INVESTMENTS

A. CASH AND INVESTMENTS

Metro pools virtually all funds for investment purposes. Each fund's portion of this pool is reported as "equity in internal cash and investment pool."

Policies adopted by Metro's Investment Advisory Board and the Metro Council authorize Metro to invest in obligations of U.S. government agencies, U.S. Government Sponsored Enterprises (USGSE), the U.S. Treasury, certificates of deposit, repurchase agreements, money market investments, bankers' acceptances, commercial paper, certain corporate promissory notes, State of Oregon and local government securities, debt obligations of the states of California, Idaho and Washington and their political subdivisions, and the State Treasurer's local government investment pool (LGIP). The LGIP is an external investment pool that is not rated by any national rating agency. LGIP investments are reported at fair value and are materially the same as the value of the pool shares. The State Treasurer's investment policies are governed by Oregon Revised Statutes and the Oregon Short Term Fund Board (OSTFB).

Fair Value Measurements- Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Observable inputs are developed based on market data obtained from sources independent of the reporting entity. Unobservable inputs are developed based on the best information available about the assumptions market participants would use in pricing the asset. The classification of securities within the fair value hierarchy is based upon the activity level in the market for the security type and the inputs used to determine their value, as follows:

Level 1- Unadjusted quoted prices for identical instruments in active markets.

Level 2- Quoted prices for similar instruments in active markets; quoted prices for identical or similar investments in markets that are not active.

Level 3- Valuations derived from valuation techniques in which significant inputs are unobservable.

Equity in internal cash and investment pool on the Statement of Net Position includes the internal pool reported below. The OZF component unit does not participate in the internal investment pool of Metro. As of June 30, 2023, Metro had the following investments and maturities presented at fair value within the fair value hierarchy established by GAAP:

Notes to the Financial Statements

For the fiscal year ended June 30, 2023

Investment Type	Standard & Poor's Ratings	Held by		Fair Value		Investment Maturities (in months)		
		Individual funds	Internal pool	Level 1	Level 2	Less than 3	3-17	18-59
U.S. Treasuries	AA+	\$ 293,123,927	61,211,373	354,335,300	-	35,857,496	234,363,347	84,114,457
U.S. Government securities - USGSE	AA+	184,353,714	133,594,822	-	317,948,536	98,744,509	146,953,967	72,250,060
Corporate Debt	AA	-	7,750,064	-	7,750,064	-	1,917,460	5,832,604
	AA+	-	5,241,143	-	5,241,143	-	1,479,015	3,762,128
	AAA	1,301,150	-	-	1,301,150	1,301,150	-	-
	AA-	-	8,704,539	-	8,704,539	-	987,780	7,716,759
	A	-	18,390,280	-	18,390,280	-	2,844,310	15,545,970
	A-	-	9,741,692	-	9,741,692	-	-	9,741,692
	A+	-	572,724	-	572,724	-	-	572,724
Municipal Bonds	AA	-	3,473,152	-	3,473,152	-	-	3,473,152
	AA+	-	10,144,461	-	10,144,461	1,149,069	4,878,534	4,116,858
	AAA	-	5,540,146	-	5,540,146	-	-	5,540,146
	AA-	3,552,395	2,843,573	-	6,395,968	-	3,552,395	2,843,573
	Unrated	-	3,418,463	-	3,418,463	-	2,044,928	1,373,535
Sub-total		482,331,186	270,626,432	354,335,300	398,622,318	137,052,224	399,021,736	216,883,658
State Treasurer's investment pool		-	56,128,489					
Total Investment		482,331,186	326,754,921					
Cash deposits		-	18,461,499					
Total cash and investments		\$ 482,331,186	345,216,420					
Per statement of net position:								
Unrestricted		\$ -	184,140,314					
Restricted		482,331,186	161,076,106					
Total		\$ 482,331,186	345,216,420					

Interest Rate Risk - As a means of limiting its exposure to fair value losses resulting from rising interest rates, Metro's investment policy allows only the purchase of investments that are intended to be held to maturity. However, securities may be sold prior to maturity in order to improve the quality, net yield, or maturity characteristics of the portfolio. The structure of the investment portfolio aims to fund cash needs of ongoing operations, thereby avoiding the need to sell securities. Metro uses a laddered or constant stream of maturing securities in constructing the portfolio to ensure ample liquidity to support business operations without the need to sell securities. Investments cannot be made predicated upon selling the security prior to maturity. Metro avoids purchasing callable investments unless liquidity needs can be met without relying on the call being exercised.

Oregon Revised Statutes require investments to not exceed a maturity of 18 months, except when the local government has adopted an investment policy that was submitted to and reviewed by the OSTFB. Metro's investment policy has been reviewed by the OSTFB. Metro limits investment maturities as follows:

Maturity	Minimum to mature
Under 3 months	10 percent minimum
Under 18 months	25 percent minimum
Under 63 months	100 percent minimum

Credit Risk - Metro's investment policy seeks to minimize credit risk by (1) limiting exposure to poor credits and concentrating investments in the safest types of securities, (2) diversification, (3) pre-qualification of the financial institutions, broker/dealers, and advisers with which Metro will do business, and (4) active monitoring of the portfolio. Neither Oregon Revised Statutes nor Metro investment policy limits investments as to credit rating for securities purchased from U.S. Government Agencies or from USGSE. Other allowed investments, by Metro policy, must have a minimum rating as follows: bankers acceptances, A-1; corporate notes, AA-, or A- if an Oregon based entity; commercial paper, A-1, or A-2 if an Oregon entity; municipal debt, AA- for debt of the states of Idaho, California or Washington or their political subdivisions, or A- if the state of Oregon or its political subdivisions. Private placement or 144A securities and mortgage-backed securities are not allowed. The State Investment Pool is unrated.

Oregon Revised Statutes require bankers' acceptances to be guaranteed by and carried on the books of, a qualified financial institution, eligible for discount by the Federal Reserve System, and issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations.

Custodial Credit Risk - Metro monitors custodial credit risk on deposits (the risk that if a bank failed, Metro's deposits would not be returned) in accordance with Metro investment policy which specifies the requirements of Oregon statutes. Oregon Revised Statutes Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the Public Funds Collateralization Program, a collateral pool administered by the Oregon State Treasurer. Bank depositories are required to pledge collateral against any public funds deposits in excess of federal deposit insurance amounts. The Oregon Treasury monitors each depository bank and ensures compliance with collateralization requirements for all Oregon public fund deposits. Banks are able to pledge a reduced amount if they are well capitalized; and in turn, the banks are required to share in the liability of a failed institution, should it ever occur. Public entities are required to verify that deposit accounts in excess of federal deposit insurance limits are maintained only at financial institutions included on the list of qualified depositories found on the Treasurer's website. It is the responsibility of the public official to ensure compliance with these requirements in order to eliminate personal liability in the event of a bank loss. Metro also monitors its depository institutions for indications of financial health. At June 30, 2023, all of Metro's deposits were insured as described above.

For investments, custodial credit risk is the risk that, in the event of failure of the counterparty, Metro will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. Metro's investment policy requires that all trades are executed by delivery vs. payment to ensure that securities are deposited for safekeeping in an eligible financial institution prior to the release of funds. As of June 30, 2023, Metro had no investments that were held by either counterparty or the counterparty's trust department agent. Therefore, Metro has no outstanding investments that were exposed to custodial credit risk.

Concentration of Credit Risk - To avoid incurring unreasonable risks inherent in over-investing in specific instruments or in individual financial institutions, Metro diversifies its portfolio and follows the Metro investment policy which sets maximum limits on the percentage of the portfolio that can be invested in any one type of security. In addition, Oregon Revised Statutes require no more than 25 percent of the moneys of a local government to be invested in bankers' acceptances of any qualified financial institution. At June 30, 2023 Metro was in compliance with all percentage restrictions. More than 5 percent of Metro's total investments are in securities by the following issuers:

Issuer	Percentage of Total Investments (Total Entity Concentration)	Policy Allowed Maximum	Fund Concentrations Exceeding Total Entity Concentration	
			Affordable Housing Fund	Parks and Nature Bond Fund
Federal Home Loan Bank (FHLB)	18.8%	40.0%	-	-
Federal Home Loan Mortgage Corp (FHLMC)	6.2%	40.0%	9.3%	-
Federal National Mortgage Association (FNMA)	8.6%	40.0%	9.3%	16.2%
Federal Farm Credit Banks Funding Corporation (FFCB)	5.3%	40.0%	-	7.4%
State Treasurer's Investment Pool	6.9%	100.0%	-	-
U.S. Treasuries	43.8%	100.0%	63.0%	55.1%

B. PUBLIC-PRIVATE PARTNERSHIP RECEIVABLE

The following changes occurred during fiscal year 2023 in public-private partnership (PPP) receivable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Business-type activities:				
Food and beverage provider agreement; interest at 1%, principal and interest from \$249,583 to \$333,999 monthly, final payments due 2032	\$ 33,029,430	-	(1,585,966)	31,443,464
Gift shop operator agreement; interest at 1%, principal and interest of \$95,458 to \$97,875 monthly, final payments due 2024	2,254,245	-	(1,098,610)	1,155,635
Total public-private partnership receivable	\$ 35,283,675	-	(2,684,576)	32,599,099

Metro has entered into two public-private partnerships (PPP) as a transferor for gift shop operations and food and beverage provisions. The gift shop operator agreement conveys the right and related obligation to operate the Oregon Zoo's retail space for the sale of retail items as well as facilitation of stroller, wheelchair, and wagon rentals. The food and beverage provider agreement conveys the right and related obligation to manage all food and beverage concession services and operate the food preparation facilities at the Portland'5, Expo and Oregon Zoo venues. During the year ended June 30, 2023, Metro recognized \$3,053,839 in PPP revenue and \$237,100 in interest revenue. The PPP receivable is calculated based on fixed components of the underlying agreements, which only include the guaranteed minimum fees presently. Both PPP agreements also include variable payments which are not included in the measurement of the PPP receivable as they are based on a revenue share structure. These variable payments are considered inflows of resources in the period in which they relate. Total variable payments received during the year ended June 30, 2023 approximate \$2 million.

C. ASSETS HELD FOR RESALE

Acquisition and improvements to real property that is purchased with the intent to sell to private-sector purchasers meeting certain criteria under Metro’s TOD and Housing programs are reported in governmental activities in the statement of net position as Assets Held for Resale. Such assets are reported at the lower of cost or net realizable value. The carrying value at June 30 is:

<u>Property Name</u>	<u>Address</u>	<u>Amount</u>
Gresham Civic	NW Civic Drive & NW 15th, Gresham, OR	\$ 2,648,104
Milwaukie Town Center	10700 SE McLoughlin Boulevard, Milwaukie, OR	409,186
The Crossings	Section 4, Township 1, South Range 3 East (Parcel 2), Gresham, OR	355,850
Elmonica	Section 6DB, Township 1 South, Range 1 West (Parcel R0037258), Beaverton, OR	802,427
Trinity Christian Center	432 NE 74th Avenue, Portland, OR	501,800
Barbur Value Inn	10450 SW Barbur Blvd, Portland, OR	4,250,000
Walker Road	9985 & 10085 NE Walker Road, Hillsboro, OR	1,750,000
Lake Oswego Boones Ferry Rd	16719, 16731, 16745 & 16759 SW Boones Ferry Rd, 5110 & 5126 W Sunset Dr, Lake Oswego, OR	2,200,000
		<u>\$ 12,917,367</u>

D. LOANS RECEIVABLE

TOD Loans

TOD loans receivable, reflected in the schedule below, are loans to developers who agree to develop projects in accordance with TOD program criteria. The loans are secured by the underlying property, which is subject to TOD use restrictions for a period of 30 years. Metro’s security interest in the property is subordinate to other security interests on the property. These loans receivable are not discounted in accordance with guidance in GASB Statement No. 62.

Details on loans receivable at June 30 are as follows:

<u>Maximum Term</u>	<u>Interest Rate</u>	<u>First Payment</u>	<u>Last Payment</u>	<u>Payment Frequency</u>	<u>TOD Loans</u>
50 years	0 to 1%	03/01/28	03/01/58	annually	\$ 419,743

E. CAPITAL ASSETS

Capital asset balances and activity for fiscal year 2023 were as follows:

	Balance July 1, 2022	Increases	Decreases	Reclassifications and Transfers	Balance June 30, 2023
Governmental activities:					
Capital assets, non-depreciable:					
Land	\$ 311,457,111	-	(21,726)	3,815,478	315,250,863
Intangible-easements	12,248,393	-	(327,840)	9,331	11,929,884
Artwork	274,486	-	-	210,159	484,645
Construction in progress	8,800,468	13,946,490	-	(5,664,005)	17,082,953
Total non-depreciable	332,780,458	13,946,490	(349,566)	(1,629,037)	344,748,345
Capital assets, depreciable:					
Buildings and exhibits	41,512,824	-	(143,711)	-	41,369,113
Leased buildings and exhibits	798,775	-	-	-	798,775
Improvements	43,141,642	-	-	101,297	43,242,939
Equipment and vehicles	6,533,008	-	(112,846)	341,946	6,762,108
Leased equipment and vehicles	192,763	-	-	-	192,763
Intangible-software	4,870,392	-	(1,797,427)	1,221,684	4,294,649
Right to use asset - software	1,780,214	-	-	-	1,780,214
Office furniture and equipment	711,097	-	-	(58,886)	652,211
Total depreciable	99,540,715	-	(2,053,984)	1,606,041	99,092,772
Accumulated depreciation and amortization:					
Buildings and exhibits	(18,772,651)	(1,096,788)	86,269	-	(19,783,170)
Leased buildings and exhibits	(195,618)	(195,618)	-	-	(391,236)
Improvements	(14,931,752)	(1,590,681)	-	-	(16,522,433)
Equipment and vehicles	(3,726,470)	(410,787)	107,057	15,570	(4,014,630)
Leased equipment and vehicles	(52,572)	(70,095)	-	-	(122,667)
Intangible-software	(3,766,155)	(242,755)	1,797,428	(20,610)	(2,232,092)
Right to use asset - software	-	(858,352)	-	-	(858,352)
Office furniture and equipment	(230,427)	(111,770)	-	20,610	(321,587)
Total accumulated depreciation and amortization	(41,675,645)	(4,576,846)	1,990,754	15,570	(44,246,167)
Total capital assets, depreciable, net	57,865,070	(4,576,846)	(63,230)	1,621,611	54,846,605
Governmental activities capital assets, net	\$ 390,645,528	9,369,644	(412,796)	(7,426)	399,594,950

	Balance July 1, 2022	Increases	Decreases	Reclassifications and Transfers	Balance June 30, 2023
Business-type activities:					
Capital assets, non-depreciable:					
Land	\$ 21,045,160	-	-	3,110,440	24,155,600
Artwork	1,184,358	-	-	-	1,184,358
Construction in progress	5,812,178	5,960,664	(3,296)	(6,798,352)	4,971,194
Total non-depreciable	28,041,696	5,960,664	(3,296)	(3,687,912)	30,311,152
Capital assets, depreciable:					
Leased land	10,256,375	78,940	-	-	10,335,315
Buildings and exhibits	490,245,046	-	(1,424,295)	2,035,827	490,856,578
Leased buildings and exhibits	7,073,487	-	(186,372)	-	6,887,115
Improvements	46,136,104	-	(1,167,844)	1,057,102	46,025,362
Equipment and vehicles	29,689,511	-	(613,348)	617,979	29,694,142
Intangible-software	1,442,005	-	(22,016)	-	1,419,989
Right to use asset - software	720,658	225,720	-	-	946,378
Office furniture and equipment	1,511,504	-	(66,648)	-	1,444,856
Railroad equipment and facilities	3,658,683	-	-	-	3,658,683
Total depreciable	590,733,373	304,660	(3,480,523)	3,710,908	591,268,418
Accumulated depreciation and amortization:					
Leased land	(265,679)	(266,531)	-	-	(532,210)
Buildings and exhibits	(218,245,180)	(10,500,108)	1,143,678	-	(227,601,610)
Leased buildings and exhibits	(643,969)	(640,586)	126,252	-	(1,158,303)
Improvements	(26,401,481)	(1,197,796)	1,132,056	-	(26,467,221)
Equipment and vehicles	(14,748,428)	(1,710,515)	526,210	(15,570)	(15,948,303)
Intangible-software	(1,321,742)	(3,727)	22,015	-	(1,303,454)
Right to use asset - software	-	(261,342)	-	-	(261,342)
Office furniture and equipment	(1,020,257)	(97,887)	65,281	-	(1,052,863)
Railroad equipment and facilities	(2,239,902)	(349,029)	-	-	(2,588,931)
Total accumulated depreciation and amortization	(264,886,638)	(15,027,521)	3,015,492	(15,570)	(276,914,237)
Total capital assets, depreciable, net	325,846,735	(14,722,861)	(465,031)	3,695,338	314,354,181
Business-type activities capital assets, net	\$ 353,888,431	(8,762,197)	(468,327)	7,426	344,665,333

In 1984, a lease-leaseback agreement was entered into for theater land. In a lease-leaseback transaction, each party is a lessor and a lessee. Since each portion of the transaction is with the same counterparty, a right of offset exists. The lease-leaseback is presented net on the Statement of Net Position in accordance with GASB Statement No. 87, Leases. As such, the Capital Assets footnote total for business-type activities is \$1,153,667 higher than the amount shown on the Statement of Net Position. The difference consists of the June 30, 2023 balance in deferred inflows related to leases, which is netted with capital assets on the Statement of Net Position.

Additional note disclosure of the gross amounts of the lease and leaseback provide essential information about the magnitude of each portion of the transaction. See Note K.

An agreement between the City of Portland and Metro regarding the real property at the Zoo provides that the property must be used for zoo or zoo related purposes and, if such property ceases to be used for such purposes or is used for other purposes, title reverts to the City. Metro was in compliance with this agreement for the fiscal year ended June 30, 2023.

Capital assets for MERC are those of Metro-owned facilities. Capital assets used in operating the Portland's are not included in the statement of net position of Metro as title to the assets remains with the City in accordance with an intergovernmental consolidation agreement. These capital assets are included in the Annual Comprehensive Financial Report of the City of Portland.

Depreciation and amortization expense was charged to functions/programs as follows:

Governmental activities:	
General government operations	\$ 1,607,111
Planning, development and research	164,179
Culture and recreation	2,805,556
<u>Total depreciation and amortization expense - governmental activities</u>	<u>\$ 4,576,846</u>
Business-type activities:	
Solid Waste	\$ 2,417,234
Oregon Zoo	7,460,799
MERC	5,149,488
<u>Total depreciation and amortization expense - business-type activities</u>	<u>\$ 15,027,521</u>

F. UNEARNED REVENUE

Unearned revenue is reported for resources that have been received, but not yet earned. The details of these amounts at June 30, 2023 were:

	Governmental Activities	Business-type Activities
Advance ticket sales/registrations	\$ 13,246	6,684,086
Unredeemed gift certificates	91,660	65,772
Advance park reservations	154,467	-
Advance lease receipts	283,200	-
Advance tax receipts	17,008	-
Grant and contract drawdowns prior to meeting all eligibility requirements	-	3,532,468
<u>Total</u>	<u>\$ 559,581</u>	<u>10,282,326</u>

G. DEFERRED COMPENSATION PLAN

Metro offers its employees a 401(k) deferred compensation plan in accordance with Internal Revenue Code provisions. The plan is available to all Metro employees and permits employees to contribute a portion of their salary to the plan to obtain favorable tax treatment for amounts contributed. Moneys accumulated under the plan are deposited with a trustee for the exclusive benefit of the participants and are invested in mutual funds that are self-directed by participants. The deferred compensation is not available to participants until termination, retirement, death, or certain hardship conditions. In accordance with authoritative guidance, the plan is not included in Metro’s financial statements.

H. PENSION PLAN

1. Defined Benefit Plan Description

Name of pension plan - Metro participates in the Oregon Public Employees Retirement System (PERS) which is a cost-sharing multiple employer defined benefit pension plan.

Description of benefit terms - Benefit provisions and other requirements of the system are established by the State of Oregon legislature pursuant to Oregon Revised Statutes, Chapters 238 and 238A.

a. Tier One/Tier Two Retirement Benefit (Chapter 238). This segment of the plan is closed to new members hired on or after August 29, 2003.

Pension benefits. The PERS retirement allowance is payable monthly for life. It may be selected from thirteen retirement benefit options. These options include survivorship benefits and lump-sum refunds. The basic benefit is based on years of service and final average salary. A percentage (1.67 percent for General Service

employees) is multiplied by the number of years of service and the final average salary. Benefits may also be calculated under either a formula plus annuity (for members who were contributing before August 21, 1981) or a money match computation if a greater benefit results.

A member is considered vested and will be eligible at minimum retirement age for a service retirement allowance if he or she has had a contribution in each of five calendar years or has reached at least 50 years of age before ceasing employment with a participating employer. General Service employees may retire after reaching age 55. Tier One General Service employee benefits are reduced if retirement occurs prior to age 58 with fewer than 30 years of service. Tier Two members are eligible for full benefits at age 60.

Death benefits. Upon the death of a non-retired member, the beneficiary receives a lump-sum refund of the member's account balance (accumulated contributions and interest). In addition, the beneficiary will receive a lump-sum payment from employer funds equal to the account balance, provided one or more of the following conditions are met:

- the member was employed by a PERS employer at the time of death,
- the member died within 120 days after termination of PERS-covered employment,
- the member died as a result of injury sustained while employed in a PERS-covered job, or
- the member was on an official leave of absence from a PERS-covered job at the time of death.

Disability benefits. A member with ten or more years of creditable service who becomes disabled from other than duty-connected causes may receive a non-duty disability benefit. A disability resulting from a job-incurred injury or illness qualifies a member for disability benefits regardless of the length of PERS-covered service. Upon qualifying for either a non-duty or duty disability, service time is computed to age 58 when determining the monthly benefit.

Benefit changes after retirement. Members may choose to continue participation in a variable equities investment account after retiring and may experience annual benefit fluctuations due to changes in the fair value of equity investments.

Under ORS 238.360, monthly benefits are adjusted annually through cost-of-living adjustments, which are capped at 2.0 percent per year.

- b. Oregon Public Service Retirement Plan (OPSRP).** This pension program (ORS Chapter 238A) provides benefits to members hired on or after August 29, 2003.

Pension benefits. OPSRP provides a life pension funded by employer contributions. Benefits are calculated with the following formula for General Service members who attain normal retirement age: 1.5 percent is multiplied by the number of years of service and the final average salary. Normal retirement age for General Service members is age 65, or age 58 with 30 years of retirement credit.

A member of the OPSRP Pension Program becomes vested on the earliest of the following dates: the date the member completes 600 hours of service in each of five calendar years, the date the member reaches normal retirement age, and, if the pension program is terminated, the date on which termination becomes effective.

Death benefits. Upon the death of a non-retired member, the spouse (or other person who is constitutionally required to be treated in the same manner as the spouse), receives for life 50 percent of the pension that would otherwise have been paid to the deceased member. The surviving spouse or other person may elect to delay payment of the death benefit, but payment must commence no later than December 31 of the calendar year in which the member would have reached 70 ½ years.

Disability benefits. A member who has accrued ten or more years of retirement credits before the member becomes disabled or a member who becomes disabled due to job-related injury shall receive a disability

benefit of 45 percent of the member’s salary determined as of the last full month of employment before the disability occurred.

Benefit changes after retirement. Under ORS 238A.210, monthly benefits are adjusted annually through cost-of-living adjustments.

Contributions - PERS funding policy provides for monthly employer contributions at actuarially determined rates. These contributions, expressed as a percentage of covered payroll, are intended to accumulate sufficient assets to pay benefits when due. This funding policy applies to the PERS Defined Benefit Plan and the PERS Retirement Health Insurance Account described in Note IV.H.2.

Employer contribution rates during the period were based on the December 31, 2019 actuarial valuation. The rates, based on a percentage of payroll, first became effective July 1, 2021. Metro has previously made a lump sum payment to establish a side account, and its rates have been reduced. Metro’s actuarially determined contribution rate for the Tier One/Tier Two and OPSRP plans was 20.50 percent and 16.76 percent of subject payroll, respectively. Employer contributions recognized by PERS for the fiscal year ended June 30, 2023 were \$15,167,944.

A ten year schedule of Defined Benefit Pension Plan Contributions can be found in the Required Supplementary Information section of this report.

Pension plan ACFR - Both the PERS and OPSRP plans are administered by the Oregon Public Employees Retirement Board (OPERB), which issues a publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to Oregon Public Employees Retirement System, P.O. Box 23700, Tigard, Oregon 97281-3700, by calling 1-888-320-7377, or by accessing the PERS web site at <https://oregon.gov/pers/Pages/Financials/Actuarial-Financial-Information.aspx>

Actuarial valuation - The employer contribution rates effective July 1, 2021, through June 30, 2023, were set using the entry age normal actuarial cost method. This method produced an employer contribution rate consisting of (1) an amount for normal cost (the estimated amount necessary to finance benefits earned by the employees during the current service year), and (2) an amount for the amortization of unfunded actuarial accrued liabilities, which are being amortized as described in the following table.

Actuarial methods and assumptions used to measure the total pension liability -

Valuation Date	December 31, 2020
Experience Study Report	2020, published July 20, 2021
Actuarial cost method	Entry Age Normal
Amortization method	Amortized as a level percentage of combined payroll; Tier One/Tier Two Unfunded Actuarial Liability (UAL) is amortized over 20 years and OPSRP pension UAL is amortized over 16 years.
Asset valuation method	Fair value of assets
Inflation rate	2.40 percent
Investment rate of return	6.90 percent
Projected salary increases	3.40 percent
Mortality	Healthy retirees and beneficiaries: Pub-2010 Healthy Retiree, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation. Active members: Pub-2010 Employee, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation. Disabled retirees: Pub-2010 Disabled Retiree, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation.

Actuarial valuations of an ongoing plan involve estimates of the value of projected benefits and assumptions about the probability of events far into the future. Actuarially determined amounts are subject to continual revision as actual results are compared to past expectations and new estimates are made about the future. Experience studies are performed as of December 31 of even numbered years. The methods and assumptions shown above are based on the 2020 Experience Study which reviewed experience for the four-year period ending on December 31, 2020.

Discount rate. The discount rate used to measure the total pension liability was 6.90 percent for the Defined Benefit Pension Plan. The projection of cash flows used to determine the discount rate assumed that contributions from plan members and those of the contributing employers are made at the contractually required rates, as actuarially determined. Based on those assumptions, the pension plan’s fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the long-term expected rate of return on pension plan investments for the Defined Benefit Pension Plan was applied to all periods of projected benefit payments to determine the total pension liability.

The assumed asset allocation and the Oregon Investment Council’s (OIC) target are provided in the table below:

Asset Class/strategy	Low Range	High Range	OIC Target
Debt securities	15.0%	25.0%	20.0%
Public equity	25.0	35.0	30.0
Real estate	7.5	17.5	12.5
Private equity	15.0	27.5	20.0
Risk parity	0.0	3.5	2.5
Real assets	2.5	10.0	7.5
Diversifying strategies	2.5	10.0	7.5
Opportunity portfolio	0.0	5.0	0.0
Total			100.0%

Long-Term Expected Rate of Return. To develop an analytical basis for the selection of the long-term expected rate of return assumption, in June 2021 the PERS Board reviewed long-term assumptions developed by both the actuary’s capital market assumptions team and the OIC’s investment advisors. The table below shows the actuary’s assumptions for each of the asset classes in which the plan was invested at that time based on the OIC long-term target asset allocation. The OIC’s description of each asset class was used to map the target allocation to the asset classes shown below. Each asset class assumption is based on a consistent set of underlying assumptions, and includes adjustment for the inflation assumption. These assumptions are not based on historical returns, but instead are based on a forward-looking capital market economic model.

Asset Class	Target	Compound Annual Return (Geometric)
Global equity	30.6%	5.9%
Private equity	25.5	7.7
Core fixed income	23.8	2.7
Real estate	12.2	5.7
Master limited partnerships	0.8	5.7
Infrastructure	1.5	6.3
Commodities	0.6	3.1
Hedge fund of funds- multistrategy	1.3	5.1
Hedge fund equity- hedge	0.6	5.3
Hedge fund- macro	5.6	5.1
US Cash	-2.5	1.8
Assumed inflation - mean		2.4

Sensitivity of Metro’s proportionate share of the net pension liability to changes in the discount rate- The following presents Metro’s proportionate share of the net pension liability (asset) calculated using the discount rate of 6.90 percent, as well as what Metro’s proportionate share of the net pension liability would be if it were calculated using a discount rate that was one percentage-point lower or one percentage-point higher than the current rate:

Metro’s Net Pension Liability (Asset)	1% Decrease (5.90%)	Current Discount Rate (6.90%)	1% Increase (7.90%)
Defined benefit pension plan	\$ 144,980,351	81,752,142	28,833,049

Determination of Metro’s proportionate share - Metro’s actuarially determined proportionate share of the plan amounts was 0.53390875 percent for the fiscal year ended June 30, 2022 (measurement date). Metro’s share of pension balances are determined by rolling forward the total net pension liability (actuarially determined at December 31, 2020) to the measurement date of June 30, 2022 and subtracting the plan’s net position as of June 30, 2022.

The basis for Metro’s proportion is actuarially determined by comparing Metro’s projected long-term contribution effort to the plan with the total projected long-term contribution effort for all employers. The rate for every employer has at least two major components; Normal Cost Rate and Unfunded Actuarial Liability (UAL) Rate.

The projected long-term effort is estimated by projecting the present value of all future Normal Cost Rate Contributions (PVFNC). The PVFNC represents the portion of the projected long-term contribution effort related to future service.

An employer’s PVFNC depends on both the Normal Cost Rates charged on the employer’s payrolls, and on the underlying demographics of the respective payrolls. For PERS funding, employers may have three different payrolls, each with a different Normal Cost Rate:

- Tier 1/Tier 2 payroll
- OPSRP General Service payroll
- OPSRP Police and Fire payroll

A UAL exists when Plan assets are less than the actuarial liability as measured by the Plan’s actuarial funding valuations. UAL can arise in a biennium when an event such as experience differing from the assumptions used in the actuarial valuation occurs. An amortization schedule is established to eliminate the UAL that arises in a given biennium over a fixed period of time if future experience follows assumption. The UAL Rate is the upcoming year’s component of the cumulative amortization schedules, stated as a percent of payroll. The UAL represents the portion of the projected long-term contribution effort related to past service.

The projected long-term contribution effort is equal to the sum of the PVFNC and the UAL. After Metro’s projected long-term contribution effort is calculated, that amount is reduced by the value of Metro’s supplemental lump-sum payments, known as side accounts. Side accounts decrease Metro’s projected long-term contribution effort because side accounts are effectively prepaid contributions.

The preparation of these amounts in conformity with GAAP requires management to make estimates and assumptions that affect certain amounts and disclosures. Actual results could differ from those estimates.

Pension plan’s fiduciary net position - Detailed information about the pension plan’s assets, deferred outflows of resources, liabilities, deferred inflows of resources and fiduciary net position can be found in the separately issued ACFR for the plan which is available as noted above.

Payables to the pension plan - At June 30, 2023, Metro reported a payable of \$623,446 for the outstanding amount of legally required pension contributions to the pension plan for the fiscal year ended June 30, 2023.

Pension Expense, Net Pension Liability or Asset, Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions - For the fiscal year ended June 30, 2023, Metro recognized a net pension liability of \$81,752,142 and a pension expense of \$6,519,113. At June 30, 2023, Metro reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	Governmental activities		Business-type activities		Net Deferred Outflows/ (Inflows) of Resources
	Deferred Outflows of Resources	Deferred Inflows of Resources	Deferred Outflows of Resources	Deferred Inflows of Resources	
Differences between expected and actual experience in the measurement of the total pension liability	\$ 2,042,433	262,391	1,925,974	247,430	3,458,586
Changes in assumptions	6,601,894	60,315	6,225,460	56,876	12,710,163
Net difference between projected and actual earnings on pension plan investments	-	7,522,309	-	7,093,393	(14,615,702)
Changes in the employer's proportion	1,438,075	8,363,589	1,356,077	7,886,702	(13,456,139)
Differences between employer contributions and employer's proportionate share of system contributions	-	6,499,775	-	6,129,162	(12,628,937)
Total (prior to post-measurement date contributions)	10,082,402	22,708,379	9,507,511	21,413,563	(24,532,029)
Contributions subsequent to the measurement date	7,806,534	-	7,361,410	-	15,167,944
Net deferred outflows/(inflows) of resources	\$ 17,888,936	22,708,379	16,868,921	21,413,563	(9,364,085)

The \$15,167,944 reported as deferred outflows of resources related to pensions resulting from contributions subsequent to the measurement date will be recognized as a reduction of the net pension liability in the fiscal year ending June 30, 2024. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pensions will be recognized in pension expense in subsequent years as follows (outflows and inflows netted):

Fiscal year ended June 30:	Governmental activities	Business-type activities	Total
2024	\$ (2,546,650)	(2,401,442)	(4,948,092)
2025	(3,701,233)	(3,490,192)	(7,191,425)
2026	(5,970,427)	(5,629,998)	(11,600,425)
2027	860,721	811,644	1,672,365
2028	(1,268,388)	(1,196,064)	(2,464,452)
Total	\$ (12,625,977)	(11,906,052)	(24,532,029)

2. Defined Contribution Pension Plan

Beginning January 1, 2004, PERS active Tier One and Tier Two members became members of the Individual Account Program (IAP) of OPSRP. Although existing PERS members retain their existing PERS account, all current member contributions are deposited into the member's IAP, a defined contribution pension plan. Accounts are credited with earnings and losses net of administrative expenses. The IAP, as part of OPSRP, is administered by the PERS Board which is directed to adopt any rules necessary to administer OPSRP. The IAP is provided to all members or their beneficiaries who are PERS or OPSRP eligible.

State statutes require covered employees to contribute six percent of their annual covered salary to the IAP plan effective January 1, 2004. Metro pays for the IAP contribution for all employees. An IAP member becomes vested on the date the employee account is established or on the date a rollover account was established. If Metro makes optional employer contributions for a member, the member becomes vested on the earliest of the following dates: the date the member completes 600 hours of service in each of five calendar years, the date the member reaches normal retirement age, the date the IAP is terminated, the date the active member becomes disabled, or the date the active member dies.

Upon retirement, a member of the IAP may receive the amounts in his or her employee account, rollover account, and vested employer account as a lump-sum payment or in equal installments over a 5, 10, 15, 20 year period or an anticipated life span option. Installment amounts vary with market returns as the account remains invested while in distribution. Each distribution option has a \$200 minimum distribution limit.

Death Benefits – Upon the death of a non-retired member, the beneficiary receives a lump sum of the member’s account balance, rollover account balance, and the vested employer optional contribution account balance. If a retired member dies before the installment payments are completed, the beneficiary may receive the remaining installment payments or choose a lump-sum payment.

Metro paid contributions to the IAP of \$4,930,464 for the fiscal year ended June 30, 2023, which is included in payroll and fringe benefits expense. At June 30, 2023, a payable to the IAP portion of the plan in the amount of \$212,041 for the contractually required contributions for the month of June 2023 is included in accrued salaries and benefits.

I. OTHER POSTEMPLOYMENT BENEFITS

The other postemployment benefits (OPEB) for Metro combines two separate plans. Metro provides an implicit rate subsidy for retiree health insurance premiums, and a contribution to the State of Oregon’s PERS cost-sharing multiple-employer defined health insurance benefit plan.

1. Metro Retiree Health Insurance Plan - Implicit Rate Subsidy

Plan Description - All employees of Metro retiring from active service with a pension benefit payable immediately under Oregon PERS are eligible for other postemployment benefits (OPEB) relating to health care. As required by state law, retirees of Metro and their dependents under age 65 are allowed to receive the same health care coverage at tiered premium rates as offered to active Metro employees, resulting in an implicit rate subsidy (health care premiums priced only for retirees would be more expensive than tiered premiums because retirees have higher health care claims on average). The implicit rate subsidy is only measured for retirees and spouses younger than age 65, at which point such retirees and spouses typically become eligible for Medicare. Metro has not established a trust that meets the criteria in paragraph 4 of GASB Statement 75 for the accumulation of assets. Metro’s single-employer OPEB plan does not issue a publicly available financial report.

Benefits Provided - The plan provides eligible retirees and their dependents under age 65 the same health care coverage at the same premium rates as offered to active employees. The retiree is responsible for the premiums.

As of the valuation date July 1, 2021, the following number of employees were covered by the benefit terms:

Inactive employees or beneficiaries receiving benefits	11
Active employees	728
<u>Total</u>	<u>739</u>

Total OPEB Liability, OPEB Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to OPEB - Metro’s total OPEB Liability of \$2,179,545 was measured as of June 30, 2022, and was determined by an actuarial valuation as of July 1, 2021. For the fiscal year ended June 30, 2023, Metro recognized OPEB expense from this plan of \$40,685.

At June 30, 2023, Metro reported deferred outflows of resources and deferred inflows of resources related to this OPEB plan from the following sources:

Sources	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	\$ -	419,580
Changes in assumptions	153,536	820,642
Benefit payments	113,294	-
Total	\$ 266,830	1,240,222

Deferred outflows of resources related to OPEB of \$113,294 resulting from Metro’s contributions subsequent to the measurement date will be recognized as a reduction of the total OPEB liability in the year ended June 30, 2024. Other amounts reported as deferred outflows of resources and deferred inflows of resources to OPEB will be recognized in OPEB expense as follows:

Fiscal year ended June 30:	
2024	\$ (169,797)
2025	(169,797)
2026	(155,617)
2027	(143,893)
2028	(143,672)
Thereafter	(303,910)
Total	\$ (1,086,686)

Actuarial Assumptions and Other Inputs - The total OPEB liability in the July 1, 2021 valuation was determined using the following actuarial assumptions and other inputs, applied to all periods included in the measurement, unless otherwise specified:

Actuarial cost method	Entry Age Normal
Inflation rate	2.40 percent
Salary increases	3.40 percent
Mortality	Pub-2010 General Service Employee and Healthy Retiree tables, sex distinct for members and dependents, with a one-year setback for male general service employees. Future mortality improvement is projected generationally with unisex Social Security data scale.
Discount rate	3.54 percent (change from 2.16 percent in previous measurement period)
Healthcare cost trend rate	Medical and vision: 0.75 percent in the first year, 5.25 percent in the second year, and varying from 5.00 to 3.75 percent over the remainder of the projection period. Dental: 4.00 percent per year

The discount rate was based on Bond Buyer 20-Year General Obligation Bond Index.

Changes in the Total OPEB Liability

	Total OPEB Liability
Balance as of June 30, 2022	\$ 2,298,945
Changes for the year:	
Service cost	158,498
Interest on total OPEB liability	51,984
Effect of assumptions changes or inputs	(227,787)
Benefit payments	(102,095)
Balance as of June 30, 2023	\$ 2,179,545

Changes in assumptions is the result of the change in the discount rate from 2.16 percent to 3.54 percent.

Sensitivity of the Total OPEB Liability - The following presents Metro’s total OPEB liability, as well as what the liability would be if it were calculated using a discount rate that is 1-percentage-point lower (2.54 percent) or 1-percentage-point-higher (4.54 percent) than the current discount rate. A similar sensitivity analysis is then presented for changes in the healthcare trend assumption.

Discount Rate:	1% Decrease (2.54%)	Current Discount Rate (3.54%)	1% Increase (4.54%)
Total OPEB Liability	\$ 2,345,160	2,179,545	2,024,187

Healthcare Cost Trend Rate:	1% Decrease	Current Healthcare Cost Trend Rate	1% Increase
Total OPEB Liability	\$ 1,960,214	2,179,545	2,435,980

2. PERS Retirement Health Insurance Account

Plan Description - Metro contributes to the PERS Retirement Health Insurance Account (RHIA) for each of its eligible employees. RHIA is a cost-sharing multiple-employer defined benefit other postemployment benefit plan administered by PERS. RHIA pays a monthly contribution toward the cost of Medicare companion health insurance premiums for eligible retirees. ORS 238.420 established this trust fund. Authority to establish and amend the benefit provisions of RHIA reside with the Oregon Legislature. The plan is closed to new entrants on or after August 29, 2003. PERS issues publicly available financial statements and required supplementary information. That report may be obtained by writing to Oregon Public Employees Retirement System, P.O. Box 23700, Tigard, Oregon 97281-3700, by calling 1-888-320-7377, or by accessing the PERS website at <https://oregon.gov/pers/Pages/Financials/Actuarial-Financial-Information.aspx>

Benefits Provided - Because RHIA was created by enabling legislation (ORS 238.420), contribution requirements of the plan members and the participating employers were established and may be amended only by the Oregon Legislature. ORS require that an amount equal to \$60 or the total monthly cost of Medicare companion health insurance premiums coverage, whichever is less, shall be paid from the RHIA established by the employer, and any monthly cost in excess of \$60 shall be paid by the eligible retired member in the manner provided in ORS 238.410. To be eligible to receive this monthly payment toward the premium cost, the member must (1) have eight years or more of qualifying service in PERS at the time of retirement or receive a disability allowance as if the member had eight years or more of creditable service in PERS, (2) receive both Medicare Parts A and B coverage, and (3) enroll in a PERS-sponsored health plan. A surviving spouse or dependent of a deceased PERS retiree who was eligible to receive the subsidy is eligible to receive the subsidy if he or she (1) is receiving a retirement benefit or allowance from PERS, or (2) was insured at the time the member died and the member retired before May 1, 1991.

Contributions - PERS funding policy provides for employer contributions at actuarially determined rates. These contributions, expressed as a percentage of covered payroll, are intended to accumulate sufficient assets to pay benefits when due. Employer contribution rates for the period were based on the December 31, 2019 actuarial valuation. The rates based on a percentage of payroll, first became effective July 1, 2021. Metro's contribution rates for the period were 0.06% for Tier One/Tier Two members, and 0.00% for OPSRP members. Metro's total for the year ended June 30, 2023 contribution was \$9,322.

Total OPEB Assets, Liabilities, OPEB Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to OPEB - At June 30, 2023, Metro reported an asset of \$1,816,657 for its proportionate share of the OPERS net OPEB asset. The net OPEB asset was measured as of June 30, 2022, and the total OPEB liability used to calculate the net OPEB asset was determined by an actuarial valuation as of December 31, 2020. Metro's proportion of the net OPEB asset was based on Metro's contributions to the RHIA program during the measurement period relative to contributions from all participating employers. At June 30, 2023, Metro's proportionate share was 0.5113% which is an increase from its proportion of 0.3828% as of June 30, 2022.

For the year ended June 30, 2023, Metro recognized OPEB income from this plan of \$285,836. At June 30, 2023, Metro reported deferred outflows of resources and deferred inflows of resources related to this OPEB plan from the following sources:

<u>Sources</u>	<u>Deferred Outflows of Resources</u>	<u>Deferred Inflows of Resources</u>
Net difference between projected and actual earnings on investments	\$ -	138,543
Changes of assumptions	14,225	60,555
Changes in proportionate share	-	209,329
Differences between expected and actual experience	-	49,230
Contributions subsequent to the measurement date	9,322	-
<u>Total</u>	<u>\$ 23,547</u>	<u>457,657</u>

Deferred outflows of resources related to OPEB of \$9,322 resulting from Metro's contributions subsequent to the measurement date will be recognized as either a reduction of the net OPEB liability or an increase in the net OPEB asset in the year ended June 30, 2024. Other amounts reported as deferred inflows of resources related to OPEB will be recognized in OPEB expense as follows:

<u>Fiscal year ended June 30:</u>	
2024	\$ (250,810)
2025	(149,566)
2026	(87,427)
2027	44,371
<u>Total</u>	<u>\$ (443,432)</u>

Notes to the Financial Statements

For the fiscal year ended June 30, 2023

Actuarial Assumptions and Other Inputs - The total OPEB asset based on the December 31, 2020 valuation was determined using the following actuarial assumptions and other inputs, applied to all periods included in the measurement, unless otherwise specified:

Valuation date	December 31, 2020
Measurement date	June 30, 2022
Experience study	2020, published July 20, 2021
Actuarial assumptions:	
Actuarial cost method	Entry Age Normal
Inflation rate	2.40 percent
Long-term expected rate of return	6.90 percent
Discount rate	6.90 percent
Projected salary increase	3.40 percent
Healthcare cost trend rate	Not applicable
Mortality	Healthy retirees and beneficiaries: Pub-2010 Healthy Retiree, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation. Active members: Pub-2010 Employee, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation. Disabled retirees: Pub-2010 Disabled Retiree, sex-distinct, generational with Unisex, Social Security Data Scale, with job category adjustments and set-backs as described in the valuation.

All other actuarial methods and assumptions are consistent with those disclosed in the OPERS Pension Plan. See Note IV.H.1, for additional information on Actuarial Assumptions and Methods, the Long-Term Expected Rate of Return, and the Discount Rate.

Sensitivity of Metro’s proportionate share of the net OPEB liability (asset) to changes in the discount rate - The following presents Metro’s proportionate share of the net OPEB liability (asset), calculated using the discount rate of 6.90%, as well as what Metro’s proportionate share of the net OPEB liability (asset) would be if it were calculated using a discount rate of 1-percentage-point lower (5.90 percent) or 1-percentage-point higher (7.90 percent) than the current rate.

	1% Decrease (5.90%)	Current Discount Rate (6.90%)	1% Increase (7.90%)
Total OPEB Liability (Asset)	\$ (1,637,320)	(1,816,656)	(1,970,391)

OPEB Plan Fiduciary Net Position - Detailed information about the pension plan’s fiduciary net position is available in the separately issued OPERS financial report.

J. COMMITMENTS

1. Columbia Ridge Landfill

Metro has waste disposal service agreements with the owner and operator of Columbia Ridge Landfill in Gilliam County, Oregon for disposal of solid waste from the transfer stations owned by Metro. The monthly disposal rate will be adjusted annually by an amount equivalent to 90 percent of the annual change of CPI on July 1 each year until the contract expires on December 31, 2029. The rate for fiscal year 2023 is \$19.86 per ton. The estimated increased rate for fiscal year 2024 is \$20.71 per ton.

2. Waste Transport

Solid waste transport from Metro facilities to Columbia Ridge Landfill and other disposal sites is privately contracted through December 31, 2029. For fiscal year 2023, the unit price is \$632.85 per load (equivalent to about \$18.47 per ton). The current contract will adjust the per load unit price by a percentage equal to 95 percent of the annual percent change of CPI every July 1. The additional unit prices for the new contract includes a mile tax of \$66.71 and a wage increase of \$36.84 per load. Both additional costs per load are *not* subject to the CPI increases.

The contract calls for Metro to reimburse the contractor for the cost of shuttle fuel used at the transfer stations. The fuel price is highly variable and tied to a weekly index, but historically has added \$10 to \$15 to the cost of each load.

Renewable bulk fuel is purchased through a State of Oregon cooperative contract.

3. Metro South Station

The operation of Metro South, a solid waste transfer station and materials recovery facility is privately contracted through December 31, 2024. Monthly payments for personnel costs, maintenance, and equipment are on a reimbursed basis within agreed parameters plus a gross margin. There are prices for putrescible and non-putrescible waste and other waste materials that are subject to CPI adjustments annually and performance adjustments.

4. Metro Central Station

The operation of Metro Central, a solid waste transfer station and materials recovery facility is privately contracted through December 31, 2023. A new contract to continue private operation of Metro Central has been executed with a term effective January 1, 2024 through December 31, 2028. The contractor receives incentives for materials recovered from the waste stream and not sent to Columbia Ridge Landfill. The cost of transfer, transport and processing at remote composting sites is also included. The contractor provides transfer services and arranges for transport and processing. All payments are adjusted annually on July 1 in an amount equal to CPI.

5. Summary

The following table presents approximate annual commitments based on forecasted refuse tons and assumed annual inflation equal to the average of the preceding four fiscal years for all of the previously described contracts. The figures for Metro South and Metro Central reflect costs and tonnage as estimated at contract prices and tonnage from the tonnage forecast and at various contract expiration dates.

Fiscal year ending June 30:	Columbia Ridge Landfill	Waste Transport	Metro South	Metro Central
2024	\$ 10,833,004	11,812,706	11,141,587	13,313,709
2025	11,142,230	12,160,751	5,701,525	15,750,986
2026	11,512,954	12,672,035	-	16,254,377
2027	11,848,344	13,087,347	-	16,698,225
2028	12,155,738	13,446,347	-	17,126,825
Total	\$ 57,492,270	63,179,186	16,843,112	79,144,122

6. Construction Projects

Metro is committed under a number of contracts for construction services. The amount of major uncompleted contracts is approximately \$5,000,000 at June 30, 2023.

7. Affordable Housing

Metro Council has approved the following projects under the Affordable Housing Bond program. The projects fund affordable housing for low-income families, seniors, veterans and people with disabilities in the Metro region.

Housing Partner	Project	Commitment
City of Beaverton	Elmonica	\$ 8,439,934
Metro Site Acquisition Program (Beaverton)	SAP- Elmonica (Beaverton)	3,460,066
City of Hillsboro	The Dolores	10,500,000
Home Forward	Troutdale	13,449,238
Metro Site Acquisition Program (Home Forward)	SAP- Troutdale (Home Forward)	1,764,347
City of Portland	PCC Killingsworth	2,538,237
City of Portland	Hollywood Hub	29,084,328
City of Portland	Barbur Apartments	22,519,248
City of Portland	Carter Commons	5,800,000
City of Portland	Strong Site	11,250,000
City of Portland	Portland Value Inn	6,155,974
Metro Site Acquisition Program (Portland)	SAP - Portland Value Inn (Portland)	7,336,006
Total		\$ 122,297,378

K. LEASES

1. Lease Receivable

The following changes occurred during fiscal year 2023 in lease receivable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Governmental activities:				
Restaurant building lease; interest at 2%, principal and interest from \$5,975 to \$8,042 monthly, final payments due 2037	\$ 1,108,798	-	(50,707)	1,058,091
Cell tower land lease; interest at 1%, principal and interest of \$2,057 monthly, final payments due 2036	98,704	-	(23,801)	74,903
Office building sub-lease, interest at 4%, principal and interest of \$8,504 monthly, final payments due 2025	-	209,350	(5,698)	203,652
Governmental activities				
Total lease receivable	\$ 1,207,502	209,350	(80,206)	1,336,646
Business-type activities:				
Theater land leaseback; interest at 3%, principal and interest from \$3,515 monthly, final payments due 2083	\$ 1,182,329	-	(6,808)	1,175,521
Business-type activities				
Total lease receivable (1)	\$ 1,182,329	-	(6,808)	1,175,521

During the year ended June 30, 2023, Metro recognized \$129,218 in lease revenue and \$25,974 in interest revenue for governmental activities. Additionally, during the year ended June 30, 2023, Metro recognized \$19,122 in lease revenue and \$35,360 in interest revenue for business-type activities. During the fiscal year, there were no inflows of resources related to variable or other payments not previously included in the measurement of the lease receivable.

2. Leases Payable

The following changes occurred during fiscal year 2023 in governmental activities leases payable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Governmental activities:				
Office building lease; interest at 1%, principal and interest from \$16,239 to \$17,755 monthly, final payments due 2025	\$ 614,647	-	(191,051)	423,596
Trailer equipment lease; interest at 1%, principal and interest of \$4,587 monthly, final payments due 2024	108,949	-	(54,202)	54,747
Governmental activities				
Total leases payable	<u>\$ 723,596</u>	<u>-</u>	<u>(245,253)</u>	<u>478,343</u>
Current portion				(253,633)
Long-term portion				<u>\$ 224,710</u>

During the fiscal year, there were no outflows of resources related to variable or other payments not previously included in the measurement of the lease liability.

Future maturities are as follows:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 253,633	3,629
2025	206,979	1,306
2026	17,731	15
	<u>\$ 478,343</u>	<u>4,950</u>

The following changes occurred during fiscal year 2023 in business-type activities leases payable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Business-type activities:				
Theater land lease; interest at 3%, principal and interest of \$29,792 monthly, final payments due 2083	\$ 10,019,743	-	(57,697)	9,962,046
Paint building lease; interest at 2%, principal and interest from \$36,476 to \$39,859 monthly, final payments due 2035	5,485,413	-	(342,058)	5,143,355
Patrol building lease; interest at 1%, principal and interest from \$15,000 to \$17,389 monthly, final payments due 2027	973,343	-	(176,020)	797,323
Warehouse lease; interest at 1%, principal and interest from \$6,058 to \$6,240 monthly, final payments due 2024	116,302	-	(116,302)	-
Parking land lease; interest at 1%, principal and interest from \$8,658 to \$8,918 monthly, final payments due 2023	52,833	78,940	(105,197)	26,576
Business-type activities				
Total leases payable (1)	<u>\$ 16,647,634</u>	<u>78,940</u>	<u>(797,274)</u>	<u>15,929,300</u>
Current portion				(631,935)
Long-term portion				<u>\$ 15,297,365</u>

During the fiscal year, there were no outflows of resources related to variable or other payments not previously included in the measurement of the lease liability.

Notes to the Financial Statements

For the fiscal year ended June 30, 2023

Future maturities are as follows:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 631,935	404,937
2025	636,059	393,638
2026	655,865	382,041
2027	673,824	370,144
2028	494,425	358,769
2029-33	2,544,631	1,634,394
2034-38	1,439,629	1,384,199
2039-43	495,151	1,292,349
2044-48	575,176	1,212,324
2049-53	668,134	1,119,366
2054-58	776,116	1,011,385
2059-63	901,549	885,951
2064-68	1,047,255	740,246
2069-73	1,216,508	570,992
2074-78	1,413,117	374,384
2079-83	1,641,500	146,000
2084-88	118,426	740
	<u>\$ 15,929,300</u>	<u>12,281,859</u>

(1) Due to the netting of the lessee and lessor portions of the Theater Land Lease-Leaseback, the lease receivable and leases payable totals within this footnote do not tie to the Statement of Net Position. The following reconciliation has been prepared in order to illustrate the difference.

Business-type activities:

Lease receivable - government-wide statement of net position	\$ -
Theater Land Leaseback receivable, netted with leases payable on statement of net position	1,175,521
<u>Total lease receivable per footnote</u>	<u>\$ 1,175,521</u>
Leases payable due within one year - government-wide statement of net position	\$ 624,920
Leases payable due in more than one year - government-wide statement of net position	14,128,859
Theater Land Leaseback receivable, netted in leases payable on statement of net position	1,175,521
<u>Total leases payable per footnote</u>	<u>\$ 15,929,300</u>

L. SUBSCRIPTION-BASED INFORMATION TECHNOLOGY ARRANGEMENTS (SBITA)

The following changes occurred during fiscal year 2023 in governmental activities SBITA payable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Governmental activities:				
Operating system subscription; interest at 1%, principal and interest of \$317,073 annually, final payment due 2023	\$ 369,334	-	(317,021)	52,313
GIS mapping software; interest at 1%, principal and interest of \$165,000 annually, final payment due 2023	328,359	-	(165,000)	163,359
Hosting subscription; interest at 1%, principal and interest from \$53,000 to \$64,250 annually, final payment due 2025	246,307	-	(65,667)	180,640
Timekeeping software; interest at 1%, principal and interest from \$94,802 to \$98,594 annually, final payments due 2025	207,895	-	(110,282)	97,613
Public meeting software; interest at 1%, principal and interest of \$70,003 annually, final payment due 2023	113,985	-	(113,985)	-
Point of sale software; interest at 1%, principal and interest of \$2,917 monthly, final payment due 2025	106,401	-	(37,125)	69,276
Cemeteries sales software; interest at 4%, principal and interest of \$2,917 monthly, final payments due 2025	88,999	-	(57,675)	31,324
Public records software; interest at 2%, principal and interest of \$20,631 annually, final payments due 2026	84,075	-	(20,631)	63,444
Desk booking software; interest at 1%, principal and interest from \$19,423 to \$21,413 annually, final payment due 2024	68,446	-	(27,264)	41,182
Safety software; interest at 1%, principal and interest of \$135,000 annually, final payment due 2025	166,413	-	(77,752)	88,661
Governmental activities				
Total SBITA payable	\$ 1,780,214	-	(992,402)	787,812
Current portion				(519,594)
Long-term portion				\$ 268,218

During the fiscal year, there were no outflows of resources related to variable or other payments not previously included in the measurement of the SBITA liability.

Future maturities are as follows:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 519,594	9,358
2025	180,254	2,981
2026	83,751	1,131
2027	4,213	85
	\$ 787,812	13,555

The following changes occurred during fiscal year 2023 in business-type activities SBITA payable:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023
Business-type activities:				
Event management software; interest at 1%, principal and interest from \$215,822 to \$229,966 annually, final payment due 2024	\$ 720,658	-	(276,138)	444,520
Asset management software; interest at 3%, principal and interest from \$43,589 to \$49,060 annually, final payment due 2026	-	225,721	(51,539)	174,182
Business-type activities				
Total SBITA payable	<u>\$ 720,658</u>	<u>225,721</u>	<u>(327,677)</u>	<u>618,702</u>
Current portion				(257,431)
Long-term portion				<u>\$ 361,271</u>

During the fiscal year, there were no outflows of resources related to variable or other payments not previously included in the measurement of the SBITA liability.

Future maturities are as follows:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 257,431	9,764
2025	268,839	6,371
2026	44,820	2,811
2027	47,612	1,448
	<u>\$ 618,702</u>	<u>20,394</u>

During the fiscal year, there were no commitments under SBITAs before the commencement of the subscription term in either the governmental or business-type activities. Additionally, there were no associated impairment losses.

M. BONDS PAYABLE

Metro issues a variety of long-term debt types to finance capital projects and some capital equipment. The Tax Reform Act of 1986 requires that governmental entities issuing tax-exempt debt after August 1986 calculate and rebate arbitrage earnings to the federal government. Metro’s tax-exempt debt is in compliance with all Internal Revenue Service arbitrage regulations.

The various debt issues are discussed below.

Governmental Activities

1. 2012A and 2018 Series Natural Areas General Obligation Bonds and 2023 Series General Obligation Refunding Bonds

In prior years, Metro issued \$124,295,000 of 2007 Series Natural Areas General Obligation Bonds and an additional \$75,000,000 of 2012A Series bonds. The bonds were issued by Metro under authority granted by voters for a total of \$227.4 million in general obligation bonds to fund activities to acquire and preserve natural areas and stream frontages, maintain and improve water quality, and protect fish and wildlife habitat. On May 15, 2018, Metro issued \$28,105,000 of Series 2018 bonds, which was the final issuance of bonds authorized under the 2006 voter approved measure.

In prior years, Metro issued \$57,955,000 of General Obligation Refunding Bonds, Series 2014 to refund all callable outstanding 2007 Series Natural Areas General Obligation Bonds. The defeased bonds have been called and paid and the escrow account for the defeasance is closed.

On May 31, 2023 Metro issued \$26,568,048 of General Obligation Refunding Bonds, Series 2023 to refund all callable outstanding 2012A Series Natural Areas General Obligation Bonds. The net proceeds were used to purchase U.S. government securities. Those securities were deposited in an irrevocable trust with an escrow agent until the bonds’ optional redemption date of July 27, 2023. At June 30, 2023, \$3,107,000 of the refunding bonds were outstanding. As a result of these actions, the callable portion of the 2012A Series bonds are considered defeased and the liability for these bonds has been removed from the government-wide statement of net position. The remaining non-callable bonds will be paid as originally scheduled. The Series 2023 refunding bond was a single issuance which has been further broken out by Metro between Natural Areas and Oregon Zoo Infrastructure and Animal Welfare for consistency purposes. See Note IV.M.2 for Oregon Zoo Infrastructure and Animal Welfare portion of Series 2023 refunding bond. The refunding resulted in a total combined reduction of debt service of \$2,384,090 over 5 years and a net present value savings of \$452,785.

The bonds are to be repaid with proceeds of Metro’s *ad valorem* property tax levied each year. Interest rates on individual bonds range from 3.96 percent to 5.0 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	2012A Series		2018 Series		2023 Series	
	Principal	Interest	Principal	Interest	Principal	Interest
2024	\$ -	240,403	2,125,000	342,750	9,801,010	1,055,017
2025	-	240,403	2,280,000	236,500	16,767,038	663,974
2026	3,107,000	240,403	2,450,000	122,500	-	-
	3,107,000	721,209	6,855,000	701,750	26,568,048	1,718,991
Unamortized premium	376,217		936,988		-	
Per statement of net position	\$ 3,483,217		7,791,988		26,568,048	

2. 2012A and 2018 Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds and 2023 Series General Obligation Refunding Bonds

In prior years, the region’s voters granted authority for a total of \$125 million in general obligation bonds to fund Oregon Zoo capital projects to protect animal health and safety, conserve and recycle water and to improve access to conservation education. The first and second series of this bond, issued as taxable Build America Bonds (BABs), for \$5,000,000 and \$15,000,000 were issued and paid off in prior fiscal years. Also in prior years, Metro issued \$65,000,000 of 2012A Series bonds and \$30,000,000 of 2016 Series bonds. On May 15, 2018, Metro issued \$10,000,000 of Series 2018 bonds, which was the final issuance of bonds authorized under the 2008 voter approved measure.

On May 31, 2023 Metro issued \$14,305,572 of General Obligation Refunding Bonds, Series 2023 to refund all callable outstanding 2012A Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds. The net proceeds were used to purchase U.S. government securities. Those securities were deposited in an irrevocable trust with an escrow agent until the bonds’ optional redemption date of July 27, 2023. At June 30, 2023, \$7,628,000 of the refunding bonds were outstanding. As a result of these actions, the callable portion of the 2012A Series bonds are considered defeased and the liability for these bonds has been removed from the government-wide statement of net position. The remaining non-callable bonds will be paid as originally scheduled. The Series 2023 refunding bond was a single issuance which has been further broken out by Metro between Natural Areas and Oregon Zoo Infrastructure and Animal Welfare for consistency purposes. See Note IV.M.1 for the combined debt service reduction and net present value savings.

The bonds are to be repaid with proceeds of Metro’s *ad valorem* property tax levied each year. Interest rates on individual bonds range from 3.0 percent to 5.0 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	2012A Series		2018 Series		2023 Series	
	Principal	Interest	Principal	Interest	Principal	Interest
2024	\$ -	129,448	975,000	289,500	5,277,467	568,086
2025	-	129,448	1,060,000	240,750	9,028,405	357,525
2026	1,673,000	129,448	1,150,000	187,750	-	-
2027	-	178,650	1,250,000	130,250	-	-
2028	5,955,000	178,650	1,355,000	67,750	-	-
	7,628,000	745,644	5,790,000	916,000	14,305,872	925,611
Unamortized premium	975,465		740,169		-	
Per statement of net position	\$ 8,603,465		6,530,169		14,305,872	

3. 2019 Series Affordable Housing General Obligation Bonds

On November 6, 2018, the region’s voters granted authority for a total of \$652.8 million in general obligation bonds to fund affordable housing projects for low-income families, seniors, veterans and people with disabilities in the Metro region which includes Washington, Clackamas, and Multnomah counties. On May 15, 2019, Metro issued \$652,800,000 of federally taxable Series 2019 bonds authorized under the 2018 voter approved measure.

The bonds are to be repaid with proceeds of Metro’s *ad valorem* property tax levied each year. Interest rates on individual bonds range from 3.0 percent to 3.5 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 19,600,000	19,583,904
2025	21,465,000	18,897,904
2026	23,425,000	18,146,629
2027	25,435,000	17,385,316
2028	27,545,000	16,558,679
2029-33	172,595,000	68,579,202
2034-38	243,040,000	36,540,373
2039	58,985,000	2,064,475
	592,090,000	197,756,482
Unamortized premium	2,088,957	
Per statement of net position	\$ 594,178,957	

4. Full Faith and Credit Bonds 2018 Series

On May 24, 2018, Metro issued \$13,290,000 of Full Faith and Credit Bonds, Series 2018 to fund renovations, upgrades and repairs to the existing Metro Regional Center (MRC) building. The MRC building projects include exterior and interior replacements and upgrades and Information Services infrastructure.

The bonds are payable from existing Metro revenues which includes assessments on departments to pay for their share of the MRC building upgrade costs along with other General Fund revenues. Interest rates on individual bonds range from 3.0 percent to 5.0 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 1,060,000	586,450
2025	1,115,000	533,450
2026	1,170,000	477,700
2027	1,230,000	419,200
2028	1,290,000	357,700
2029-33	7,425,000	815,750
	13,290,000	3,190,250
Unamortized premium	1,210,995	
Per statement of net position	\$ 14,500,995	

5. Dedicated Tax Revenue Bonds OCC Hotel Project 2017 Series

On August 8, 2017, Metro issued \$52,260,000 in Dedicated Tax Revenue Bonds, Oregon Convention Center Hotel project, Series 2017 to fund a contribution to the construction of a 600-room hotel adjacent to the OCC, a project to assist in marketing the OCC for national conventions.

Metro negotiated with a development partner who committed to design and construct the hotel, which was finished in 2022 and is owned and operated by Hyatt Hotels Corporation; the developer and operator provided approximately \$166 million of the estimated \$240 million cost. As part of the Development and Financing Agreement, Metro committed to provide a portion of the funding, consisting of the revenue bonds, \$4 million contributed by the MERC Proprietary Fund and \$10 million received previously from the State of Oregon lottery funds. Metro has transferred these funding sources to the developer.

The bonds are backed by site specific transient lodging tax revenue. Interest rates on individual bonds range from 3.0 percent to 5.0 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 1,055,000	2,343,750
2025	1,105,000	2,291,000
2026	1,160,000	2,235,750
2027	1,220,000	2,177,750
2028	1,280,000	2,116,750
2029-33	7,430,000	9,557,000
2034-38	9,480,000	7,504,500
2039-43	12,100,000	4,885,000
2044-47	12,045,000	1,542,250
	46,875,000	34,653,750
Unamortized premium	7,043,724	
Per statement of net position	\$ 53,918,724	

6. Pension Obligation Bonds Metro Limited Tax Series 2005

In prior years, Metro, along with certain other Oregon cities, counties and special districts issued Limited Tax Pension Bonds Series 2005 to finance their PERS unfunded actuarial liabilities. The proceeds of Metro’s \$24,290,000 in bonds were paid to PERS and resulted in a new, lower employer contribution rate.

The bonds are to be repaid through assessments on Metro departments in exchange for the lower pension cost. The individual bonds have interest rates ranging from 4.859 percent to 5.004 percent.

Notes to the Financial Statements

For the fiscal year ended June 30, 2023

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 2,010,000	536,179
2025	2,210,000	435,598
2026	2,430,000	325,010
2027	2,660,000	203,413
2028	1,405,000	70,306
Per statement of net position	\$ 10,715,000	1,570,506

7. 2020A and 2020B Series Parks and Nature General Obligation Bonds

In May 2020, Metro issued \$200,000,000 of 2020 Series Parks and Nature General Obligation Bonds. The bonds were issued by Metro under authority granted by voters for a total of \$475 million in general obligation bonds to fund programs designed to protect natural areas and connect people to nature. The bond will be used for protecting clean water for people, fish and wildlife; improving habitat for native fish and wildlife; protecting and restoring culturally significant native plant communities; and improving access to parks and nature.

The bonds are to be repaid with proceeds of Metro’s *ad valorem* property tax levied each year. Interest rates on individual bonds range from 1.2 percent to 5.0 percent.

Fiscal year ending June 30:	Principal	Interest
2024	\$ 17,425,000	4,104,793
2025	8,685,000	3,900,921
2026	3,000,000	3,786,279
2027	3,000,000	3,741,279
2028	3,000,000	3,691,779
2029-33	31,350,000	16,607,945
2034-38	56,855,000	8,342,314
2039-40	27,795,000	1,101,222
	151,110,000	45,276,532
Unamortized premium	9,200,201	
Per statement of net position	\$ 160,310,201	

Business-type Activities

8. Full Faith and Credit Refunding Bonds 2016 Series

In prior years, Metro issued \$7,385,000 of Full Faith and Credit Refunding Bonds, Series 2016 to refund all callable outstanding 2006 Series Oregon Local Governments Full Faith and Credit Bonds. The defeased bonds have been called and paid and the escrow account for the defeasance is closed.

The bonds are payable from all legally available taxes and other revenues of Metro. Interest rates on individual bonds range from 1.5 percent to 5.0 percent.

Bond principal and interest outstanding at June 30 and the corresponding maturities are:

Fiscal year ending June 30:	Principal	Interest
2024	\$ 965,000	49,450
2025	1,005,000	15,075
	1,970,000	64,525
Unamortized premium	131,909	
Per statement of net position	\$ 2,101,909	

N. CHANGES IN LONG-TERM LIABILITIES

The following changes occurred during fiscal year 2023 in long-term liabilities:

	Balance July 1, 2022	Additions	Reductions	Balance June 30, 2023	Due Within One Year
Governmental activities:					
Bonds payable:					
General obligation bonds	\$ 855,890,000	40,873,920	(89,310,000)	807,453,920	55,203,477
Full faith and credit bonds	26,610,000	-	(13,320,000)	13,290,000	1,060,000
Dedicated tax revenue bonds	47,880,000	-	(1,005,000)	46,875,000	1,055,000
Pension obligation bonds	12,535,000	-	(1,820,000)	10,715,000	2,010,000
Less unamortized amounts:					
For premium or discount	30,943,703	-	(8,370,987)	22,572,716	-
Total bonds payable	973,858,703	40,873,920	(113,825,987)	900,906,636	59,328,477
Leases payable	723,596	-	(245,253)	478,343	253,633
SBITA payable	1,780,214	-	(992,402)	787,812	519,594
Pollution remediation obligation	9,042,942	-	(101,973)	8,940,969	-
Total OPEB liability	988,611	12,741	(58,346)	943,006	-
Compensated absences	4,591,321	5,064,767	(4,591,321)	5,064,767	5,010,413
Net pension liability	41,653,574	8,228,593	(7,806,534)	42,075,633	-
Governmental activities					
Long-term liabilities	\$ 1,032,638,961	54,180,021	(127,621,816)	959,197,166	65,112,117
Business-type activities:					
Bonds payable:					
Full faith and credit bonds	\$ 2,920,000	-	(950,000)	1,970,000	965,000
Less unamortized amounts:					
For premium or discount	225,022	-	(93,113)	131,909	-
Total bonds payable	3,145,022	-	(1,043,113)	2,101,909	965,000
Leases payable	16,647,634	78,940	(797,274)	15,929,300	631,935
SBITA payable	720,658	225,721	(327,677)	618,702	257,431
Post-closure costs payable	2,896,632	808,614	(872,550)	2,832,696	907,450
Pollution remediation obligation	95,000	-	-	95,000	-
Total OPEB liability	1,310,334	(18,847)	(54,948)	1,236,539	-
Compensated absences	3,886,239	4,013,211	(3,886,239)	4,013,211	3,919,623
Net pension liability	36,433,539	10,604,381	(7,361,411)	39,676,509	-
Business-type activities					
Long-term liabilities	\$ 65,135,058	15,712,020	(14,343,212)	66,503,866	6,681,439

The internal service fund predominantly serves the governmental funds. Accordingly, long-term liabilities for it are included as part of the above totals for governmental activities. For governmental activities, compensated absences and net pension liabilities are generally liquidated by the General Fund and net other postemployment benefits are charged to the General Fund.

In 1984, a lease-leaseback agreement was entered into for theater land. In a lease-leaseback transaction, each party is a lessor and a lessee. Since each portion of the transaction is with the same counterparty, a right of offset exists. The lease-leaseback is presented net on the Statement of Net Position in accordance with GASB Statement No. 87, Leases. As such, the Changes in Long-Term Liabilities footnote total for business-type activities is \$1,175,521 higher than the face of the financials. The difference consists of the June 30, 2023 balance in lease receivable related to the leaseback, which is netted with leases payable on the Statement of Net Position.

Additional note disclosure of the gross amounts of the lease and leaseback provide essential information about the magnitude of each portion of the transaction. See Note K.

O. POST-CLOSURE COST PAYABLE

The St. Johns Landfill was closed for operations in a prior year. Closure and post-closure care costs were originally recognized while the St. Johns Landfill was still in operation based on the then current estimate of total costs to complete such efforts, regardless of when cash disbursements were to be made. Such costs include methane gas and leachate collection systems, final cover, seeding, roads, drainage, groundwater monitoring wells, liner systems, stormwater management, and operations and maintenance costs. State and federal laws and regulations require Metro to perform certain post-closure maintenance and monitoring functions for thirty years after closure. At June 30, 2023, there were 3 years remaining until the post-closure care requirement is completed in fiscal year 2026.

The total post-closure cost of the St. Johns Landfill as of June 30, 2023 is estimated to be \$51,760,442 under current Federal and state regulations, an increase of \$808,614 in the current fiscal year in the estimated total liability. Actual cost may vary due to inflation or deflation, changes in technology, or changes in regulations. During the fiscal year, Metro paid \$872,549 in closure costs as the closure process continued (\$48,927,746 cumulative to date); reducing the remaining estimated liability to \$2,832,696 at June 30, 2023.

Metro is required by state and federal laws and regulations to provide financial assurance for the coverage of these overall post-closure care estimated costs. Metro is currently providing this financial assurance through an Alternative Financial Assurance Mechanism which has been approved by the Oregon Department of Environmental Quality (DEQ) and consists of its Solid Waste Fund, a post-closure funding guarantee of future revenues to cover these costs and a Landfill Post-Closure Account. Metro is required to submit annual re-certifications of this mechanism and Metro is currently awaiting DEQ approval for this year's annual recertification.

P. POLLUTION REMEDIATION OBLIGATION

Metro follows the requirements of GASB Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations* to account for its pollution remediation liabilities. Various Metro properties have pollution remediation obligations where obligating events have occurred and amounts are estimable using the expected cash flows technique.

Governmental Activities

Estimable pollution remediation obligations are present at what is referred to as the Texaco site on McLoughlin Boulevard in Milwaukie, Oregon. DEQ includes this site in the Underground Storage Tank (UST) Cleanup program and the incomplete nature of cleanup activities by the prior owners constitutes an obligating event. Metro entered into a Prospective Purchaser Agreement (PPA) with DEQ which called for the decommissioning of USTs and remediation of soil contamination exceeding DEQ tolerances. Initial remediation work, including UST removal has been completed. Some shallow soil contamination remains. A cost estimate was developed for remaining DEQ oversight costs and cleanup of the remaining soil contamination during future site development work, as notified by DEQ in 2006. The estimated pollution remediation obligation for this site is estimated to be \$2,500, reflected in governmental activities on the government-wide statement of net position.

Other Metro properties fall within the Initial Study Area of the Portland Harbor Superfund site adjacent to the Portland Harbor. The area has been under investigation by the Lower Willamette Group (LWG) under a 2001 Environmental Protection Agency (EPA) Administrative Order on Consent. For the entire Portland Harbor Superfund site, the LWG has been conducting a remedial investigation in the Willamette River (in water) since 2001 with oversight from EPA. EPA issued a Record of Decision outlining the Selected Remedy in January 2017, which includes dredging, capping, and enhanced natural recovery, estimated to take 13 years to complete. Costs associated with investigations and studies as they pertain to Metro properties and the allocation of such costs among potentially responsible parties (PRPs) are still being determined. The PRPs have engaged an allocator to

develop a method for allocation of costs associated with the remedial investigation and feasibility study. Based upon the uncertainty of the Portland Harbor Superfund site remediation and allocation approach, pollution remediation obligations for the in-water remedy at Willamette Cove are not considered estimable. For the upland portion of the site, Metro's current share of the pollution remediation obligation is estimated to be \$9,445,000 including the added costs of the contingency remedy committed to by Metro Council during July 2022. During the fiscal year, Metro paid \$101,973 in remediation costs toward this liability. The remaining liability of \$8,938,469 is reflected in governmental activities on the government-wide statement of net position.

Business-type Activities

At the St. Johns Landfill, work associated with pollution remediation for sediment located adjacent to the landfill levees and potentially shallow groundwater includes: completion of a remedial investigation (RI)/feasibility study (FS) and remedial design; remedial action implementation; and remedial action performance monitoring. The work associated with the RI has been completed and the final RI report has been accepted by DEQ. The work associated with the FS component was completed during fiscal year 2013. DEQ signed and issued a Record of Decision on July 9, 2014, which includes DEQ's selected remedial action. Work going forward is based on the Draft Remedial Action Work Plan (RAWP) for implementation of the preferred alternative which calls for activated carbon pellets to be spread across the sediment surface in the risk-based areas. Metro has elected to expand the treatment area to provide greater coverage of the Westside Mud Flat to reduce uncertainty. Metro received DEQ approval and certification of these results at June 30, 2023. There is no liability related to this site recorded as of June 30, 2023.

For Metro Central Station, Metro received a request from the EPA and recommendation from DEQ to perform an expanded Preliminary Assessment. Metro then entered into an agreement with DEQ regarding the source control evaluation for the property. Metro has contracted with AECOM to update the station's stormwater treatment system to satisfy Tier 2 correction actions related to the DEQ's recommendation. Site improvements have been completed and Metro is awaiting DEQ approval and certification of these results at June 30, 2023. There is no liability related to this site recorded as of June 30, 2023.

Current information on estimable pollution remediation obligations at Expo, which is adjacent to a designated Superfund site, is limited. Therefore, the cost associated with work beyond the initial preliminary study is not yet estimable. The pollution remediation obligation estimate for the DEQ recommended preliminary assessment, which is recorded in the MERC Fund, is \$95,000.

The total pollution remediation obligation on the government-wide statement of net position for governmental activities is \$8,940,969 and for business-type activities \$95,000.

Q. FUND BALANCE CLASSIFICATIONS

Fund balance classifications as presented on the governmental funds balance sheet are further detailed below:

	General Fund	Parks and Nature Operating Fund	Affordable Housing Special Revenue Fund	Supportive Housing Services Revenue Fund	General Obligation Bond Debt Service Fund	Major Capital Projects Funds		Other Funds	Total
						Natural Areas Fund	Parks and Nature Bond Fund		
Fund balances:									
Nonspendable:									
Not in spendable form:									
Prepaid items	\$ 427,003	11,356	-	-	-	-	991	408	439,758
Advances	-	-	96,260,646	290,998,876	-	-	-	-	387,259,522
Corpus of permanent fund	-	-	-	-	-	-	-	747,747	747,747
Total nonspendable	427,003	11,356	96,260,646	290,998,876	-	-	991	748,155	388,447,027
Restricted for:									
Construction excise tax for									
development planning	17,397,911	-	-	-	-	-	-	-	17,397,911
TOD projects	19,515,888	-	-	-	-	-	-	-	19,515,888
Planning IGA	9,600,738	-	-	-	-	-	-	-	9,600,738
Glendoveer capital	1,610,629	-	-	-	-	-	-	-	1,610,629
Parks and Natural Areas	-	10,454,760	-	-	-	-	-	-	10,454,760
Debt service on bonds	3,638,957	-	-	-	3,412,782	-	-	-	7,051,739
Smith & Bybee Wetlands mgmt plan	-	-	-	-	-	-	-	1,204,889	1,204,889
Community Enhancement	517,234	-	-	-	-	-	-	931,809	1,449,043
Willamette Falls Legacy project	15,291,859	-	-	-	-	-	-	-	15,291,859
Affordable Housing	-	-	367,322,964	-	-	-	-	-	367,322,964
Supportive Housing Services	-	-	-	62,734,246	-	-	-	-	62,734,246
Capital projects:									
Bond funded programs	2,554,574	-	-	-	-	3,416,925	163,372,866	-	169,344,365
Total restricted	70,127,790	10,454,760	367,322,964	62,734,246	3,412,782	3,416,925	163,372,866	2,136,698	682,979,031
Committed to:									
TOD projects	9,900,092	-	-	-	-	-	-	-	9,900,092
Total committed	9,900,092	-	-	-	-	-	-	-	9,900,092
Assigned to:									
Encumbered fund balance	405,000	-	-	-	-	-	-	-	405,000
Parks cemetery	256,541	-	-	-	-	-	-	-	256,541
Total assigned	661,541	-	-	-	-	-	-	-	661,541
Unassigned	44,992,123	-	-	-	-	-	-	(11,352)	44,980,771
Total fund balances	\$ 126,108,549	10,466,116	463,583,610	353,733,122	3,412,782	3,416,925	163,373,857	2,873,501	1,126,968,462

R. INTERFUND RECEIVABLES, PAYABLES, AND TRANSFERS

Interfund receivables and payables are detailed in the table below.

<i>Receivable Fund/Entity</i>	<i>Payable Fund/Entity</i>		Assets per fund statements
	<i>Due to Other Funds</i> (portion of interfund loans expected to be repaid in the subsequent year)	<i>Internal balances</i> (to reflect the consolidation of internal service fund activities) Business-type activities	
Due from Other Funds <i>(portion of interfund loans expected to be repaid in the subsequent year)</i>			
Solid Waste	\$ 513,839		513,839
Internal balances <i>(to reflect the consolidation of internal service fund activities)</i>			
Governmental activities		(4,398,154)	
Liabilities per fund statements	\$ 513,839		
Reconciliation to government-wide statements:			
Internal balances per the government-wide statement of net position		(\$ 4,398,154)	

Loan from Solid Waste Fund to Oregon Zoo Fund is to finance various capital projects.

Note that amounts shown between Solid Waste and Oregon Zoo net within business-type activities in internal balances

Interfund transfers for the fiscal year by fund were:

<i>Transfers out</i>	<i>Transfers in</i>				Total
	General	Parks and Nature Operating	Oregon Zoo	MERC	
General	\$ -	2,606,000	15,304,880	603,279	18,514,159
Parks and Nature Operating	732,587	-	-	-	732,587
Affordable Housing	19,958	-	-	-	19,958
Supportive Housing Services	12,057,284	-	-	-	12,057,284
Natural Areas	563	-	-	-	563
Parks and Nature Bond	94,080	-	-	-	94,080
Cemetery Perpetual Care	17,822	-	-	-	17,822
Solid Waste	708,770	-	-	-	708,770
Oregon Zoo	431,574	-	-	-	431,574
MERC	432,042	-	-	-	432,042
Risk Management	8,012	-	-	-	8,012
Total	\$ 14,502,692	2,606,000	15,304,880	603,279	33,016,851

The transfers detailed above are transfers of resources from one fund to another that are not based upon a cost allocation plan or any expectation of a payment for services provided, but rather to provide resources for other uses. These include General Fund support to Parks and Nature Operating for operations and maintenance, to Oregon Zoo for general allocations and renewal and replacement of capital assets, and to MERC for operating support and capital needs.

S. TAX ABATEMENTS

Metro has not entered into any tax abatement programs. However, Metro is subject to tax abatements granted by the three counties in which Metro operates. Metro’s abated property taxes total \$10,883,802 for fiscal year 2023. The following two tax abatement programs account for 97 percent of the abated property taxes:

Strategic Investment Program

The Strategic Investment Program (SIP) was adopted by the Oregon legislature in 1993 under ORS 285C.600. The purpose of this program is to attract and keep companies that provide good jobs in Oregon, particularly capital-intensive, high-technology employers. It allows “traded-sector” businesses, such as manufacturing firms, and local governments to negotiate alternative property tax agreements if these businesses are willing to invest at least \$100 million at an urban site or at least \$25 million at a rural location in Oregon. “Traded sector” is defined in Oregon law as “industries in which member firms sell their goods or services into markets for which national and international competition exists.” The project must either receive local approval through a custom agreement with the county/city or be located in a pre-established “Strategic Investment Zone.”

SIP allows for tax exemptions on project property for fifteen years. In exchange for receiving a property tax exemption, participating firms are required to meet the program requirements set by state statute and the local sponsor (Washington County).

Oregon Enterprise Zone

The Enterprise Zone program (E-Zone) was adopted by the Oregon legislature under ORS 285C.175. The purpose of this program is to encourage business investment through property tax relief, in specific areas of the state. In exchange for locating or expanding into an Enterprise Zone, eligible (generally non-retail) businesses receive total exemption from the property taxes normally assessed on new plant and equipment. Subject to local authorization, timely filings and criteria the benefits include:

- Construction-in-Process Enterprise Zone Exemption-For up to two years before qualified property is placed in service, it can be exempt from local taxes, which can cover more property than the regular exemption for commercial facilities under construction.
- Three to five consecutive years of full relief from property taxes on qualified property, after it is in service.
- Depending on the zone, local incentives also may be available.

Metro’s property tax abatements under these programs for the fiscal year ended June 30, 2023 were:

Tax Abatement Program	Amount of Taxes Abated
SIP	\$ 9,508,000
E-Zone	1,028,044
Subtotal major abatement program	10,536,044
Other immaterial abatement programs	347,758
Total	\$ 10,883,802

T. INSURED RISKS

Metro is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. Metro has established a Risk Management Fund (an internal service fund) to account for risk management activities, including payment of insurance policy premiums, payment of claims, and to finance its uninsured risks of loss. Under this program, the Risk Management Fund provides risk of loss coverage as follows:

- General liability, bodily injury to or property damage of third parties resulting from the negligence of Metro or its employees and errors and omissions risks: these risks are fully covered by the Risk Management Fund. Metro is protected by ORS Chapter 30, the Oregon Tort Claims Act, which contains statutory claim limits of \$806,100 for a single claimant and \$1,612,000 per multiple claimants. These statutory limits are indexed and change every year on July 1. Metro carries an excess liability policy of \$10 million, with a \$1 million deductible, which is intended to insure possible liability outside the Oregon Tort Claims Act.
- Property damage to Metro owned facilities: this risk is covered with a commercial property insurance policy. The property policy insures \$1,017,850,456 of property values with a \$500,000,000 limit blanket policy and a \$500,000 deductible.
- Workers’ compensation, bodily injury or illness to an employee while in the course of employment: this risk is covered through a guaranteed cost program from SAIF Corporation, a commercial carrier, in amounts that meet statutory requirements.

Metro has not experienced settlements in excess of insurance coverage in any of the last three fiscal years. An independent actuary prepared an actuarial valuation and estimate of liabilities for unpaid claims as of June 30, 2023. Claims liabilities are calculated considering the effects of inflation, recent claim settlement trends including frequency and amount of payouts, and other economic and social factors. Metro also monitors risk activity to ensure that proper reserves are maintained. All operating funds of Metro participate in the program and make payments to the Risk Management Fund based upon actuarial estimates of the amounts needed to pay prior and current year claims and to establish sufficient reserves.

The estimated claims liability of \$733,000 reported as accrued self-insurance claims in the Risk Management Fund at June 30, 2023 was established in accordance with the requirements of GASB Statement No. 30, Risk Financing Omnibus, which requires that a liability for total estimated claims be reported if information prior to the issuance of the financial statements indicates that it is probable that a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. Metro considers the liability to be current in nature. Liabilities include an amount for claims that have been incurred but not reported. A portion of the loss reserves have been discounted, using an assumed average investment rate of 1.025 percent in preparing the estimates. Metro does not purchase annuity contracts from commercial insurers to pay any aggregate amount of outstanding claims liabilities.

Changes in Risk Management Fund claims liability for the previous and current fiscal year were:

	Beginning of Fiscal Year Liability	Current Year Claims and Changes in Estimates	Claim Payments	End of Fiscal Year Liability
2021-22	\$ 770,000	368,000	501,000	637,000
2022-23	637,000	431,000	335,000	733,000

U. CONTINGENT LIABILITIES**1. Reviews by Grantor Agencies**

Grant costs are subject to review by the grantor agencies. Any costs disallowed as the result of the review would be borne by Metro and may require the return of such amount to the grantor agency. Should costs be disallowed on a grant for which Metro acts in a pass-through capacity, Metro should be able to require repayment of amounts disallowed from the subgrantees.

2. Legal Matters

Metro is involved as a defendant in several claims and disputes that are normal to Metro's activities. Management intends to vigorously contest these matters and does not believe their ultimate resolution will have a material effect upon its financial position or operations.

Required Supplementary Information

METRO | Annual Comprehensive Financial Report 2023

Schedule of Revenues, Expenditures and Changes in Fund Balance-Budget and Actual

General Fund
Special Revenue Funds
Parks and Nature Operating Fund
Affordable Housing Fund
Supportive Housing Services Fund

Postemployment benefits other than pensions Retirement Health Insurance Account

Schedule of District's Proportionate Share of the Net OPEB Liability (Asset)
Schedule of District's Contributions

Postemployment benefits other than pensions Implicit Rate Subsidy

Schedule of District's Changes in Total OPEB Liability and Related Ratios

Oregon Public Employees Retirement System, Pension Plan

Schedule of District's Proportionate Share of Net Pension Liability
Schedule of District's Contributions

Notes to Required Supplementary Information

METRO
General Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	<u>Budgeted Amounts</u>		<u>Actual Amounts</u>	<u>Variance with final budget</u>
	<u>Original</u>	<u>Final</u>		
REVENUES				
Program revenues:				
Charges for services:				
Government fees	\$ -	-	1,980	1,980
Culture and recreation fees	3,372,423	3,772,423	4,149,189	376,766
Other fees	1,350,427	1,350,427	1,082,296	(268,131)
Internal charges for services	1,865,705	1,865,705	1,205,481	(660,224)
Licenses and permits	589,200	589,200	587,155	(2,045)
Miscellaneous revenue	2,477,252	2,477,252	3,662,384	1,185,132
Operating grants and contributions:				
Grants	12,152,861	13,275,895	13,637,797	361,902
Local government shared revenue	220,450	220,450	220,666	216
Government contributions	3,600,373	3,600,373	-	(3,600,373)
General revenues:				
Taxes:				
Property taxes	18,292,135	18,292,135	18,804,903	512,768
Excise taxes	20,245,727	20,245,727	20,439,429	193,702
Construction excise tax	3,595,000	3,595,000	3,598,048	3,048
Investment income	615,000	615,000	2,118,954	1,503,954
Total revenues	68,376,553	69,899,587	69,508,282	(391,305)
EXPENDITURES				
Council	11,452,835	9,374,294	7,978,930	1,395,364
Capital Asset Management	5,152,070	5,474,155	4,623,914	850,241
Communications	5,391,204	5,788,972	4,742,146	1,046,826
Diversity, equity and inclusion	-	2,612,766	1,992,851	619,915
Finance and regulatory services	10,457,510	10,763,925	9,916,531	847,394
Human resources	5,579,349	5,769,995	5,499,893	270,102
Information services	7,326,100	7,468,815	6,968,029	500,786
Office of the auditor	1,030,373	1,030,373	957,207	73,166
Office of Metro attorney	3,517,770	3,620,375	3,501,786	118,589
Parks and nature	3,227,423	3,627,423	3,595,695	31,728
Planning, development and research	37,664,053	38,071,763	22,426,371	15,645,392
Special appropriations	1,961,161	1,961,161	1,510,012	451,149
Non-departmental:				
Debt service	14,482,097	14,482,097	14,482,096	1
Contingency	25,666,020	24,224,885	-	24,224,885
Total expenditures	132,907,965	134,270,999	88,195,461	46,075,538
Revenues over (under) expenditures	(64,531,412)	(64,371,412)	(18,687,179)	45,684,233
OTHER FINANCING SOURCES (USES)				
Sale of capital assets	-	-	38,950	38,950
Transfers in	48,545,480	48,545,480	48,545,480	-
Transfers out	(25,759,836)	(25,919,836)	(25,696,840)	222,996
Total other financing sources (uses)	22,785,644	22,625,644	22,887,590	261,946

(Continued)

METRO
General Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting), *continued*
For the fiscal year ended June 30, 2023

	<u>Budgeted Amounts</u>		<u>Actual Amounts</u>	<u>Variance with final budget</u>
	<u>Original</u>	<u>Final</u>		
Revenues and other sources over (under) expenditures and other uses	\$ (41,745,768)	(41,745,768)	4,200,411	45,946,179
Beginning fund balance available for appropriation - July 1, 2022	69,034,607	69,034,607	80,880,181	11,845,574
<u>Unappropriated ending fund balance - June 30, 2023</u>	<u>\$ 27,288,839</u>	<u>27,288,839</u>	<u>85,080,592</u>	<u>57,791,753</u>
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting:				
General Fund, as presented above			\$ 4,200,411	
General Revenue Bond Fund-General			13,013	
General Asset Management Fund			3,663,157	
Additional (decrease to) revenues required by Governmental GAAP:				
Adjustment to value investments at fair value			(472,309)	
Adjustment to value lessor arrangements at present value			19,453	
Repayment of TOD loans			4,300	
Accrual of interest receivable on TOD loans			(646,029)	
Decrease to (additional) expenses required by Governmental GAAP:				
Loss on sale of assets held for resale			(1,798,200)	
<u>Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds</u>			<u>\$ 4,983,796</u>	

METRO
Parks and Nature Operating Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Government fees	\$ 13,000	13,000	13,825	825
Culture and recreation fees	1,125,000	1,125,000	1,081,176	(43,824)
Other fees	1,143,529	1,143,529	1,340,539	197,010
Miscellaneous revenue	60,000	60,000	29,805	(30,195)
Operating grants and contributions:				
Grants	15,200	266,753	119,675	(147,078)
Local government shared revenue	605,000	605,000	663,986	58,986
Government contributions	150,000	180,541	28,812	(151,729)
Capital contributions and donations	-	74,158	16,946	(57,212)
General revenues:				
Taxes:				
Property taxes	17,462,331	17,462,331	18,155,164	692,833
Investment income	180,000	180,000	400,041	220,041
Total revenues	20,754,060	21,110,312	21,849,969	739,657
EXPENDITURES				
Parks and nature	23,362,092	24,453,757	22,547,604	1,906,153
Contingency	9,336,875	8,601,462	-	8,601,462
Total expenditures	32,698,967	33,055,219	22,547,604	10,507,615
Revenues over (under) expenditures	(11,944,907)	(11,944,907)	(697,635)	11,247,272
OTHER FINANCING SOURCES (USES)				
Sale of capital assets	-	-	3,850	(3,850)
Transfers in	2,874,845	2,874,845	2,864,876	9,969
Transfers out	(3,929,938)	(3,929,938)	(3,929,938)	-
Total other financing sources (uses)	(1,055,093)	(1,055,093)	(1,061,212)	6,119
Revenues and other sources over (under) expenditures and other uses	(13,000,000)	(13,000,000)	(1,758,847)	11,253,391
Beginning fund balance available for appropriation - July 1, 2022	13,000,000	13,000,000	12,538,903	(461,097)
Unappropriated ending fund balance - June 30, 2023	\$ -	-	10,780,056	10,792,294

Reconciliation to Governmental GAAP basis:

Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above	\$ (1,758,847)
Additional (decrease to) revenue required by Governmental GAAP:	
Adjustment to value lessor arrangements at present value	30,133
Adjustment to value investments at fair value	(775)
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds	\$ (1,729,489)

METRO
Affordable Housing Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Miscellaneous revenue	\$ -	-	14,400	14,400
General revenues:				
Investment income	4,773,989	4,773,989	6,007,952	1,233,963
Total revenues	4,773,989	4,773,989	6,022,352	1,233,963
EXPENDITURES				
Housing	276,867,864	276,892,825	99,457,660	177,435,165
Contingency	50,000,000	49,975,039	-	49,975,039
Total expenditures	326,867,864	326,867,864	99,457,660	227,410,204
Revenues over (under) expenditures	(322,093,875)	(322,093,875)	(93,435,308)	228,644,167
OTHER FINANCING SOURCES (USES)				
Transfers out	(2,548,164)	(2,548,164)	(2,548,164)	-
Total other financing sources (uses)	(2,548,164)	(2,548,164)	(2,548,164)	-
Revenues and other sources over (under) expenditures and other uses	(324,642,039)	(324,642,039)	(95,983,472)	228,644,167
Beginning fund balance available for appropriation - July 1, 2022	530,440,000	530,440,000	555,813,006	25,373,006
Unappropriated ending fund balance - June 30, 2023	\$ 205,797,961	205,797,961	459,829,534	254,017,173
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ (95,983,472)	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			3,574,851	
Budget requirements not qualifying as expenses under Governmental GAAP:				
Purchase of assets held for resale			2,200,000	
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds			\$ (90,208,621)	

METRO
Supportive Housing Services Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
General revenues:				
Taxes:				
Business income taxes	\$ 112,500,000	112,500,000	156,450,869	43,950,869
Personal income taxes	112,500,000	112,500,000	190,593,493	78,093,493
Investment income	281,250	281,250	837,336	556,086
Total revenues	225,281,250	225,281,250	347,881,698	122,600,448
EXPENDITURES				
Supportive housing	217,336,486	217,663,285	156,949,260	60,714,025
Contingency	9,475,852	9,149,053	-	9,149,053
Total expenditures	226,812,338	226,812,338	156,949,260	69,863,078
Revenues over (under) expenditures	(1,531,088)	(1,531,088)	190,932,438	192,463,526
OTHER FINANCING SOURCES (USES)				
Transfers out	(13,861,913)	(13,861,913)	(13,861,913)	-
Total other financing sources (uses)	(13,861,913)	(13,861,913)	(13,861,913)	-
Revenues and other sources over (under) expenditures and other uses	(15,393,001)	(15,393,001)	177,070,525	192,463,526
Beginning fund balance available for appropriation - July 1, 2022	15,393,001	15,393,001	177,201,219	161,808,218
Unappropriated ending fund balance - June 30, 2023	\$ -	-	354,271,744	354,271,744
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ 177,070,525	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			(110,085)	
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds			\$ 176,960,440	

METRO
Schedule of District's Proportionate Share of the Net OPEB Liability (Asset)
Oregon Public Employees' Retirement System, Retirement Health Insurance Account
Last Seven Fiscal Years

	2017	2018	2019	2020	2021	2022	2023
Metro's proportion of the net OPEB liability (asset)	0.6214%	0.6037%	0.6165%	0.6388%	0.3558%	0.3828%	0.5113%
Metro's proportionate share of the net OPEB liability (asset)	\$ 168,747	(251,939)	(688,163)	(1,234,363)	(724,882)	(1,314,537)	(1,816,656)
Metro's covered payroll**	\$ 60,051,593	62,262,783	66,236,964	69,412,840	70,340,490	60,103,526	70,193,764
Metro's proportionate share of the net OPEB liability (asset) as a percentage of its covered payroll	0.3%	-0.4%	-1.0%	-1.8%	-1.0%	-2.2%	-2.6%
Plan fiduciary net position as a percentage of the total OPEB liability	94.2%	108.9%	124.0%	144.4%	150.1%	183.9%	194.6%

This schedule is presented to illustrate Metro's proportionate share of net OPEB liability over the last 10 years. However, until a full 10-year trend is compiled, Metro presents information for those years for which information is available.

**As of measurement date which is one year in arrears.

METRO
Schedule of District's Contributions
Oregon Public Employees' Retirement System, Retirement Health Insurance Account
Last Seven Fiscal Years

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Contractually required contribution	\$ 317,059	298,503	316,595	25,405	10,242	12,601	9,322
Contributions in relation to the contractually required contribution	<u>317,059</u>	<u>298,503</u>	<u>316,595</u>	<u>25,405</u>	<u>10,242</u>	<u>12,601</u>	<u>9,322</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Metro's covered payroll	<u>\$ 62,262,783</u>	<u>66,236,964</u>	<u>69,412,840</u>	<u>70,340,490</u>	<u>60,103,526</u>	<u>70,193,764</u>	<u>82,310,557</u>
Contribution as a percentage of covered payroll	0.5%	0.5%	0.5%	0.0%	0.0%	0.0%	0.0%

This schedule is presented to illustrate Metro's OPEB contributions over the last 10 years. However, until a full 10-year trend is compiled, Metro presents information for those years for which information is available.

METRO
Schedule of District's Changes in Total OPEB Liability and Related Ratios
Implicit Rate Subsidy Plan
Last Six Fiscal Years

Total OPEB Liability	2018	2019	2020	2021	2022	2023
Service cost	\$ 188,084	176,683	177,807	202,330	246,402	158,498
Interest on total OPEB liability	83,594	102,623	113,004	109,231	78,204	51,984
Changes of assumptions or other inputs	(168,115)	(66,972)	47,547	200,089	(708,759)	(227,787)
Economic/demographic gains or losses	-	-	(16,637)	-	(533,513)	-
Benefit payments	(162,251)	(155,404)	(164,866)	(125,359)	(150,368)	(102,095)
Net change in total OPEB liability	(58,688)	56,930	156,855	386,291	(1,068,034)	(119,400)
Total OPEB liability, beginning of year	2,825,591	2,766,903	2,823,833	2,980,688	3,366,979	2,298,945
Total OPEB liability, end of year	<u>\$ 2,766,903</u>	<u>2,823,833</u>	<u>2,980,688</u>	<u>3,366,979</u>	<u>2,298,945</u>	<u>2,179,545</u>
Metro's covered-employee payroll	N/A	N/A	N/A	N/A	N/A	N/A
Total OPEB liability as a percentage of covered-employee payroll	N/A	N/A	N/A	N/A	N/A	N/A

This schedule is presented to illustrate Metro's changes in total OPEB liability over the last 10 years. However, until a full 10-year trend is compiled, Metro presents information for those years for which information is available.

METRO
Schedule of District's Proportionate Share of Net Pension Liability
Oregon Public Employees' Retirement System, Pension Plan
Last Ten Fiscal Years

	2014	2015	2016
Metro's proportion of the net pension liability (asset)	0.5139474%	0.5139474%	0.5501435%
Metro's proportionate share of the net pension liability (asset)	\$ 26,233,596	(11,649,721)	31,586,277
Metro's covered payroll**	\$ 50,208,189	52,521,307	55,726,726
Metro's proportionate share of the net pension liability (asset) as a percentage covered payroll	52.2%	-22.2%	56.7%
Plan fiduciary net position as a percentage of the total pension liability	92.0%	103.6%	91.9%

**As of measurement date which is one year in arrears.

2017	2018	2019	2020	2021	2022	2023
0.5465773%	0.5920128%	0.5989718%	0.6323848%	0.6394909%	0.6525487%	0.5339088%
82,053,939	79,803,544	90,736,337	109,387,421	139,558,908	78,087,113	81,752,142
60,051,593	62,262,783	66,236,964	69,412,840	70,340,490	60,103,526	70,193,764
136.6%	128.2%	137.0%	157.6%	198.4%	129.9%	116.5%
80.5%	83.1%	82.1%	80.2%	75.8%	87.6%	84.5%

METRO
Schedule of District's Contributions
Oregon Public Employees' Retirement System, Pension Plan
Last Ten Fiscal Years

	2014	2015	2016
Actuarially Determined Contributions	\$ 3,840,003	4,062,684	4,729,515
Contributions in Relation to Actuarially Determined Contributions	3,840,003	4,062,684	4,729,515
Contributions Deficiency (Excess)	\$ -	-	-
Metro's covered Payroll	\$ 52,521,307	55,726,726	60,051,593
Contributions as a percentage of covered payroll	7.3%	7.3%	7.9%

2017	2018	2019	2020	2021	2022	2023
5,315,109	7,594,605	8,097,797	11,296,142	9,591,373	12,296,540	15,167,944
5,315,109	7,594,605	8,097,797	11,296,142	9,591,373	12,296,540	15,167,944
-	-	-	-	-	-	-
<u>62,262,783</u>	<u>66,236,964</u>	<u>69,412,840</u>	<u>70,340,490</u>	<u>60,103,526</u>	<u>70,193,764</u>	<u>82,310,557</u>
8.5%	11.5%	11.7%	16.1%	16.0%	17.5%	18.4%

METRO
Notes to Required Supplementary Information
For the fiscal year ended June 30, 2023

BUDGETARY INFORMATION**1. BUDGETS**

A budget is prepared for each fund in accordance with the modified accrual basis of accounting and legal requirements set forth in the Oregon Local Budget Law. This basis differs from GAAP. The Council adopts the original budget for all funds by ordinance prior to the beginning of Metro's fiscal year. The ordinance authorizing appropriations for each fund sets the level by which expenditures cannot legally exceed appropriations. The legal level of control for each fund is set by department, with separate designations within the fund for the categories of debt service, interfund transfers and contingency.

The General Revenue Bond Fund is a budgetary fund comprised of three components that are separated and combined with other budgetary funds for reporting under GAAP. The General Asset Management Fund is a budgetary fund that is combined with the General Fund for reporting under GAAP. The Oregon Zoo Asset Management Fund is a budgetary fund that is combined with the Oregon Zoo Operating Fund for reporting under GAAP.

The detail budget document is required to contain more specific, detailed information about the aforementioned expenditure categories. Appropriations that have not been expended at year-end lapse and subsequent actual expenditures are charged against ensuing year appropriations. Encumbrances are recorded in Metro's internal accounting records for management reporting and control. Encumbrances are closed at June 30 and re-established in the ensuing fiscal year against appropriations for that year.

Unexpected additional resources and budget revisions may be added to the budget through the use of a supplemental budget or by an ordinance passed by the Council amending the budget. A supplemental budget requires hearings before the public, publication in newspapers and approval by the Council. Original, amended and supplemental budgets may be modified by the use of appropriation transfers between the levels of control, with approval of the Council. Management may amend the budget within the appropriated levels of control without Council approval.

2. EXCESS OF EXPENDITURES OVER APPROPRIATIONS

For the fiscal year ended June 30, 2023, expenditures exceed appropriations in the General Obligation Bond Debt Service Fund due to the refunding of the 2012A Series Natural Areas General Obligation Bonds and 2012A Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds. Oregon Local Budget Law (ORS 294.338) provides certain exemptions for over expenditures due to the issuance of debt.

3. RECONCILIATION OF BASIS OF BUDGETING TO GAAP BASIS

Oregon Local Budget Law, as adopted by Metro, requires accounting for certain transactions to be on a basis other than GAAP. The Schedule of Revenues, Expenditures and Changes in Fund Balances - Budget and Actual (Non-GAAP Basis of Budgeting) for each fund as presented in supplementary information is presented on the basis of budgeting and is adjusted to the GAAP basis for presentation in the Statement of Revenues, Expenditures and Changes in Fund Balances - Governmental Funds. The accounting for the reclassification of interfund transfers as operating transactions causes no difference between the excess of revenues and other sources over expenditures and other uses on the basis of budgeting and such amounts on a GAAP basis. Other reconciliations as necessary are presented on the face of the budgetary schedules.

PENSION PLAN INFORMATION**1. CHANGES IN BENEFIT TERMS**

The 2013 Oregon Legislature made a series of changes to PERS that lowered projected future benefit payments from the System. These changes included reductions to future Cost of Living Adjustments (COLA) made through Senate Bills 822 and 861. Senate Bill 822 also required the contribution rates scheduled to be in effect from July 2013 to June 2015 to be reduced. The Oregon Supreme Court decision in *Moro vs. State of Oregon*, issued on April 30, 2015, reversed a significant portion of the reductions the 2013 Oregon Legislature made to future System Cost of Living Adjustments (COLA) through Senate Bills 822 and 861. This reversal increased the total pension liability as of June 30, 2015 compared to June 30, 2014 pension liability.

2. CHANGES IN ASSUMPTIONS

The PERS Board adopted assumption changes that were used to measure the June 30, 2016 total pension liability and June 30, 2018 total pension liability. For June 30, 2016, the changes included the lowering of the long-term expected rate of return to 7.50 percent and lowering of the assumed inflation to 2.50 percent. For June 30, 2018, the long-term expected rate of return was lowered to 7.20 percent. For June 30, 2021, the long-term expected rate of return was lowered to 6.90 percent, and the inflation rate was lowered from 2.5 to 2.4 percent. In addition, the healthy mortality assumption was changed to reflect an updated mortality improvement scale for all groups, and assumptions were updated for merit increases, unused sick leave, and vacation pay were updated.

OTHER POSTEMPLOYMENT BENEFITS (OPEB) INFORMATION-OREGON PUBLIC EMPLOYEES' RETIREMENT SYSTEM, RETIREMENT HEALTH INSURANCE ACCOUNT**1. CHANGES IN BENEFIT TERMS**

There were no changes of benefit terms between the periods shown in the schedules.

There were no changes in the size or composition of the population covered by the benefit terms.

2. CHANGES IN ASSUMPTIONS

The PERS Board adopted assumption changes that were used to measure the June 30, 2021 total OPEB liability. The changes include the lowering of the long-term expected rate of return from 7.20 to 6.90 percent and the inflation rate from 2.5 to 2.4 percent. In addition, the healthy healthcare participation and healthy mortality assumptions were changed to reflect an updated trends and mortality improvement scale for all groups.

OTHER POSTEMPLOYMENT BENEFITS (OPEB) INFORMATION-IMPLICIT RATE SUBSIDY PLAN**1. CHANGES IN BENEFIT TERMS**

There were no changes of benefit terms between the periods shown in the schedules.

There were no changes in the size or composition of the population covered by the benefit terms.

2. CHANGES IN ASSUMPTIONS

In the July 1, 2021 actuarial valuation, the OPEB liability discount rate decreased from 2.21 percent to 2.16 percent for results as of the June 30, 2021 measurement date. In the July 1, 2021 actuarial valuation, future retiree coverage was updated to more closely reflect actual and expected future experience. In the July 1, 2021 actuarial valuation, expected claims and premiums were updated to reflect changes in available benefits and premium levels. Expected retiree and dependent costs were updated to reflect current health care cost guidelines. In the July 1, 2021 actuarial valuation, the Health Care Cost Trend was revised to reflect recent economic conditions. In the July 1, 2021 actuarial valuation, the mortality, retirement and withdrawal rates and

general inflation and annual salary increases were updated to reflect assumptions used in the Oregon December 31, 2020 actuarial valuation.

3. ASSETS IN TRUST

There are no assets accumulated in a trust that meets the criteria of GASB 75 to pay related benefits.

Other Supplementary Information

METRO | Annual Comprehensive Financial Report 2023

Combining Statements

Nonmajor Governmental Funds

Budgetary Comparison Schedules

Other Major Governmental Funds

Nonmajor Governmental Funds

Proprietary Funds

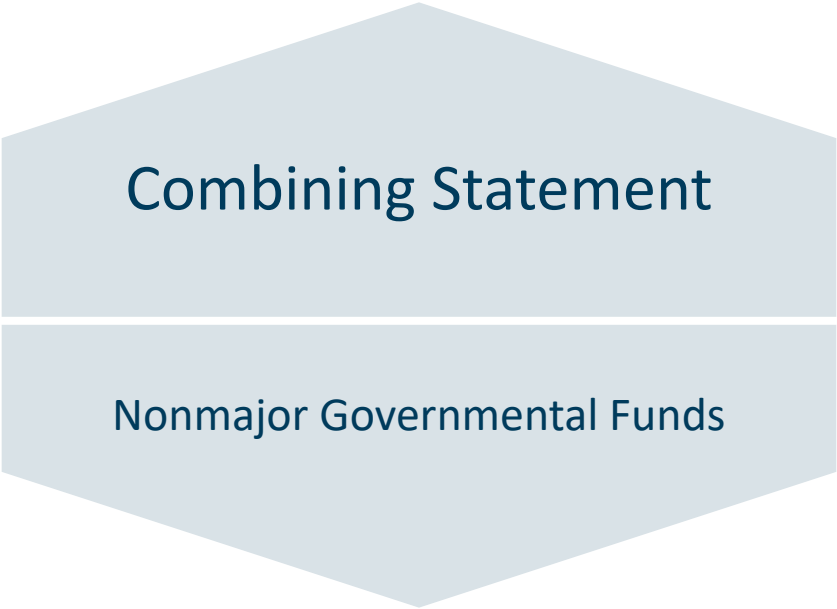
Other Budgetary Funds

Other Financial Schedules



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Combining Statements



Special Revenue Funds

Smith and Bybee Wetlands Fund

This fund accounts for development and management of the Smith and Bybee Wetlands Natural Resource Management plan, which calls for Smith and Bybee Wetlands to be managed as environmental and recreational resources for the region. The principal source of revenue is investment income.

Community Enhancement Fund

This fund accounts for special fees collected on solid waste disposal. The funds are used for community enhancement projects in the areas around various solid waste disposal facilities and for administration of the enhancement program.

Permanent Fund

Cemetery Perpetual Care Fund

This fund accounts for amounts provided to build a permanent investment of principal from which the earnings will be used to provide long-term maintenance of pioneer cemeteries under Metro’s management. The principal resource is investment earnings.

METRO
Combining Balance Sheet
Nonmajor Governmental Funds
June 30, 2023

	Special Revenue			Permanent	Total Nonmajor Governmental Funds
	Smith and Bybee Wetlands	Community Enhancement	Total	Cemetery Perpetual Care	
ASSETS					
Equity in internal cash and investment pool	\$ 1,208,697	1,195,962	2,404,659	733,641	3,138,300
Receivables:					
Other	-	59,871	59,871	-	59,871
Interest	4,673	5,064	9,737	2,753	12,490
Prepaid items	-	408	408	-	408
Total assets	1,213,370	1,261,305	2,474,675	736,394	3,211,069
LIABILITIES					
Liabilities:					
Accounts payable	8,481	329,087	337,568	-	337,568
Total liabilities	8,481	329,087	337,568	-	337,568
FUND BALANCES					
Nonspendable	-	409	409	747,746	748,155
Restricted	1,204,889	931,809	2,136,698	-	2,136,698
Unassigned	-	-	-	(11,352)	(11,352)
Total fund balances	1,204,889	932,218	2,137,107	736,394	2,873,501
Total liabilities and fund balances	\$ 1,213,370	1,261,305	2,474,675	736,394	3,211,069

METRO
Combining Statement of Revenues, Expenditures and Changes in Fund Balances
Nonmajor Governmental Funds
For the fiscal year ended June 30, 2023

	Special Revenue			Permanent	Total Nonmajor Governmental Funds
	Smith and Bybee Wetlands	Community Enhancement	Total	Cemetery Perpetual Care	
REVENUES					
Investment income	\$ 35,081	29,803	64,884	16,698	81,582
Solid waste fees	-	1,313,889	1,313,889	-	1,313,889
Total revenues	35,081	1,343,692	1,378,773	16,698	1,395,471
EXPENDITURES					
Current:					
Culture and recreation	242,199	1,314,305	1,556,504	-	1,556,504
Total expenditures	242,199	1,314,305	1,556,504	-	1,556,504
Revenues over (under) expenditures	(207,118)	29,387	(177,731)	16,698	(161,033)
OTHER FINANCING SOURCES					
Transfers out	-	-	-	(17,822)	(17,822)
Total other financing sources	-	-	-	(17,822)	(17,822)
Net change in fund balances	(207,118)	29,387	(177,731)	(1,124)	(178,855)
Fund balances - July 1, 2022	1,412,007	902,831	2,314,838	737,518	3,052,356
Fund balances - June 30, 2023	\$ 1,204,889	932,218	2,137,107	736,394	2,873,501



Budgetary Comparison Schedules

Oregon Administrative Rules 162-010-0050 through 162-010-0330 incorporated in the Minimum Standards for Audits of Oregon Municipal Corporations, as prescribed by the Secretary of State in cooperation with the Oregon State Board of Accountancy, requires an individual schedule of revenues, expenditures, and changes in fund balance, budget and actual be presented for each fund for which a legally adopted budget is required.

In accordance with GASB Statement No. 34, Metro's General Fund and major special revenue funds, the Affordable Housing Fund, Supportive Housing Services Fund, Parks and Nature Operating Fund are presented as required supplementary information. Budgetary comparisons for all other funds are displayed in the following pages.



**Budgetary
Comparison Schedules**

Other Major Governmental Funds

**Schedule of Revenues, Expenditures and
Changes in Fund Balance - Budget and Actual**

Debt Service Fund

General Obligation Bond Debt Service Fund

Capital Projects Funds

Natural Areas Fund

Parks and Nature Bond Fund

METRO
General Obligation Bond Debt Service Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
General revenues:				
Taxes:				
Property taxes	\$ 74,586,398	74,586,398	76,186,943	1,600,545
Investment income	150,000	150,000	996,032	846,032
Total revenues	74,736,398	74,736,398	77,182,975	2,446,577
EXPENDITURES				
Materials and services	-	100,000	80,380	19,620
Debt service:				
Principal	48,485,000	48,485,000	48,485,000	-
Interest	28,099,398	28,099,398	27,142,185	957,213
Total expenditures	76,584,398	76,684,398	75,707,565	976,833
Revenues over (under) expenditures	(1,848,000)	(1,948,000)	1,475,410	1,469,744
OTHER FINANCING SOURCES (USES)				
Refunding bonds issued	-	100,000	40,873,920	(40,773,920)
Payment to refunded bond escrow agent	-	-	(41,750,751)	41,750,751
Total other financing sources (uses)	-	100,000	(876,831)	976,831
Revenues and other sources over (under) expenditures and other uses	(1,848,000)	(1,848,000)	598,579	2,446,575
Beginning fund balance available for appropriation - July 1, 2022	1,848,000	1,848,000	2,887,363	1,039,363
Unappropriated ending fund balance - June 30, 2023	\$ -	-	3,485,942	3,485,938
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ 598,579	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			(15,375)	
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds			\$ 583,204	

METRO
Natural Areas Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
General revenues:				
Investment income	\$ 30,000	30,000	98,583	68,583
Total revenues	30,000	30,000	98,583	68,583
EXPENDITURES				
Parks and nature	3,016,379	3,016,379	421,070	2,595,309
Contingency	730,757	730,757	-	730,757
Total expenditures	3,747,136	3,747,136	421,070	3,326,066
Revenues over (under) expenditures	(3,717,136)	(3,717,136)	(322,487)	3,394,649
OTHER FINANCING SOURCES (USES)				
Transfers out	(782,864)	(782,864)	(782,864)	-
Total other financing sources (uses)	(782,864)	(782,864)	(782,864)	-
Revenues and other sources over (under) expenditures and other uses	(4,500,000)	(4,500,000)	(1,105,351)	3,394,649
Beginning fund balance available for appropriation - July 1, 2022	4,500,000	4,500,000	4,615,476	115,476
Unappropriated ending fund balance - June 30, 2023	\$ -	-	3,510,125	3,510,125
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ (1,105,351)	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			15,814	
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds			\$ (1,089,537)	

METRO
Parks and Nature Bond Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Miscellaneous revenue	\$ -	-	4,252	4,252
General revenues:				
Investment income	2,225,000	2,225,000	2,030,375	(194,625)
Total revenues	2,225,000	2,225,000	2,034,627	(190,373)
EXPENDITURES				
Parks and nature	64,148,912	61,269,113	15,045,914	46,223,199
Contingency	9,000,000	11,879,799	-	11,879,799
Total expenditures	73,148,912	73,148,912	15,045,914	58,102,998
Revenues over (under) expenditures	(70,923,912)	(70,923,912)	(13,011,287)	57,912,625
OTHER FINANCING SOURCES (USES)				
Transfers out	(2,784,172)	(2,784,172)	(2,774,203)	9,969
Total other financing sources (uses)	(2,784,172)	(2,784,172)	(2,774,203)	9,969
Revenues and other sources over (under) expenditures and other uses	(73,708,084)	(73,708,084)	(15,785,490)	57,922,594
Beginning fund balance available for appropriation - July 1, 2022	180,000,000	180,000,000	186,348,143	6,348,143
Unappropriated ending fund balance - June 30, 2023	\$ 106,291,916	106,291,916	170,562,653	64,270,737
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ (15,785,490)	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			(453,579)	
Net change in fund balance as reported on the statement of revenues, expenditures and changes in fund balances-governmental funds			\$ (16,239,069)	



**Budgetary
Comparison Schedules**

Nonmajor Governmental Funds

**Schedule of Revenues, Expenditures
and Changes in Fund Balance-Budget and Actual**

Special Revenue Funds

**Smith and Bybee Wetlands Fund
Community Enhancement Fund**

Permanent Fund

Cemetery Perpetual Care Fund

METRO
Smith and Bybee Wetlands Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actuals (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
General revenues:				
Investment income	\$ 18,500	18,500	33,043	14,543
Total revenues	18,500	18,500	33,043	14,543
EXPENDITURES				
Parks and nature	175,000	192,500	152,904	39,596
Contingency	500,000	482,500	-	482,500
Total expenditures	675,000	675,000	152,904	522,096
Revenues over (under) expenditures	(656,500)	(656,500)	(119,861)	536,639
OTHER FINANCING SOURCES (USES)				
Transfers out	(89,295)	(89,295)	(89,295)	-
Total other financing sources (uses)	(89,295)	(89,295)	(89,295)	-
Revenues and other sources over (under) expenditures and other uses	(745,795)	(745,795)	(209,156)	536,639
Beginning fund balance available for appropriation - July 1, 2022	1,350,000	1,350,000	1,444,989	94,989
Unappropriated ending fund balance - June 30, 2023	\$ 604,205	604,205	1,235,833	631,628
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ (209,156)	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			2,038	
Net change in fund balance as reported on the combining statement of revenues, expenditures and changes in fund balances-nonmajor governmental funds			\$ (207,118)	

METRO
Community Enhancement Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Solid waste fees	\$ 1,089,554	1,089,554	1,313,889	224,335
General revenues:				
Investment income	5,446	5,446	32,808	27,362
Total revenues	1,095,000	1,095,000	1,346,697	251,697
EXPENDITURES				
Waste prevention and environmental services	1,524,594	1,524,594	1,264,304	260,290
Contingency	69,500	69,500	-	69,500
Total expenditures	1,594,094	1,594,094	1,264,304	329,790
Revenues over (under) expenditures	(499,094)	(499,094)	82,393	581,487
OTHER FINANCING SOURCES (USES)				
Transfers out	(50,000)	(50,000)	(50,000)	-
Total other financing sources (uses)	(50,000)	(50,000)	(50,000)	-
Revenues and other sources over (under) expenditures and other uses	(549,094)	(549,094)	32,393	581,487
Beginning fund balance available for appropriation - July 1, 2022	654,521	654,521	930,443	275,922
Unappropriated ending fund balance - June 30, 2023	\$ 105,427	105,427	962,836	857,409
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ 32,393	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			(3,006)	
Net change in fund balance as reported on the combining statement of revenues, expenditures and changes in fund balances-nonmajor governmental funds			\$ 29,387	

METRO
Cemetery Perpetual Care Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
General revenues:				
Investment income	\$ 11,500	11,500	18,252	6,752
Total revenues	11,500	11,500	18,252	6,752
Revenues over (under) expenditures	11,500	11,500	18,252	6,752
OTHER FINANCING SOURCES (USES)				
Transfers out	(40,000)	(40,000)	(17,822)	22,178
Total other financing sources (uses)	(40,000)	(40,000)	(17,822)	22,178
Revenues and other sources over (under) expenditures and other uses	(28,500)	(28,500)	430	(28,930)
Beginning fund balance available for appropriation - July 1, 2022	776,247	776,247	754,747	(21,500)
Unappropriated ending fund balance - June 30, 2023	\$ 747,747	747,747	755,177	(50,430)
Reconciliation to Governmental GAAP basis:				
Excess of revenues and other financing sources over (under) expenditures and other financing uses on the basis of budgeting per above			\$ 430	
Additional (decrease to) revenue required by Governmental GAAP:				
Adjustment to value investments at fair value			(1,554)	
Net change in fund balance as reported on the combining statement of revenues, expenditures and changes in fund balances-nonmajor governmental funds			\$ (1,124)	



**Budgetary
Comparison Schedules**

Proprietary Funds

**Schedule of Revenues, Expenditures and
Changes in Fund Balance-Budget and Actual**

Enterprise Funds

Solid Waste Revenue Fund
Oregon Zoo Operating Fund
MERC Fund

Internal Service Fund

Risk Management Fund

**Reconciliation of Enterprise Fund
Fund Balances (Basis of Budgeting) to Statement of Net Position
Proprietary Funds (GAAP Basis)**

METRO
Solid Waste Revenue Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Government fees	\$ 1,204,000	1,204,000	864,709	(339,291)
Culture and recreation fees	-	-	5,831	5,831
Solid waste fees	106,046,325	106,046,325	104,259,447	(1,786,878)
Other fees	-	-	500	500
Miscellaneous revenue	127,000	127,000	148,746	21,746
Operating grants and contributions:				
Grants	10,000,000	10,000,000	6,587,581	(3,412,419)
General revenues:				
Investment income	673,020	673,020	1,108,024	435,004
Total revenues	118,050,345	118,050,345	112,974,838	(5,075,507)
EXPENDITURES				
Waste prevention and environmental services	117,218,173	117,218,173	98,865,200	18,352,973
Contingency	15,516,819	15,516,819	-	15,516,819
Total expenditures	132,734,992	132,734,992	98,865,200	33,869,792
Revenues over (under) expenditures	(14,684,647)	(14,684,647)	14,109,638	28,794,285
OTHER FINANCING SOURCES (USES)				
Sale of capital assets	-	-	19,200	19,200
Transfers in	488,590	488,590	488,590	-
Transfers out	(10,875,126)	(10,875,126)	(10,875,126)	-
Total other financing sources (uses)	(10,386,536)	(10,386,536)	(10,367,336)	19,200
Revenues and other sources over (under) expenditures and other uses	(25,071,183)	(25,071,183)	3,742,302	28,813,485
Beginning fund balance available for appropriation - July 1, 2022	35,853,468	35,853,468	39,008,324	3,154,856
Unappropriated ending fund balance - June 30, 2023	\$ 10,782,285	10,782,285	42,750,626	31,968,341

METRO
Oregon Zoo Operating Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Culture and recreation fees	\$ 22,598,819	22,598,819	24,770,983	2,172,164
Other fees	5,000	5,000	27,121	22,121
Miscellaneous revenue	3,550,000	3,550,000	38,007	(3,511,993)
Operating grants and contributions:				
Grants	683,000	683,000	1,248,435	565,435
Contributions and donations	1,766,358	1,766,358	1,687,008	(79,350)
General revenues:				
Investment income	150,000	150,000	841,708	691,708
Total revenues	28,753,177	28,753,177	28,613,262	(139,915)
EXPENDITURES				
Visitor venues-Oregon Zoo	38,835,130	38,835,130	31,510,864	7,324,266
Contingency	13,232,408	11,262,408	-	11,262,408
Total expenditures	52,067,538	50,097,538	31,510,864	18,586,674
Revenues over (under) expenditures	(23,314,361)	(21,344,361)	(2,897,602)	18,446,759
OTHER FINANCING SOURCES (USES)				
Transfers in	14,568,279	14,568,279	14,568,279	-
Transfers out	(7,253,918)	(9,223,918)	(9,223,918)	-
Total other financing sources (uses)	7,314,361	5,344,361	5,344,361	-
Revenues and other sources over (under) expenditures and other uses	(16,000,000)	(16,000,000)	2,446,759	18,446,759
Beginning fund balance available for appropriation - July 1, 2022	16,000,000	16,000,000	30,673,599	14,673,599
Unappropriated ending fund balance - June 30, 2023	\$ -	-	33,120,358	33,120,358

**METRO
MERC Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023**

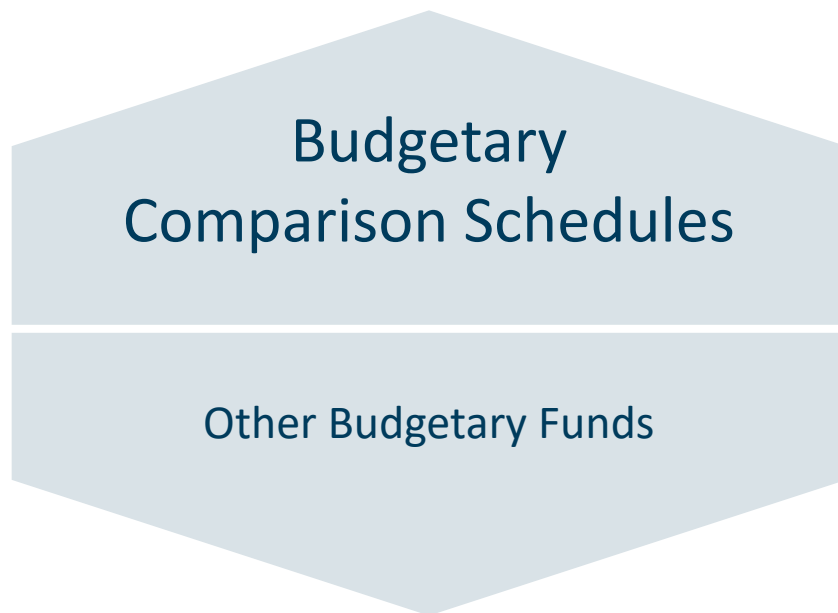
	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Culture and recreation fees	\$ 38,293,664	38,293,664	47,098,142	8,804,478
Other fees	3,845,813	3,845,813	3,918,517	72,704
Miscellaneous revenue	134,895	134,895	207,480	72,585
Operating grants and contributions:				
Grants	-	-	486,303	486,303
Local government shared revenue	17,852,624	17,852,624	18,714,330	861,706
Government contributions	1,053,584	1,053,584	1,903,584	850,000
Contributions and donations	190,955	190,955	128,557	(62,398)
Capital grants and contributions:				
Capital contributions and donations	40,000	40,000	40,000	-
General revenues:				
Investment income	342,000	342,000	982,853	640,853
Total revenues	61,753,535	61,753,535	73,479,766	11,726,231
EXPENDITURES				
MERC	60,215,821	61,983,821	60,919,088	1,064,733
Contingency	17,825,381	16,057,381	-	16,057,381
Total expenditures	78,041,202	78,041,202	60,919,088	17,122,114
Revenues over (under) expenditures	(16,287,667)	(16,287,667)	12,560,678	28,848,345
OTHER FINANCING SOURCES (USES)				
Transfers in	680,000	680,000	603,279	(76,721)
Transfers out	(9,750,358)	(9,750,358)	(9,750,358)	-
Total other financing sources (uses)	(9,070,358)	(9,070,358)	(9,147,079)	(76,721)
Revenues and other sources over (under) expenditures and other uses	(25,358,025)	(25,358,025)	3,413,599	28,771,624
Beginning fund balance available for appropriation - July 1, 2022	25,358,025	25,358,025	37,099,378	11,741,353
Unappropriated ending fund balance - June 30, 2023	\$ -	-	40,512,977	40,512,977

METRO
Risk Management Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Other fees	\$ -	-	2,793	2,793
Miscellaneous revenue	75,000	75,000	843,942	768,942
Operating grants and contributions:				
Grants	35,000	35,000	-	(35,000)
General revenues:				
Investment income	20,000	20,000	41,688	21,688
Total revenues	130,000	130,000	888,423	758,423
EXPENDITURES				
Finance and regulatory services	4,174,988	4,184,988	3,370,073	814,915
Contingency	400,000	390,000	-	390,000
Total expenditures	4,574,988	4,574,988	3,370,073	1,204,915
Revenues over (under) expenditures	(4,444,988)	(4,444,988)	(2,481,650)	1,963,338
OTHER FINANCING SOURCES (USES)				
Transfers in	1,644,988	1,644,988	1,644,988	-
Total other financing sources (uses)	1,644,988	1,644,988	1,644,988	-
Revenues and other sources over (under) expenditures and other uses	(2,800,000)	(2,800,000)	(836,662)	1,963,338
Beginning fund balance available for appropriation - July 1, 2022	2,800,000	2,800,000	2,426,426	(373,574)
Unappropriated ending fund balance - June 30, 2023	\$ -	-	1,589,764	1,589,764

METRO
Reconciliation of Enterprise Fund
Fund Balances (Basis of Budgeting) to Statement of Net Position- Proprietary Funds (GAAP Basis)
For the fiscal year ended June 30, 2023

	Enterprise Funds				Internal Service Fund
	Solid Waste	Oregon Zoo	MERC	Total	Risk Management Fund
Unappropriated ending fund balance on the basis of budgeting:					
Solid Waste Revenue Fund	\$ 42,750,626	-	-	42,750,626	-
Oregon Zoo Operating Fund	-	33,120,358	-	33,120,358	-
Oregon Zoo Asset Management Fund	-	3,959,233	-	3,959,233	-
MERC Fund	-	-	40,512,977	40,512,977	-
General Revenue Bond Fund-MERC	-	-	511	511	-
Risk Management Fund	-	-	-	-	1,589,764
Additional Statement of Net Position items:					
Interest receivable	-	16,777	12,315	29,092	-
Due from other funds	513,839	-	-	513,839	-
Public-private partnership receivable-current	-	2,638,561	1,315,047	3,953,608	-
Public-private partnership receivable	-	15,182,110	13,463,381	28,645,491	-
OPEB asset	287,259	310,759	283,028	881,046	-
Capital assets, net	38,378,889	160,784,009	144,348,768	343,511,666	122,036
Deferred pension amounts-outflow	6,260,740	5,293,187	5,314,994	16,868,921	-
Deferred OPEB amounts-outflow	58,819	56,184	47,800	162,803	-
Accrued interest payable	(10,031)	(1,960)	(33,032)	(45,023)	(222)
Due to other funds	-	(513,839)	-	(513,839)	-
Leases payable-current	(545,907)	-	(79,013)	(624,920)	-
SBITA payable-current	(5,940)	(14,652)	(236,839)	(257,431)	(44,109)
Bonds payable-current	-	-	(965,000)	(965,000)	-
Post-closure costs payable-current	(907,450)	-	-	(907,450)	-
Compensated absences-current	(1,352,766)	(1,278,762)	(1,288,095)	(3,919,623)	(22,887)
Leases payable	(5,394,772)	-	(8,734,087)	(14,128,859)	-
SBITA payable	(20,187)	(49,795)	(291,289)	(361,271)	(44,552)
Bonds payable (net of unamortized premium or discount)	-	-	(1,136,909)	(1,136,909)	-
Total OPEB liability	(162,776)	(426,025)	(360,479)	(949,280)	-
Post-closure costs payable	(1,925,246)	-	-	(1,925,246)	-
Pollution remediation obligation	-	-	(95,000)	(95,000)	-
Compensated absences	-	(7,013)	(86,575)	(93,588)	(11,763)
Net pension liability	(14,725,560)	(12,449,829)	(12,501,120)	(39,676,509)	-
Deferred pension amounts-inflow	(7,947,441)	(6,719,220)	(6,746,902)	(21,413,563)	-
Deferred PPP amounts-inflow	-	(17,611,560)	(14,618,275)	(32,229,835)	-
Deferred OPEB amounts-inflow	(328,450)	(320,707)	(276,424)	(925,581)	-
Adjustments to Statement of Net Position items:					
Cumulative fair value adjustment to Equity in internal cash and investment pool	(1,109,181)	(990,523)	(1,099,166)	(3,198,870)	(33,282)
Total net position as reported on the Statement of Net Position-Proprietary Funds	\$ 53,814,465	180,977,293	156,750,616	391,542,374	1,554,985



Schedule of Revenues, Expenditures and Changes in Fund Balance-Budget and Actual

General Revenue Bond Fund

This fund is a budgetary fund comprised of two components that are separated and combined with other budgetary funds for reporting under GAAP.

General Asset Management Fund

This fund is a budgetary fund that is combined with another budgetary fund for reporting under GAAP.

Oregon Zoo Asset Management Fund

This fund is a budgetary fund that is combined with another budgetary fund for reporting under GAAP.

METRO
General Revenue Bond Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	<u>Budgeted Amounts</u>		<u>Actual Amounts</u>	<u>Variance with final budget</u>
	<u>Original</u>	<u>Final</u>		
REVENUES				
Program revenues:				
Operating grants and contributions:				
Local government shared revenue	\$ 3,399,000	3,399,000	3,394,366	(4,634)
General revenues:				
Investment income	6,416	6,416	17,647	11,231
Total revenues	3,405,416	3,405,416	3,412,013	6,597
EXPENDITURES				
Debt service	6,396,395	6,396,395	6,396,395	-
Total expenditures	6,396,395	6,396,395	6,396,395	-
Revenues over (under) expenditures	(2,990,979)	(2,990,979)	(2,984,382)	6,597
OTHER FINANCING SOURCES (USES)				
Transfers in	2,997,395	2,997,395	2,997,395	-
Total other financing sources (uses)	2,997,395	2,997,395	2,997,395	-
Revenues and other sources over (under) expenditures and other uses	6,416	6,416	13,013	6,597
Beginning fund balance available for appropriation - July 1, 2022	4,098,722	4,098,722	4,098,773	51
Unappropriated ending fund balance - June 30, 2023	\$ 4,105,138	4,105,138	4,111,786	6,648

Note: This schedule demonstrates compliance with budget at the legal level of control.

METRO
General Asset Management Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Miscellaneous revenue	\$ 57,000	57,000	68,748	11,748
General revenues:				
Investment income	262,000	262,000	721,572	459,572
Total revenues	319,000	319,000	790,320	471,320
EXPENDITURES				
Asset Management Program	24,546,761	24,706,761	2,776,505	21,930,256
Contingency	9,644,345	9,644,345	-	9,644,345
Total expenditures	34,191,106	34,351,106	2,776,505	31,574,601
Revenues over (under) expenditures	(33,872,106)	(34,032,106)	(1,986,185)	32,045,921
OTHER FINANCING SOURCES (USES)				
Sale of capital assets	-	-	2,500	2,500
Transfers in	5,655,295	5,815,295	5,646,842	(168,453)
Total other financing sources (uses)	5,655,295	5,815,295	5,649,342	(165,953)
Revenues and other sources over (under) expenditures and other uses	(28,216,811)	(28,216,811)	3,663,157	31,879,968
Beginning fund balance available for appropriation - July 1, 2022	31,693,251	31,693,251	31,050,599	(642,652)
Unappropriated ending fund balance - June 30, 2023	\$ 3,476,440	3,476,440	34,713,756	31,237,316

METRO
Oregon Zoo Asset Management Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
Budget and Actual (Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	Budgeted Amounts		Actual Amounts	Variance with final budget
	Original	Final		
REVENUES				
Program revenues:				
Charges for services:				
Miscellaneous revenue	\$ -	-	5,519	5,519
Operating grants and contributions:				
Grants	500,000	500,000	-	(500,000)
Contributions and donations	350,000	540,000	914,222	374,222
Capital grants and contributions:				
Capital contributions and donations	1,205,000	1,205,000	855,053	(349,947)
General revenues:				
Investment income	-	-	143,589	143,589
Total revenues	2,055,000	2,245,000	1,918,383	(326,617)
EXPENDITURES				
Visitor venues-Oregon Zoo	9,525,712	11,685,712	6,791,673	4,894,039
Total expenditures	9,525,712	11,685,712	6,791,673	4,894,039
Revenues over (under) expenditures	(7,470,712)	(9,440,712)	(4,873,290)	4,567,422
OTHER FINANCING SOURCES (USES)				
Transfers in	1,136,601	3,106,601	3,106,601	-
Transfers out	(865,889)	(865,889)	(865,889)	-
Total other financing sources (uses)	270,712	2,240,712	2,240,712	-
Revenues and other sources over (under) expenditures and other uses	(7,200,000)	(7,200,000)	(2,632,578)	4,567,422
Beginning fund balance available for appropriation - July 1, 2022	7,200,000	7,200,000	6,591,811	(608,189)
Unappropriated ending fund balance - June 30, 2023	\$ -	-	3,959,233	3,959,233

METRO
General Revenue Bond Fund
Schedule of Revenues, Expenditures and Changes in Fund Balances-
(Non-GAAP Basis of Budgeting)
For the fiscal year ended June 30, 2023

	General	MERC	Total
REVENUES			
Program revenues:			
Operating grants and contributions:			
Local government shared revenue	\$ 3,394,366	-	3,394,366
General revenues:			
Investment income	17,635	12	17,647
Total revenues	3,412,001	12	3,412,013
EXPENDITURES			
Debt service	5,370,520	1,025,875	6,396,395
Total expenditures	5,370,520	1,025,875	6,396,395
Revenues over (under) expenditures	(1,958,519)	(1,025,863)	(2,984,382)
OTHER FINANCING SOURCES (USES)			
Transfers in	1,971,520	1,025,875	2,997,395
Total other financing sources (uses)	1,971,520	1,025,875	2,997,395
Revenues and other sources over (under) expenditures and other uses	13,001	12	13,013
Beginning fund balance available for appropriation - July 1, 2022	4,098,274	499	4,098,773
Unappropriated ending fund balance - June 30, 2023	\$ 4,111,275	511	4,111,786

Note: This schedule presents the activity of the two components of the fund.

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Other Financial Schedules

METRO
Schedule of Property Tax Transactions
and Outstanding Receivable
For the fiscal year ended June 30, 2023

Fiscal Year	Original levy or balance of receivable July 1, 2022	Add (deduct)				Property taxes receivable June 30, 2023
		Discounts	Adjustments	Interest	Collections	
2022-23	\$ 116,417,354	(1,535,447)	(1,967,216)	5,259	(111,481,104)	1,438,846
2021-22	1,374,770	(8,029)	(116,741)	10,720	(749,394)	511,326
2020-21	521,379	6,583	(51,461)	6,710	(204,017)	279,194
2019-20	327,553	12,598	(17,403)	7,207	(191,244)	138,711
2018-19	82,985	17,696	(10,449)	2,404	(66,488)	26,148
2017-18	21,207	(55)	(2,320)	364	(5,489)	13,707
2016-17 & prior	90,141	(1,219)	(4,462)	528	(6,133)	78,855
Total	\$ 118,835,389	(1,507,873)	(2,170,052)	33,192	(112,703,869)	2,486,787

	Governmental Activities
Reconciliation to property tax revenue presented in the Statement of Activities:	
Cash collections July 1, 2022 to June 30, 2023	\$ 112,703,869
Accrual of receivables:	
July 1, 2022 to August 31, 2022	(290,164)
July 1, 2023 to August 31, 2023	588,778
Timing difference between county tax collector and county treasurer	(267,001)
Payments in lieu of property taxes	411,531
Taxes earned but not available:	
June 30, 2022	(2,127,871)
June 30, 2023	1,900,770
Property tax revenue per Statement of Activities	\$ 112,919,912

METRO
Schedule of Future Bonded Debt Service Requirements
General Obligation Bonds
June 30, 2023

Year of maturity	2012A Series Natural Areas General Obligation Bonds		2012A Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds		2018 Series Natural Areas General Obligation Bonds		2018 Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds	
	Principal	Interest	Principal	Interest	Principal	Interest	Principal	Interest
2023-24	\$ -	240,403	-	129,448	2,125,000	342,750	975,000	289,500
2024-25	-	240,403	-	129,448	2,280,000	236,500	1,060,000	240,750
2025-26	3,107,000	240,403	1,673,000	129,448	2,450,000	122,500	1,150,000	187,750
2026-27	-	-	-	178,650	-	-	1,250,000	130,250
2027-28	-	-	5,955,000	178,650	-	-	1,355,000	67,750
2028-29	-	-	-	-	-	-	-	-
2029-30	-	-	-	-	-	-	-	-
2030-31	-	-	-	-	-	-	-	-
2031-32	-	-	-	-	-	-	-	-
2032-33	-	-	-	-	-	-	-	-
2033-34	-	-	-	-	-	-	-	-
2034-35	-	-	-	-	-	-	-	-
2035-36	-	-	-	-	-	-	-	-
2036-37	-	-	-	-	-	-	-	-
2037-38	-	-	-	-	-	-	-	-
2038-39	-	-	-	-	-	-	-	-
2039-40	-	-	-	-	-	-	-	-
Total	\$ 3,107,000	721,209	7,628,000	745,644	6,855,000	701,750	5,790,000	916,000

(1) The principal amount of the bonds is reported net of unamortized premium or discount in governmental activities on the statement of net position.

2019 Series Affordable Housing General Obligation Bonds		2020 Parks and Nature General Obligation Bonds		2023 Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds		2023 Series Natural Areas General Obligation Bonds		Total	
Principal	Interest	Principal	Interest	Principal	Interest	Principal	Interest	Principal (1)	Interest
19,600,000	19,583,904	17,425,000	4,104,793	9,801,010	1,055,017	5,277,467	568,086	55,203,477	26,313,901
21,465,000	18,897,904	8,685,000	3,900,921	16,767,038	663,974	9,028,405	357,525	59,285,443	24,667,425
23,425,000	18,146,629	3,000,000	3,786,279	-	-	-	-	34,805,000	22,613,009
25,435,000	17,385,316	3,000,000	3,741,279	-	-	-	-	29,685,000	21,435,495
27,545,000	16,558,679	3,000,000	3,691,779	-	-	-	-	37,855,000	20,496,858
29,765,000	15,663,466	3,000,000	3,638,979	-	-	-	-	32,765,000	19,302,445
32,020,000	14,770,516	3,000,000	3,583,179	-	-	-	-	35,020,000	18,353,695
34,380,000	13,809,916	7,710,000	3,526,179	-	-	-	-	42,090,000	17,336,095
36,895,000	12,744,136	8,435,000	3,140,679	-	-	-	-	45,330,000	15,884,815
39,535,000	11,591,168	9,205,000	2,718,929	-	-	-	-	48,740,000	14,310,097
42,335,000	10,326,048	9,930,000	2,350,729	-	-	-	-	52,265,000	12,676,777
45,290,000	8,950,160	10,695,000	1,953,529	-	-	-	-	55,985,000	10,903,689
48,410,000	7,455,590	11,395,000	1,632,679	-	-	-	-	59,805,000	9,088,269
51,735,000	5,809,650	12,065,000	1,353,501	-	-	-	-	63,800,000	7,163,151
55,270,000	3,998,925	12,770,000	1,051,876	-	-	-	-	68,040,000	5,050,801
58,985,000	2,064,475	13,510,000	726,241	-	-	-	-	72,495,000	2,790,716
-	-	14,285,000	374,981	-	-	-	-	14,285,000	374,981
<u>592,090,000</u>	<u>197,756,482</u>	<u>151,110,000</u>	<u>45,276,532</u>	<u>26,568,048</u>	<u>1,718,991</u>	<u>14,305,872</u>	<u>925,611</u>	<u>807,453,920</u>	<u>248,762,219</u>

METRO
Schedule of Future Bonded Debt Service Requirements
Full Faith and Credit, Dedicated Tax Revenue and Pension Obligation Bonds
June 30, 2023

Year of maturity	Full Faith and Credit Bonds				Dedicated Tax Revenue Bonds		Pension Obligation Bonds	
	Refunding Bonds 2016		2018 Series (1)		Oregon Convention Center Hotel Project Series 2017 (1)		Metro Limited Tax Pension Obligation Bonds Series 2005 (1)	
	Principal	Interest	Principal	Interest	Principal	Interest	Principal	Interest
2023-24	\$ 965,000	49,450	1,060,000	586,450	1,055,000	2,343,750	2,010,000	536,179
2024-25	1,005,000	15,075	1,115,000	533,450	1,105,000	2,291,000	2,210,000	435,598
2025-26	-	-	1,170,000	477,700	1,160,000	2,235,750	2,430,000	325,010
2026-27	-	-	1,230,000	419,200	1,220,000	2,177,750	2,660,000	203,413
2027-28	-	-	1,290,000	357,700	1,280,000	2,116,750	1,405,000	70,306
2028-29	-	-	1,355,000	293,200	1,345,000	2,052,750	-	-
2029-30	-	-	1,420,000	225,450	1,410,000	1,985,500	-	-
2030-31	-	-	1,495,000	154,450	1,485,000	1,915,000	-	-
2031-32	-	-	1,555,000	94,650	1,555,000	1,840,750	-	-
2032-33	-	-	1,600,000	48,000	1,635,000	1,763,000	-	-
2033-34	-	-	-	-	1,715,000	1,681,250	-	-
2034-35	-	-	-	-	1,800,000	1,595,500	-	-
2035-36	-	-	-	-	1,895,000	1,505,500	-	-
2036-37	-	-	-	-	1,985,000	1,410,750	-	-
2037-38	-	-	-	-	2,085,000	1,311,500	-	-
2038-39	-	-	-	-	2,190,000	1,207,250	-	-
2039-40	-	-	-	-	2,300,000	1,097,750	-	-
2040-41	-	-	-	-	2,415,000	982,750	-	-
2041-42	-	-	-	-	2,535,000	862,000	-	-
2042-43	-	-	-	-	2,660,000	735,250	-	-
2043-44	-	-	-	-	2,795,000	602,250	-	-
2044-45	-	-	-	-	2,935,000	462,500	-	-
2045-46	-	-	-	-	3,080,000	315,750	-	-
2046-47	-	-	-	-	3,235,000	161,750	-	-
Total	\$ 1,970,000	64,525	13,290,000	3,190,250	46,875,000	34,653,750	10,715,000	1,570,506

(1) The principal amount of the bonds is reported in governmental activities on the statement of net position.

(2) The principal amount of the bonds is reported net of unamortized premium or discount in business-type activities on the statement of net position.

METRO
Schedule of Long-term Bonded Debt Transactions
General Obligation Bonds
For the fiscal year ended June 30, 2023

	Principal			Outstanding June 30, 2023	Interest Expenditure
	Outstanding July 1, 2022	Issued During Year	Matured and Paid During Year		
DEBT SERVICE FUND					
2012A Series Natural Areas General Obligation Bonds with interest rates from 4.0 to 5.0%, final maturity 6/1/26	\$ 32,675,000	-	29,568,000	3,107,000	1,002,300
2012A Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds with interest rates from 3.0 to 5.0%, final maturity 6/1/28	29,725,000	-	22,097,000	7,628,000	866,763
2018 Series Natural Areas General Obligation Bonds with interest rate of 5.0%, final maturity 6/1/26	8,830,000	-	1,975,000	6,855,000	441,500
2018 Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Bonds with interest rate of 5.0%, final maturity 6/1/28	6,680,000	-	890,000	5,790,000	334,000
2019 Series Affordable Housing General Obligation Bonds with interest rates from 3.0 to 3.5%, final maturity 6/1/39	609,925,000	-	17,835,000	592,090,000	20,208,129
2020 Parks and Nature General Obligation Bonds with interest rates from 1.2 to 5.0%, final maturity 6/1/40	168,055,000	-	16,945,000	151,110,000	4,289,493
2023 Series Natural Areas General Obligation Refunding Bonds with interest rate of 3.96%, final maturity 6/1/25	-	26,568,048	-	26,568,048	-
2023 Series Oregon Zoo Infrastructure and Animal Welfare General Obligation Refunding Bonds with interest rate of 3.96%, final maturity 6/1/25	-	14,305,872	-	14,305,872	-
Total	\$ 855,890,000	40,873,920	89,310,000	807,453,920	27,142,185

METRO
Schedule of Long-term Bonded Debt Transactions
Full Faith and Credit, Dedicated Tax Revenue, and Pension Obligation Bonds
For the fiscal year ended June 30, 2023

	Principal			Outstanding June 30, 2023	Interest Expenditure
	Outstanding July 1, 2022	Issued During Year	Matured and Paid During Year		
GOVERNMENTAL FUNDS					
GENERAL FUND:					
<u>Full Faith and Credit</u>					
Refunding Bonds 2013 Series (MRC) with interest rates from 1.0 to 2.2%, final maturity 8/1/22	\$ 1,370,000	-	1,370,000	-	15,070
<u>Full Faith and Credit</u>					
2018 Series with interest rates from 3.0 to 5.0%, final maturity 6/1/33	13,290,000	-	-	13,290,000	586,450
<u>Dedicated Tax Revenue</u>					
OCC Hotel Project Series 2017 with interest rates from 3.0 to 5.0%, final maturity 6/15/47	47,880,000	-	1,005,000	46,875,000	2,394,000
<u>Pension Obligation</u>					
Metro Limited Tax Series 2005 with interest rates from 4.859 to 5.004%, final maturity 6/1/28	12,535,000	-	1,820,000	10,715,000	627,251
<u>Full Faith and Credit</u>					
Supportive Housing Tax 2021 with interest rate of 0.71%, final maturity 6/1/23	11,950,000	-	11,950,000	-	84,845
Total	\$ 87,025,000	-	16,145,000	70,880,000	3,707,616
ENTERPRISE FUNDS					
MERC FUND:					
<u>Full Faith and Credit</u>					
Refunding Bonds 2016 Series with interest rates from 1.5 to 5.0%, final maturity 12/1/24	\$ 2,920,000	-	950,000	1,970,000	75,875
Total	\$ 2,920,000	-	950,000	1,970,000	75,875



Statistical Section



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This section of Metro’s annual comprehensive financial report presents detailed data regarding the current and prior fiscal years for assistance in understanding what the information in the financial statements, note disclosures, and required supplementary information says about Metro’s overall financial health.

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Sources: Unless otherwise noted, the information in these schedules is derived from the annual comprehensive financial reports for the relevant year.

METRO
Net Position by Component
Last Ten Fiscal Years
(accrual basis of accounting), Unaudited

	2014	2015	2016
GOVERNMENTAL ACTIVITIES			
Net investment in capital assets (1)	\$ 293,851,981	326,328,783	237,716,303
Restricted	60,588,283	79,540,758	141,591,292
Unrestricted	(24,867,150)	(51,369,202)	(151,660,696)
Total governmental activities net position	\$ 329,573,114	354,500,339	227,646,899
BUSINESS-TYPE ACTIVITIES			
Net investment in capital assets	\$ 179,069,899	175,914,225	311,325,512
Restricted	3,734,868	8,914,318	19,991,871
Unrestricted	56,992,148	61,672,307	53,779,562
Total business-type activities net position	\$ 239,796,915	246,500,850	385,096,945
PRIMARY GOVERNMENT			
Net investment in capital assets (1)	\$ 472,921,880	502,243,008	501,174,344
Restricted	64,323,151	88,455,076	161,583,163
Unrestricted	32,124,998	10,303,105	(50,013,663)
Total primary government net position	\$ 569,370,029	601,001,189	612,743,844

(1) Starting in fiscal year 2016, these balances include the result of Metro financing capital assets for the business-type activities through the issuance of general obligation bonds. The amount of long-term debt outstanding on these bonds is reflected as a liability of the governmental activities in which repayment of the bonds occurs, whereas the associated capital assets financed by this debt are reflected with the business-type activities. The primary government totals have been adjusted to match the debt against the assets. These balances increase over time as a result of increases in capital assets, decreases in related long-term debt outstanding, and reductions in the amount of related unspent bond proceeds.

2017	2018	2019	2020	2021	2022	2023
267,856,359	265,925,123	281,246,439	294,848,252	324,068,485	331,538,185	344,469,479
128,141,074	132,860,263	122,522,041	138,330,011	122,154,281	334,925,580	502,757,659
(141,181,696)	(189,495,054)	(151,303,822)	(130,469,211)	(177,771,010)	(258,211,437)	(279,150,905)
<u>254,815,737</u>	<u>209,290,332</u>	<u>252,464,658</u>	<u>302,709,052</u>	<u>268,451,756</u>	<u>408,252,328</u>	<u>568,076,233</u>
310,527,670	311,737,639	321,159,565	338,396,545	343,691,434	333,384,655	326,037,270
24,326,517	24,100,994	38,698,873	6,410,761	7,506,843	7,480,840	5,523,549
55,130,008	60,498,533	24,855,194	22,788,471	12,197,703	44,764,019	55,296,142
<u>389,984,195</u>	<u>396,337,166</u>	<u>384,713,632</u>	<u>367,595,777</u>	<u>363,395,980</u>	<u>385,629,514</u>	<u>386,856,961</u>
533,080,026	532,358,759	570,027,275	591,873,688	621,205,786	623,668,341	647,808,583
152,467,591	156,961,257	161,220,914	144,740,772	129,661,124	342,406,420	508,281,208
(40,747,685)	(83,692,518)	(94,069,899)	(66,309,631)	(119,019,174)	(172,192,919)	(201,156,597)
<u>644,799,932</u>	<u>605,627,498</u>	<u>637,178,290</u>	<u>670,304,829</u>	<u>631,847,736</u>	<u>793,881,842</u>	<u>954,933,194</u>

METRO
Changes in Net Position
Last Ten Fiscal Years
(accrual basis of accounting), Unaudited

	2014	2015	2016
EXPENSES			
Governmental activities:			
General government operations (1)	\$ 17,216,935	14,121,383	21,833,274
Planning, development and research (5)	11,609,788	12,164,998	16,311,836
Housing (4)	-	-	-
Culture and recreation	19,969,697	23,281,061	29,221,523
Zoo (2)	35,660,651	32,483,204	-
Interest on long-term debt	9,712,521	6,736,232	7,071,050
Total governmental activities expenses	94,169,592	88,786,878	74,437,683
Business-type activities:			
Solid Waste	56,759,612	57,279,945	64,542,514
Oregon Zoo (2)	-	-	51,633,613
MERC	53,945,435	54,868,782	69,110,637
Total business-type activities expenses	110,705,047	112,148,727	185,286,764
Total primary government expenses	\$ 204,874,639	200,935,605	259,724,447
PROGRAM REVENUES			
Governmental activities:			
Charges for services:			
General government operations	\$ 1,615,075	1,501,207	2,132,646
Planning, development and research (5)	1,422,619	1,180,754	789,058
Housing (4)	-	-	-
Culture and recreation	6,121,579	7,444,771	8,851,083
Zoo (2)	22,082,776	21,546,136	-
Operating grants and contributions (3)	11,945,779	22,495,818	13,145,776
Capital grants and contributions	3,454,245	7,141,282	261,290
Total governmental activities program revenues	46,642,073	61,309,968	25,179,853
Business-type activities:			
Charges for services:			
Solid Waste	58,583,492	62,743,167	68,196,150
Oregon Zoo (2)	-	-	23,741,859
MERC	35,091,155	42,892,276	50,972,855
Operating grants and contributions (4)	17,183,489	19,974,313	23,414,591
Capital grants and contributions	-	200,000	609,917
Total business-type activities program revenues	110,858,136	125,809,756	166,935,372
Total primary government program revenues	\$ 157,500,209	187,119,724	192,115,225

2017	2018	2019	2020	2021	2022	2023
16,571,054	92,414,695	18,419,574	26,670,161	23,947,617	10,172,047	9,665,907
18,252,248	18,694,103	26,623,652	29,178,474	79,863,702	167,988,989	22,085,632
-	-	-	-	-	-	258,576,138
33,156,498	34,237,180	31,389,370	33,858,568	36,625,998	43,987,029	39,097,568
-	-	-	-	-	-	-
<u>6,766,723</u>	<u>8,150,951</u>	<u>11,408,272</u>	<u>29,756,452</u>	<u>32,096,042</u>	<u>29,286,520</u>	<u>27,331,869</u>
<u>74,746,523</u>	<u>153,496,929</u>	<u>87,840,868</u>	<u>119,463,655</u>	<u>172,533,359</u>	<u>251,434,585</u>	<u>356,757,114</u>
67,359,647	70,581,702	76,879,522	84,882,301	95,968,724	91,608,851	105,381,938
46,636,849	51,803,762	47,446,196	50,169,271	37,511,393	37,814,691	50,082,803
69,090,836	74,435,547	106,849,882	84,868,082	29,584,071	55,992,846	74,517,626
<u>183,087,332</u>	<u>196,821,011</u>	<u>231,175,600</u>	<u>219,919,654</u>	<u>163,064,188</u>	<u>185,416,388</u>	<u>229,982,367</u>
<u>257,833,855</u>	<u>350,317,940</u>	<u>319,016,468</u>	<u>339,383,309</u>	<u>335,597,547</u>	<u>436,850,973</u>	<u>586,739,481</u>
3,133,150	2,764,649	4,942,275	3,677,685	4,954,137	744,833	823,350
1,485,757	1,172,496	1,562,666	2,287,732	2,012,481	2,640,799	1,940,465
-	-	-	-	-	-	14,400
9,616,244	10,483,073	10,922,080	9,998,063	7,598,326	7,314,054	8,052,173
-	-	-	-	-	-	-
16,845,537	18,750,842	26,137,387	25,671,383	24,471,667	34,802,948	20,033,360
<u>313,816</u>	<u>7,675,000</u>	<u>425,138</u>	<u>338,894</u>	<u>693,456</u>	<u>34,755</u>	<u>41,946</u>
<u>31,394,504</u>	<u>40,846,060</u>	<u>43,989,546</u>	<u>41,973,757</u>	<u>39,730,067</u>	<u>45,537,389</u>	<u>30,905,694</u>
70,798,890	71,897,428	74,185,046	72,174,379	77,213,288	96,647,343	105,294,626
26,062,207	29,390,534	29,994,324	23,013,687	17,881,058	23,809,146	24,918,459
47,876,192	51,011,674	56,921,768	37,937,166	4,594,458	35,648,511	51,285,504
28,801,808	27,284,520	30,313,581	27,786,467	23,297,033	38,683,686	31,670,020
<u>1,293,000</u>	<u>1,687,660</u>	<u>1,595,833</u>	<u>788,333</u>	<u>1,506,667</u>	<u>371,155</u>	<u>895,053</u>
<u>174,832,097</u>	<u>181,271,816</u>	<u>193,010,552</u>	<u>161,700,032</u>	<u>124,492,504</u>	<u>195,159,841</u>	<u>214,063,662</u>
<u>206,226,601</u>	<u>222,117,876</u>	<u>237,000,098</u>	<u>203,673,789</u>	<u>164,222,571</u>	<u>240,697,230</u>	<u>244,969,356</u>

(Continued)

METRO
Changes in Net Position, *continued*
Last Ten Fiscal Years
(accrual basis of accounting), Unaudited

	2014	2015	2016
NET (EXPENSE)/REVENUE			
Governmental activities	\$ (47,527,519)	(27,476,910)	(49,257,830)
Business-type activities	153,089	13,661,029	(18,351,392)
Total primary government net expense	\$ (47,374,430)	(13,815,881)	(67,609,222)
GENERAL REVENUES AND OTHER CHANGES IN NET POSITION			
Governmental activities:			
Property taxes	\$ 59,506,228	61,957,344	55,546,801
Personal and business income taxes	-	-	-
Excise taxes	15,999,908	16,584,669	18,144,766
Construction excise tax	2,537,894	2,669,188	3,338,479
Cemetery revenue surcharge	49,581	48,335	46,711
Unrestricted investment earnings	1,202,458	904,399	1,383,708
Transfers	(506,859)	(701,266)	(156,056,075)
Total governmental activities	78,789,210	81,462,669	(77,595,610)
Business-type activities:			
Unrestricted investment earnings	416,652	425,728	891,412
Transfers	506,859	701,266	156,056,075
Total business-type activities	923,511	1,126,994	156,947,487
Total primary government	\$ 79,712,721	82,589,663	79,351,877
CHANGE IN NET POSITION			
Governmental activities	\$ 31,261,691	53,985,759	(126,853,440)
Business-type activities	1,076,600	14,788,023	138,596,095
Total primary government	\$ 32,338,291	68,773,782	11,742,655
Prior period adjustment/cumulative change in accounting principle	\$ -	(8,084,088)	-

(1) The large change in General government operations governmental activities expense between fiscal years 2017 and 2018 is due to the approximately \$74 million Convention Center Hotel project bond proceeds which were transferred to the developer of the project in fiscal year 2018.

(2) In fiscal year 2016, Metro began reporting the activities of the Zoo in the Oregon Zoo enterprise fund. Prior to this, activities of the Zoo were reported as part of the General Fund, a governmental fund.

(3) Changes in governmental activities operating grants and contribution revenue between fiscal years 2014 and 2015 is due primarily to the receipt in fiscal year 2015 of one-time grants of approximately \$15 million for the Willamette Falls Legacy and Convention Center Hotel projects.

(4) In fiscal year 2023, Metro began reporting the activities of the Supportive housing services and Affordable housing as a separate program. Prior to this, activities were reported as part of the Planning, development and research program.

(5) In fiscal year 2023, Metro renamed the Regional planning and development program to Planning, development, and research program to more accurately describe the function/program.

2017	2018	2019	2020	2021	2022	2023
(43,352,019)	(112,650,869)	(43,851,322)	(77,489,898)	(132,803,292)	(205,897,196)	(325,851,420)
(8,255,235)	(15,549,195)	(38,165,048)	(58,219,622)	(38,571,684)	9,743,453	(15,918,705)
<u>(51,607,254)</u>	<u>(128,200,064)</u>	<u>(82,016,370)</u>	<u>(135,709,520)</u>	<u>(171,374,976)</u>	<u>(196,153,743)</u>	<u>(341,770,125)</u>
59,711,015	64,162,251	78,203,583	114,176,644	106,525,202	108,386,146	112,919,912
-	-	-	-	1,524,473	242,650,036	347,044,362
18,830,032	18,343,257	18,587,682	16,916,905	18,704,633	21,631,175	20,439,427
3,561,675	3,792,595	3,583,092	3,627,232	3,318,783	3,877,675	3,598,048
47,095	51,479	39,854	45,533	55,300	67,195	60,039
857,777	1,711,821	9,205,677	30,268,742	2,750,741	(16,119,074)	15,956,736
<u>(12,486,737)</u>	<u>(20,896,055)</u>	<u>(22,594,240)</u>	<u>(37,300,764)</u>	<u>(34,333,138)</u>	<u>(14,795,385)</u>	<u>(14,343,199)</u>
<u>70,520,857</u>	<u>67,165,348</u>	<u>87,025,648</u>	<u>127,734,292</u>	<u>98,545,994</u>	<u>345,697,768</u>	<u>485,675,325</u>
655,748	1,182,066	3,947,274	3,801,003	38,749	(2,305,304)	2,802,953
<u>12,486,737</u>	<u>20,896,055</u>	<u>22,594,240</u>	<u>37,300,764</u>	<u>34,333,138</u>	<u>14,795,385</u>	<u>14,343,199</u>
<u>13,142,485</u>	<u>22,078,121</u>	<u>26,541,514</u>	<u>41,101,767</u>	<u>34,371,887</u>	<u>12,490,081</u>	<u>17,146,152</u>
<u>83,663,342</u>	<u>89,243,469</u>	<u>113,567,162</u>	<u>168,836,059</u>	<u>132,917,881</u>	<u>358,187,849</u>	<u>502,821,477</u>
27,168,838	(45,485,521)	43,174,326	50,244,394	(34,257,298)	139,800,572	159,823,905
<u>4,887,250</u>	<u>6,528,927</u>	<u>(11,623,534)</u>	<u>(17,117,855)</u>	<u>(4,199,797)</u>	<u>22,233,534</u>	<u>1,227,447</u>
<u>32,056,088</u>	<u>(38,956,594)</u>	<u>31,550,792</u>	<u>33,126,539</u>	<u>(38,457,095)</u>	<u>162,034,106</u>	<u>161,051,352</u>
<u>-</u>	<u>(215,840)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

METRO
Fund Balances, Governmental Funds
Last Ten Fiscal Years
(modified accrual basis of accounting), Unaudited

	2014	2015	2016
General Fund			
Nonspendable	\$ 1,434,164	1,413,353	1,013,709
Restricted	23,335,910	38,197,509	37,683,525
Committed	5,836,553	5,626,594	11,135,969
Assigned	-	-	-
Unassigned	21,358,970	16,093,516	17,162,433
Total General Fund	51,965,597	61,330,972	66,995,636
All other governmental funds			
Nonspendable (2)	436,202	482,037	528,748
Restricted (1)	124,685,440	86,346,886	89,903,244
Committed	-	32,839	-
Assigned	30,336	-	37,398
Unassigned	-	-	-
Total all other governmental funds	\$ 125,151,978	86,861,762	90,469,390

(1) Changes in Restricted fund balance of all other governmental funds between 2017 and 2018, and between 2018 and 2019 is due primarily to the issuance of bonds in 2018 and 2019; subsequent year changes are primarily due to the spend down of the proceeds.

(2) Changes in Nonspendable fund balance of all other governmental funds between 2019 and 2020, and between 2021 and 2022 is due primarily to advance payments made within the Affordable housing and Supportive housing programs.

2017	2018	2019	2020	2021	2022	2023
798,952	42,693	186,438	296,426	228,507	199,946	427,003
42,309,999	52,899,445	64,016,351	63,313,745	65,824,929	73,239,624	70,127,790
12,316,557	10,522,814	12,493,221	14,740,429	-	12,167,202	9,900,092
-	-	15,529,940	-	306,762	1,437,105	661,541
21,133,911	29,180,618	9,988,598	24,836,760	25,371,310	34,080,876	44,992,123
<u>76,559,419</u>	<u>92,645,570</u>	<u>102,214,548</u>	<u>103,187,360</u>	<u>91,731,508</u>	<u>121,124,753</u>	<u>126,108,549</u>
555,580	607,059	647,996	15,735,447	15,724,486	223,995,155	388,020,024
62,107,158	86,678,277	725,292,232	910,772,093	867,763,459	708,776,914	612,851,241
-	-	-	-	-	-	-
60,859	16,612	36,772	64,430	67,401	-	-
-	-	-	-	-	(10,229)	(11,352)
<u>62,723,597</u>	<u>87,301,948</u>	<u>725,977,000</u>	<u>926,571,970</u>	<u>883,555,346</u>	<u>932,761,840</u>	<u>1,000,859,913</u>

METRO
Changes in Fund Balances, Governmental Funds
Last Ten Fiscal Years
(modified accrual basis of accounting), Unaudited

	2014	2015	2016
REVENUES			
Property taxes	\$ 59,245,166	61,790,541	55,397,507
Excise taxes	16,002,790	16,587,938	18,144,768
Personal and business income taxes	-	-	-
Construction excise tax	2,537,894	2,669,188	3,338,479
Cemetery revenue surcharge	49,581	48,335	46,711
Investment income	1,180,790	888,088	1,358,919
Government fees	99,809	95,725	76,236
Culture and recreation fees (1)	23,306,808	24,856,959	4,592,527
Solid waste fees	317,949	340,912	985,486
Other fees	3,470,826	3,271,705	1,485,642
Internal charges for services	3,223,107	1,812,342	3,969,961
Licenses and permits	369,855	393,796	507,560
Miscellaneous revenue	365,234	540,467	177,329
Grants	8,056,565	17,840,916	8,569,740
Local government shared revenues	621,111	773,657	761,253
Government contributions	2,975,000	3,370,903	3,814,143
Contributions and donations	293,104	510,343	640
Capital grants	842,564	18,740	238,790
Capital contributions and donations	2,611,681	7,122,542	22,500
Total revenues	125,569,834	142,933,097	103,488,191
EXPENDITURES			
General government operations	15,189,343	16,506,570	12,583,030
Planning, development and research (3)	11,598,462	13,888,509	13,304,049
Housing (2)	-	-	-
Culture and recreation	18,866,771	22,358,773	24,568,215
Zoo (1)	31,274,828	31,967,441	-
Debt service:			
Principal	27,320,000	29,665,000	23,770,000
Interest	12,428,417	9,722,466	9,354,224
Capital outlay	39,647,950	46,140,996	30,098,540
Total expenditures	156,325,771	170,249,755	113,678,058
Excess of revenues over (under) expenditures	(30,755,937)	(27,316,658)	(10,189,867)

2017	2018	2019	2020	2021	2022	2023
59,562,937	64,369,020	79,370,064	114,101,431	106,520,166	108,248,252	113,147,010
18,830,032	18,343,257	18,587,682	16,916,905	18,704,633	21,631,175	20,439,429
-	-	-	-	1,524,473	242,650,036	347,044,362
3,561,675	3,792,595	3,583,093	3,627,232	3,318,783	3,877,675	3,598,048
47,095	51,479	39,854	45,534	55,300	67,195	60,039
846,966	1,688,487	9,072,979	30,084,653	2,728,902	(16,043,479)	15,874,590
85,353	96,500	83,043	85,692	71,874	68,273	15,805
4,612,352	4,821,013	5,156,720	4,066,569	4,530,790	4,487,130	5,245,485
1,033,211	1,053,525	1,077,086	1,086,468	1,126,754	1,275,830	1,313,889
1,951,142	1,985,501	1,971,267	1,975,668	865,159	1,442,744	1,698,550
5,477,184	5,145,553	7,989,975	7,079,106	6,284,090	1,775,729	1,205,481
558,504	593,228	577,621	583,115	587,595	583,490	587,155
540,483	730,850	579,426	1,092,948	869,588	958,779	975,168
11,733,942	11,595,479	9,130,571	11,539,100	12,167,332	8,192,666	13,757,472
766,318	3,954,656	3,863,885	4,185,973	4,263,289	4,257,600	4,279,018
4,345,277	3,200,708	13,142,245	9,917,660	334,919	28,426,493	28,812
-	-	-	28,650	-	-	-
107,046	175,000	261,638	44,334	268,456	34,755	16,946
206,770	7,500,000	178,510	294,560	-	-	-
<u>114,266,287</u>	<u>129,096,851</u>	<u>154,665,659</u>	<u>206,755,598</u>	<u>164,222,103</u>	<u>411,934,343</u>	<u>529,287,259</u>
13,885,115	88,524,517	15,877,682	20,930,455	12,877,761	6,937,209	11,610,464
16,814,210	17,666,404	25,444,323	27,184,653	75,449,202	170,652,884	24,017,210
-	-	-	-	-	-	258,539,755
28,730,153	30,295,557	28,049,868	28,746,257	26,683,691	32,193,318	37,433,410
-	-	-	-	-	-	-
24,315,000	30,165,000	40,740,000	56,290,000	48,705,000	60,670,000	64,630,000
10,321,223	11,131,207	12,780,341	33,513,011	35,382,628	33,551,564	30,849,801
29,097,093	16,635,087	25,515,599	35,181,744	24,984,317	15,895,908	15,579,259
<u>123,162,794</u>	<u>194,417,772</u>	<u>148,407,813</u>	<u>201,846,120</u>	<u>224,082,599</u>	<u>319,900,883</u>	<u>442,659,899</u>
<u>(8,896,507)</u>	<u>(65,320,921)</u>	<u>6,257,846</u>	<u>4,909,478</u>	<u>(59,860,496)</u>	<u>92,033,460</u>	<u>86,627,360</u>

(Continued)

METRO
Changes in Fund Balances, Governmental Funds, *continued*
Last Ten Fiscal Years
(modified accrual basis of accounting), Unaudited

	2014	2015	2016
OTHER FINANCING SOURCES (USES)			
Bonds issued	-	-	30,000,000
Refunding bonds issued	-	57,955,000	-
Premium on bonds issued	-	6,780,891	3,479,164
Leases (as lessee)	-	-	-
SBITA	-	-	-
Sale of capital assets	1,743,987	23,361	348,744
Transfers in	281,742	964,282	5,779,685
Payment to refunded bond escrow agent	-	(65,967,620)	-
Transfers out	(506,859)	(1,364,097)	(20,145,434)
Total other financing sources (uses)	1,518,870	(1,608,183)	19,462,159
Net change in fund balances	\$ (29,237,067)	(28,924,841)	9,272,292
Debt service as a percentage of noncapital expenditures	34.1%	31.8%	39.6%

(1) In fiscal year 2016, Metro began reporting the activities of the Zoo in the Oregon Zoo enterprise fund. Prior to this, activities of the Zoo were reported as part of the General Fund, a governmental fund.

(2) In fiscal year 2023, Metro began reporting the activities of the Supportive housing services and Affordable housing as a separate program. Prior to this, activities were reported as part of the Planning, development and research program.

(3) In fiscal year 2023, Metro renamed the Regional planning and development program to Planning, development and research program to more accurately describe the function/program.

2017	2018	2019	2020	2021	2022	2023
-	103,655,000	652,800,000	200,000,000	27,500,000	-	-
-	-	-	-	-	-	40,873,920
-	14,710,080	2,630,335	10,922,405	-	-	-
-	-	-	-	-	943,561	-
-	-	-	-	-	-	1,613,801
430,096	933,046	64,909	23,655	9,800	91,807	45,300
6,815,333	2,485,448	1,904,259	1,449,821	3,732,520	16,897,853	17,108,692
-	-	-	-	-	-	(41,750,751)
<u>(16,530,932)</u>	<u>(15,798,151)</u>	<u>(15,413,317)</u>	<u>(15,737,577)</u>	<u>(25,854,300)</u>	<u>(31,366,942)</u>	<u>(31,436,453)</u>
<u>(9,285,503)</u>	<u>105,985,423</u>	<u>641,986,186</u>	<u>196,658,304</u>	<u>5,388,020</u>	<u>(13,433,721)</u>	<u>(13,545,491)</u>
<u>(18,182,010)</u>	<u>40,664,502</u>	<u>648,244,032</u>	<u>201,567,782</u>	<u>(54,472,476)</u>	<u>78,599,739</u>	<u>73,081,869</u>
36.8%	23.2%	43.5%	53.9%	42.2%	31.0%	22.4%



METRO
Solid Waste Tonnage by Waste Type and Destination (1)
Last Ten Fiscal Years
Unaudited

Fiscal year ended June 30,	Waste (2)				Organic (3)		ECU (4)		Regional Total
	Metro-Owned Facilities	Total Per Ton Rate	Privately-Owned Facilities	Total Per Ton Rate	Metro-Owned Facilities	Privately-Owned Facilities	All Waste Types		
2014	428,788	\$ 94.33	651,912	\$ 30.85	91,843	259,120	1,431,663		
2015	471,727	93.33	664,214	29.97	86,753	346,772	1,569,466		
2016	509,286	94.98	769,684	29.87	76,970	348,428	1,704,368		
2017	523,199	96.25	827,891	30.24	79,533	384,283	1,814,906		
2018	532,333	94.95	888,129	28.93	74,525	279,730	1,774,717		
2019	549,143	97.45	915,423	30.22	77,630	196,651	1,738,847		
2020	495,164	97.45	919,160	30.15	83,610	290,444	1,788,378		
2021	544,510	98.35	911,497	31.05	86,246	229,645	1,771,898		
2022	576,342	115.15	951,628	39.45	77,598	243,543	1,849,111		
2023	557,405	123.45	1,009,031	42.17	71,650	163,642	1,801,728		

(1) Waste generated in the Metro region and delivered to solid waste facilities for disposal. The figures represent tons of solid waste from which Metro derives revenue.

(2) "Waste" is mixed solid waste on which Metro levies a Public Goods Charge that generates revenue for the Solid Waste Fund and pays for solid waste programs, and on which an Excise Tax that generates revenue for the General Fund is levied. Waste delivered to Metro's own transfer stations also incurs a user charge that is deposited in the Solid Waste Revenue Fund to pay for station operation, transport, and disposal.

(3) "Organic" is source-separated wood waste, yard debris and compostable food wastes delivered to Metro's own transfer stations. Metro levies a user charge and host fee only on the food waste portion of this group of wastes.

(4) "ECU" or "Environmental Clean-Up" material is soil and cleanup media contaminated by hazardous substances (though not itself a hazardous waste), including petroleum contaminated soils. Metro levies a reduced-rate Public Goods Charge and Excise Tax only on ECU.

Source: Metro Waste Prevention and Environmental Services Department, solid waste information system. Data reflects revisions to previous years and therefore may not match previously published reports.

**METRO
Solid Waste Disposal Rates
Last Ten Fiscal Years
Unaudited**

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
METRO FACILITIES										
Disposal fee	\$ 61.74	61.62	62.87	63.19	63.20	64.41	64.41	64.41	72.81	78.39
Regional system fee	18.56	18.21	18.39	18.48	18.12	17.81	18.58	18.58	25.65	29.37
Excise tax	12.29	11.76	11.48	11.76	10.81	12.41	11.57	12.47	13.80	12.80
Community & enhancement/host fee	0.50	0.50	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
DEQ fees - orphan sites	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13	0.13
DEQ fees - promotion	1.11	1.11	1.11	1.69	1.69	1.69	1.76	1.76	1.76	1.76
Total rate per ton (1)	\$ 94.33	93.33	94.98	96.25	94.95	97.45	97.45	98.35	115.15	123.45
Transaction fee-scalehouse	\$ 12.00	12.00	12.00	10.00	10.00	10.00	10.00	10.00	14.75	18.00
Transaction fee-automated	\$ 3.00	3.00	3.00	2.00	2.00	2.00	2.00	2.00	2.75	4.25
PRIVATELY-OWNED FACILITIES										
Regional system fee	\$ 18.56	18.21	18.39	18.48	18.12	17.81	18.58	18.58	25.65	29.37
Excise tax	12.29	11.76	11.48	11.76	10.81	12.41	11.57	12.47	13.80	12.80
Total rate per ton	\$ 30.85	29.97	29.87	30.24	28.93	30.22	30.15	31.05	39.45	42.17

(1) Rates are per ton of mixed waste disposal. For fiscal year 2023, minimum charge is \$35.00 for 300 pounds or less. DEQ rates are set by the State of Oregon Department of Environmental Quality.

Source: Metro Waste Prevention and Environmental Services Department.

METRO
Principal Solid Waste Fee Payers
Current Year and Nine Years Ago
Unaudited

Customer/Payer	2023			2014		
	Fees Paid (1)	Rank	Percentage of Total Solid Waste Fee Revenue	Fees Paid (1)	Rank	Percentage of Total Solid Waste Fee Revenue
Waste Management of Oregon	\$ 20,335,035	1	19.71%	\$ 12,431,087	1	23.49%
Miller's Sanitary Service Inc.	5,929,070	2	5.75	-	-	-
Oregon City Garbage Company	4,835,542	3	4.69	2,772,612	2	5.24
Heiberg Garbage Service	3,280,643	4	3.18	1,657,311	7	3.13
Allied Waste Services of Portland	2,957,098	5	2.87	-	-	-
Arrow Sanitary Service	2,676,959	6	2.59	2,235,553	5	4.22
AGG Recology Inc.	1,821,949	7	1.77	2,652,233	3	5.01
Walker Garbage Services Inc.	1,619,631	8	1.57	1,015,438	9	1.92
City Sanitary Service	1,557,035	9	1.51	-	-	-
Sunset Garbage Collection Inc	1,500,723	10	1.45	789,789	10	1.49
Trashco Services Inc.	-	-	-	1,946,959	6	3.68
Kellar Drop Bos Inc.	-	-	-	1,232,035	8	2.33
Portland Disposal & Recycling	-	-	-	2,471,035	4	4.67
Total	\$ 46,513,685		45.09%	\$ 29,204,052		55.18%

(1) Customers pay a per ton rate for solid waste disposal. The per ton rate includes various fee components which change each fiscal year. See Solid Waste Disposal Rates table for rate detail.

Sources: Metro Waste Prevention and Environmental Services Department and Metro Accounting Division.

METRO
Ratios of Outstanding Debt by Type
Last Ten Fiscal Years
Unaudited

Fiscal year ended June 30,	Governmental Activities						
	General Obligation Bonds	Full Faith and Credit Refunding Bonds	Dedicated Tax Revenue Bonds	Pension Obligation Bonds	Loans Payable	Leases Payable	SBITA Payable
2014	\$ 237,456,537	\$ 12,495,000	\$ -	\$ 21,685,000	\$ 2,136	\$ -	\$ -
2015	209,240,729	10,900,000	-	20,975,000	-	-	-
2016	217,472,440	9,125,000	-	20,155,000	-	-	-
2017	191,285,127	7,880,000	-	19,225,000	-	-	-
2018	202,515,540	21,721,580	60,048,719	18,170,000	-	-	-
2019	816,251,155	20,319,463	58,889,720	16,985,000	-	-	-
2020	970,079,966	18,902,344	57,700,721	15,660,000	-	-	-
2021	925,901,419	41,275,229	56,476,722	14,180,000	-	-	-
2022	878,162,868	27,943,112	55,217,723	12,535,000	-	723,596	-
2023	821,771,917	14,500,995	53,918,724	10,715,000	-	478,343	787,812

(1) See Demographic and Economic Statistics table for personal income and population data. Data reflects revisions to previous years and therefore may not match previously published reports.

* Not available

Business-type Activities					Percentage of	
Full Faith and	Leases Payable	SBITA Payable	Total Primary		Personal Income	Per
Credit Bonds			Government		(1)	Capita (1)
\$ 10,357,673	\$ -	\$ -	\$ 281,996,346		0.26%	\$ 164.16
9,605,617	-	-	250,721,346		0.21	143.65
8,988,560	-	-	255,741,000		0.21	143.74
7,895,584	-	-	226,285,711		0.17	124.89
7,017,472	-	-	309,472,911		0.22	168.28
6,099,360	-	-	918,544,698		0.63	494.22
5,141,247	-	-	1,067,484,278		0.68	580.35
4,158,135	-	-	1,041,991,505		0.61	565.00
3,145,022	15,465,305	-	993,192,626		0.57	540.32
2,101,909	14,753,779	618,702	919,647,181		N/A *	496.92

METRO
Ratios of Net General Bonded Debt Outstanding
Last Ten Fiscal Years
Unaudited

General Bonded Debt Outstanding							
Fiscal year ended June 30,	General Obligation Bonds	Pension Obligation Bonds	Less: Amounts Restricted to Repaying Principal	Net General Bonded Debt	Real Market Value (1)	Percentage of Actual Real Market Value of Property	Per Capita (2)
2014	\$ 237,456,537	\$ 21,685,000	\$ 1,107,953	\$ 258,033,584	\$ 191,403,168,645	0.13%	\$ 150.21
2015	209,240,729	20,975,000	1,270,502	228,945,227	211,844,217,262	0.11	131.17
2016	217,472,440	20,155,000	495,726	237,131,714	232,729,794,715	0.10	133.28
2017	191,285,127	19,225,000	814,903	209,695,224	266,256,751,631	0.08	115.73
2018	202,515,140	18,170,000	847,417	219,837,723	299,124,101,408	0.07	119.54
2019	816,251,155	16,985,000	3,178,629	830,057,526	326,072,241,004	0.25	446.61
2020	970,079,966	15,660,000	3,539,568	982,200,398	336,012,820,952	0.29	533.98
2021	925,901,419	14,180,000	3,933,561	936,147,858	353,506,458,459	0.26	507.61
2022	878,162,868	12,535,000	2,829,578	887,868,290	376,897,140,782	0.24	483.02
2023	821,771,917	10,715,000	3,412,782	829,074,137	423,733,033,399	0.20	447.98

Sources:

- (1) The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington counties.
- (2) See Demographic and Economic Statistics table for population data.

METRO
Direct and Overlapping Governmental Activities Debt
As of June 30, 2023
Unaudited

<u>Overlapping government</u>	<u>Net property tax backed debt</u>	<u>Percent within Metro</u>	<u>Share of Overlapping Debt</u>
City of Beaverton	\$ 30,045,000	99.87%	\$ 30,006,512
City of Cornelius	1,967,596	94.64	1,862,099
City of Fairview	6,117,607	100.00	6,117,607
City of Gladstone	7,597,202	99.67	7,597,202
City of Gresham	32,697,554	100.00	32,697,554
City of Hillsboro	74,915,000	98.67	73,915,784
City of Lake Oswego	85,050,000	100.00	85,050,000
City of Milwaukie	54,892,508	100.00	54,892,508
City of Oregon City	12,005,000	99.81	11,982,287
City of Portland	392,915,000	100.00	392,912,250
City of Sherwood	66,211,920	99.95	66,179,609
City of Tigard	17,159,468	99.75	17,117,015
City of Troutdale	8,885,000	100.00	8,885,000
City of Tualatin	33,378,254	100.00	33,378,254
City of West Linn	27,035,000	100.00	27,035,000
City of Wilsonville	19,695,400	99.97	19,689,984
City of Wood Village	2,845,000	100.00	2,845,000
Clackamas Community College	127,080,045	73.35	93,209,274
Clackamas County	105,100,000	73.37	77,107,771
Clackamas County ESD	19,855,267	73.55	14,603,728
Clackamas County RFPD 1	23,488,636	85.49	20,079,261
Clackamas County SD 115 (Gladstone)	22,709,934	100.00	22,709,934
Clackamas County SD 12 (North Clackamas)	639,927,666	98.66	631,368,634
Clackamas County SD 3J (West Linn-Wilsonville)	488,595,822	95.06	464,464,075
Clackamas County SD 46 (Oregon Trail)	71,866,276	6.36	4,572,851
Clackamas County SD 62 (Oregon City)	268,107,085	70.79	189,802,925
Clackamas County SD 7J (Lake Oswego)	382,387,657	100.00	382,387,657
Clackamas County SD 86 (Canby)	101,418,963	11.42	11,578,800
Clackamas Soil & Water Conservation	5,416,000	73.37	3,973,508
Columbia County SD 1J (Scappoose)	17,185,000	7.28	1,250,535
Corbett Water District	331,711	22.87	75,853
Lusted Water District	445,000	97.33	433,124
Mt. Hood Community College	73,420,000	85.99	63,130,995
Multnomah County	583,000,736	99.12	577,890,151
Multnomah County Drainage District 1	8,432,000	100.00	8,432,000
Multnomah County RFPD 10	881,485	85.07	749,887
Multnomah County RFPD 14	4,500,000	18.98	854,289
Multnomah County SD 10J (Gresham-Barlow)	293,412,224	96.26	282,438,020
Multnomah County SD 1J (Portland)	2,008,774,288	99.69	2,002,575,211
Multnomah County SD 28J (Centennial)	63,177,796	100.00	63,177,796
Multnomah County SD 3 (Parkrose)	88,611,599	100.00	88,611,599
Multnomah County SD 40 (David Douglas)	189,349,914	100.00	189,349,914
Multnomah County SD 51J (Riverdale)	11,723,311	100.00	11,723,311
Multnomah County SD 7 (Reynolds)	157,601,494	100.00	157,601,494
Multnomah ESD	60,233,416	99.19	59,744,983

(Continued)

METRO
Direct and Overlapping Governmental Activities Debt, *continued*
As of June 30, 2023
Unaudited

Overlapping government	Net property tax backed debt	Percent within Metro	Share of Overlapping Debt
Northwest Regional ESD	\$ 13,670,000	75.39%	\$ 10,305,485
Oak Lodge Water Services District	595,000	100.00	595,000
Pleasant Home Water District	1,110,000	57.49	638,117
Portland Community College	669,475,000	92.58	619,825,395
Rivergrove Water District 14J	655,635	100.00	655,635
Tualatin Hills Park & Recreation District	47,825,680	99.92	47,785,554
Tualatin Valley Fire & Rescue District	55,780,000	89.93	50,160,332
Valley View Water District	918,441	100.00	918,441
Washington County	164,628,758	93.68	154,215,989
Washington County SD 15 (Forest Grove)	150,138,930	80.89	121,447,981
Washington County SD 1J (Hillsboro)	497,841,362	86.37	429,971,645
Washington County SD 23J (Tigard-Tualatin)	298,969,280	99.74	298,177,908
Washington County SD 48J (Beaverton)	1,155,458,918	99.90	1,154,276,884
Washington County SD 88J (Sherwood)	292,793,434	82.47	241,467,624
Subtotal, overlapping debt	<u>\$ 10,040,306,272</u>		9,426,503,235
Metro direct debt			900,906,636
Total direct and overlapping debt			<u>\$ 10,327,409,871</u>

Note: Overlapping governments are those that coincide, at least in part, with the geographic boundaries of Metro. This schedule estimates the portion of the outstanding debt of those overlapping governments that is borne by the property taxpayers of Metro. "Net property tax backed debt" is gross property tax backed debt less self-supporting unlimited-tax general obligation, self-supporting full faith and credit debt, and revenue bonds.

Source: The Municipal Debt Advisory Commission, State of Oregon.

METRO
Legal Debt Margin Information
Last Ten Fiscal Years
Unaudited

Fiscal Year Ended June 30,	Debt limit	Total net debt applicable to limit	Legal debt margin	Total net debt applicable to the limit as a percentage of the debt limit
2014	\$ 19,140,316,865	\$ 210,460,000	\$ 18,929,856,865	1.10 %
2015	21,184,421,726	182,305,000	21,002,116,726	0.86
2016	23,272,979,472	190,565,000	23,082,414,472	0.82
2017	26,625,675,163	168,425,000	26,457,250,163	0.63
2018	29,912,410,141	179,415,000	29,732,995,141	0.60
2019	32,607,224,100	794,805,000	31,812,419,100	2.44
2020	33,781,364,510	942,030,000	32,839,334,510	2.79
2021	35,350,645,846	900,740,000	34,449,905,846	2.55
2022	37,689,714,078	855,890,000	36,833,824,078	2.27
2023	42,373,303,340	807,453,920	41,565,849,420	1.91

Legal Debt Margin Calculation for Fiscal Year 2023

True cash value	\$ 423,733,033,399
Debt limit (10% of true cash value)	42,373,303,340
Debt applicable to limit:	
Gross bonded debt principal	\$ 880,303,920
Less legal deductions from debt limit:	
Full Faith and Credit Refunding Bonds 2016 Series	(1,970,000)
Full Faith and Credit Bonds 2018 Series	(13,290,000)
Dedicated Tax Revenue OCC Hotel Project Bonds 2017 Series	(46,875,000)
Metro Limited Tax Pension Obligation Bonds Series 2005	(10,715,000)
Total net debt applicable to limit	807,453,920
Legal debt margin	\$ 41,565,849,420

Note: ORS 268.520 sets a debt limit of 10% of the true cash value of all taxable property within the district.

Source: The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington Counties.

METRO
Revenue Support for Dedicated Tax Revenue Bonds, Series 2017 (OCC Hotel Project)
Last Ten Fiscal Years
Unaudited

Fiscal Year Ended June 30,	Multnomah County Transient Lodging Tax (TLT) Collections		Visitor Facilities Trust Account (VFTA) TLT Net Revenue			
	3% Excise Tax Fund (ETF) TLT(1)	2.5% VFTA TLT(2)	VFTA TLT Net Revenue (3)	City of Portland Bonds VFTA Existing Debt Service (4)	VFTA Payments Available for Series 2017 Bonds (5) (7)	VFTA Payments Transferred to Metro (5)
2014	\$ 13,237,477	11,030,282	10,989,687	7,843,453	3,146,234	-
2015	16,187,084	13,489,237	13,447,078	7,987,333	5,459,745	-
2016	18,713,326	15,594,438	15,587,195	8,480,753	7,106,442	-
2017	19,193,769	15,999,832	15,999,832	9,574,819	6,425,013	6,425,013
2018	18,978,594	15,800,071	15,800,071	8,777,222	7,022,849	6,963,788
2019	22,251,356	18,515,110	18,515,110	9,030,659	9,484,451	4,942,458
2020	17,283,587	14,381,807	14,381,807	9,306,196	5,075,611	5,842,244
2021	6,996,146	5,824,674	5,824,674	8,571,735	(2,747,061)	3,885,047
2022	13,452,244	12,058,261	12,058,261	7,575,913	4,482,348	4,620,489
2023	16,924,363	16,164,618	16,164,618	7,201,884	8,962,734	4,990,116

(1) A component of 3% ETF TLT transferred by Multnomah County to Metro for OCC operating support, including the payment of debt service of the Series 2017 Bonds, defined as "ETF Payments."

(2) A component of 2.5% VFTA TLT transferred by Multnomah County to Metro for payment of debt service of the Series 2017 Bonds, defined as "VFTA Payments."

(3) Excludes VFTA Vehicle Registration Tax (VRT) Revenue.

(4) Debt service on the City of Portland OCC and Stadium bonds and Full Faith and Credit Loan Agreement (PCPA Refunding, defeased in Fiscal Year 2016).

(5) Pledged for repayment of the Series 2017 Bonds, effective date of issuance fiscal year 2018.

(6) Debt service begins fiscal year 2018.

(7) Negative amounts represent the use of reserves for the VFTA payments.

ETF Payments to Metro (5)	Total Pledged Revenue (VFTA Payments plus ETF Payments) (5)	Pledged Revenue Used to Pay Debt Service (6)	Debt Service Requirements		
			Principal	Interest	Coverage
8,896,719	-	-	-	-	-
9,519,489	-	-	-	-	-
10,185,853	-	-	-	-	-
10,898,863	17,323,876	-	-	-	-
11,193,132	18,215,981	2,896,215	725,000	2,171,215	6.29
11,634,142	21,118,593	3,396,550	865,000	2,531,550	6.22
12,448,532	17,524,143	3,400,600	895,000	2,505,600	5.15
12,805,464	10,058,403	3,399,800	930,000	2,469,800	2.96
13,015,285	17,497,633	3,397,600	965,000	2,432,600	5.15
13,926,355	22,889,089	3,399,000	1,005,000	2,394,000	6.73

METRO
Demographic and Economic Statistics
Last Ten Fiscal Years
Unaudited

Fiscal year ended June 30,	Population (1)	Total Personal income (in thousands) (2)	Per capita personal income (2)	Portland metropolitan unemployment rate (2)
2014	1,717,765	\$ 108,554,639	\$ 46,243	6.3%
2015	1,745,385	116,717,024	48,916	5.5
2016	1,779,245	122,490,579	50,367	5.0
2017	1,811,860	130,352,553	52,962	4.2
2018	1,839,005	139,580,730	56,285	3.9
2019	1,858,560	146,230,869	58,544	3.9
2020	1,839,390	157,502,510	62,550	10.3
2021	1,844,226	172,141,831	68,536	5.1
2022	1,838,150 (4)	174,245,501	69,435	4.0
2023	1,850,697 (3)	N/A*	N/A*	N/A*

* Not available

(1) For Clackamas, Multnomah and Washington counties.

(2) Portland-Vancouver-Hillsboro OR-WA MSA. Revised statistics for 2014 - 2022.

(3) Preliminary estimate.

(4) Preliminary estimate was updated from previously issued ACFR.

Sources:

Population Research Center, Portland State University.

Oregon Employment Department.

U.S. Department of Commerce, Bureau of Economic Analysis (BEA).

**METRO
Principal Employers (1)
Current Year and Nine Years Ago
Unaudited**

Employer	2023			2014		
	Employees	Rank	Percentage of Total Metropolitan Area Employment	Employees	Rank	Percentage of Total Metropolitan Area Employment
Providence Health System	23,100	1	1.86%	15,239	4	1.50%
Intel Corporation	22,328	2	1.80	17,500	3	1.72
Oregon Health & Science University	19,603	3	1.58	14,616	5	1.44
US Government	18,500	4	1.49	17,600	2	1.73
Nike, Inc.	15,522	5	1.25	-	-	-
Legacy Health System	13,087	6	1.06	10,436	6	1.03
State Government	13,000	7	1.05	23,500	1	2.31
Kaiser Permanente	12,514	8	1.01	9,896	8	0.97
Fred Meyer Stores	9,000	9	0.73	10,237	7	1.01
Portland Public Schools	7,111	10	0.57	-	-	-
City of Portland	-	-	-	8,558	10	0.84
Regence BlueCross BlueShield	-	-	-	9,580	9	0.94
Total	153,765		12.40%	137,162		13.49%

(1) Portland-Vancouver-Hillsboro OR-WA MSA

Source: Piper Sandler & Co.



METRO
Full-Time Equivalent Employees by Function/Program
Last Ten Fiscal Years
Unaudited

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
FUNCTIONS/PROGRAMS										
Primary Government:										
<i>Governmental activities:</i>										
General government operations	175.79	181.80	183.20	170.85	175.77	179.66	193.40	177.00	246.40	280.40
Planning, development and research	72.15	75.65	76.30	85.30	84.80	93.06	93.80	90.50	80.10	76.00
Housing (10)	-	-	-	-	-	-	-	-	-	22.50
Culture and recreation (10)	76.75	83.55	92.10	99.80	103.95	112.06	121.90	135.90	127.20	138.50
Zoo (1)	174.85	187.15	-	-	-	-	-	-	-	-
Total governmental activities	499.54	528.15	351.60	355.95	364.52	384.78	409.10	403.40	453.70	517.40
<i>Business-type activities:</i>										
Solid Waste	90.75	101.30	107.45	114.16	121.79	139.96	179.76	181.96	192.80	195.25
Oregon Zoo (1)	-	-	198.65	200.60	207.60	209.25	209.00	186.55	182.85	192.35
MERC	175.50	182.35	186.35	189.95	195.65	200.97	201.70	194.95	197.85	197.10
Total business-type activities	266.25	283.65	492.45	504.71	525.04	550.18	590.46	563.46	573.50	584.70
Total primary government	765.79	811.80	844.05	860.66	889.56	934.96	999.56	966.86	1,027.20	1,102.10
		(2)	(3)		(4)	(5)	(6)	(7)	(8)	(9)

(1) In fiscal year 2016, Metro began reporting the activities of the Zoo in the Oregon Zoo enterprise fund. Prior to this, activities of the Zoo were reported as part of the General Fund, a governmental fund.

(2) Increase over previous fiscal year is due primarily to first time tracking of part-time personnel and the conversion of temporary to permanent positions. Increased service also led to the addition of staff.

(3) Increase over previous fiscal year is due to conversion of temporary to permanent positions. Increased service demands at the venues and in parks management also led to the addition of staff.

(4) Increase over previous fiscal year is primarily due to an increase in service demand for visitor venues, central services, solid waste operations and parks management.

(5) Increase over previous fiscal year is due to planning staff needed for the Affordable Housing Bond projects, increase in service demand for solid waste operations, and MetroPaint staff converted from contracted to permanent positions.

(6) General Fund increases are primarily due to new Parks and Nature Bond passing.

(7) There were four major changes that influenced FTE as follows:

a. COVID impacted the organization and nearly every department had to make personnel reductions, eliminate vacant FTE, or opt to share single FTE's. Additionally, COVID had a substantial impact on visit venues, specifically the Zoo.

b. Parks and Nature issued a new bond and brought on numerous new positions to perform the work associated with the bond.

c. The Supportive Housing Services measure passed and Planning and Development hired new staff to perform this work.

d. Capital Asset Management was stood up as an independent department within Metro. This was done without hiring new staff explicitly for this department which led to interdepartmental transfers between Council Offices, Waste Prevention & Environmental Services, and Parks & Nature.

(8) Increase over previous fiscal year is primarily due to adding back COVID staffing cuts, increases in staffing levels to support housing programs, and transitioning some contracted labor to Metro FTE.

(9) Increase over previous fiscal year is primarily due to adding back COVID Zoo staffing cuts and increases in staffing levels to support housing programs, tribal affairs, community investments and central services. Housing was separated from planning, development and research during the fiscal year resulting in a decrease to planning, development and research FTE.

(10) In fiscal year 2023, Metro began reporting the activities of the Supportive housing services and Affordable housing as a separate program. Prior to this, activities were reported as part of the Planning, development and research program.

Source: Metro Adopted Budget documents.

METRO
Operating Indicators by Functions/Programs
Last Ten Fiscal Years
Unaudited

FUNCTIONS/PROGRAMS	2014	2015	2016
Primary Government:			
<i>Governmental activities:</i>			
General government operations:			
Business licenses issued	2,739	2,918	3,079
General obligation bond rating:			
Moody's	Aaa	Aaa	Aaa
Standard and Poor's	AAA	AAA	AAA
Planning, development and research:			
Data Resource Center sales of maps and aerials (9)	\$ 78,635	81,943	70,467
Culture and recreation:			
Visitors to Blue Lake Park, Oxbow Park and Chinook Landing (6)	739,324	719,804	850,623
Volunteer visits (10)	3,034	4,472	3,370
Volunteer hours (10)	9,384	14,385	15,349
Acres acquired in Open Spaces and Natural Areas land target areas	234	361	180
<i>Business-type activities:</i>			
Solid Waste:			
Recycling Information Center calls/hits on website (4)	147,389	147,875	146,708
Students reached in elementary and secondary school presentations (7)	26,591	44,482	45,150
Regional recovery rate (1)	64.2%	59.8%	47.0%
Hazardous waste net cost per pound	\$ 0.89	0.97	1.04
Gallons of recycled paint produced	199,192	243,341	220,016
Latex paint revenue	\$ 1,258,303	1,360,872	1,286,638
PaintCare revenue (management of post-consumer paint) (5)	\$ 1,131,360	1,521,246	1,567,449
Oregon Zoo (2):			
Adult admission price (peak & off season)	\$ 11.50	11.50	14.95 & 9.95
Annual attendance	1,514,192	1,560,035	1,494,316
Volunteer hours	158,551	130,065	98,722
Enterprise revenue as percentage of operating revenue	60.4%	61.2%	59.5%
Contributions and donations as percent of total revenue	2.4%	2.0%	3.8%
MERC:			
Annual attendance			
Oregon Convention Center (8)	581,195	633,047	632,823
Portland Expo Center	466,213	381,169	398,705
Portland's Centers for the Arts (3) (8)	743,560	876,819	928,151
Number of events/performances			
Oregon Convention Center (8)	88	81	74
Portland Expo Center	154	112	121
Portland's Centers for the Arts (3) (8)	906	967	964
Capacity			
Occupancy rate (75% considered maximum)			
Oregon Convention Center (8)	44%	51%	58%

*Not available

(1) Regional recovery rate is calculated by taking total waste generated in the region divided by amount recycled plus DEQ credits up to 6% for waste prevention, reuse, and home composting. 2016 rate reflects DEQ no longer adding the 6% in recovery credits.

(2) In fiscal year 2016, Metro began reporting the activities of the Zoo in the Oregon Zoo enterprise fund. Prior to this, activities of the Zoo were reported as part of the General Fund, in governmental activities.

(3) Was renamed from Portland Center for the Performing Arts in 2014.

(4) In November 2018, the Recycling Information updated the phone system moving from a Cisco-VOIP system supported by Metro's information services department to a cloud-based hosted service (aka interaction routing strategy) managed by CenturyLink. The data tracking for the year was split between the two systems and tracked similarly with some differences.

(5) PaintCare revenues derived from a project for the management of post-consumer paint.

(6) Car counter was not in place at Blue Lake from January 2015 thru June 2015 due to new entry construction.

(7) The Metro Youth Education team adapted to distance learning by continuing to reach youth virtually over the 2020-21 school year.

(8) Oregon Convention Center and Portland's had no activity to report for fiscal year 2021 as the venues were shuttered due to COVID.

(9) In fiscal year 2023, Metro made the RLIS subscription offerings free which resulted in a decrease in revenue for maps and aerials.

(10) Volunteer visits and hours are no longer tracked in culture and recreation as the model of stewardship has shifted away from volunteerism towards nature education.

Source: Various Metro departments. Data reflects revisions to previous years and therefore may not match previously published reports.

2017	2018	2019	2020	2021	2022	2023
3,019	3,207	3,122	3,152	3,176	3,154	3,174
Aaa AAA	Aaa AAA	Aaa AAA	Aaa AAA	Aaa AAA	Aaa AAA	Aaa AAA
65,305	77,675	67,245	64,095	64,215	57,115	10,725
847,453	1,027,604	993,133	841,942	727,144	537,582	531,676
5,508	2,841	3,459	1,865	234	576	N/A*
15,083	12,080	10,576	5,703	887	2,872	N/A*
507	183	246	213	101	240	188
169,444	184,084	231,000	224,380	220,535	207,180	180,482
51,519	54,723	42,998	24,642	11,405	6,533	28,513
46.6%	44.7%	46.1%	N/A*	N/A*	N/A*	N/A*
1.04	1.13	0.99	1.36	1.39	1.96	1.59
203,421	176,489	201,895	161,041	145,035	156,824	238,428
1,149,852	1,064,213	1,205,964	941,447	876,610	857,673	904,888
1,481,844	1,650,050	1,792,651	1,459,255	1,635,153	1,393,020	1,349,037
14.95 & 9.95	17.95	22.95	17.95	24.00	24.00	24.00
1,549,394	1,704,918	1,529,078	977,639	901,315	1,246,800	1,217,068
91,911	93,174	78,113	64,666	6,665	12,546	16,636
62.6%	70.2%	68.5%	54.9%	60.7%	72.9%	61.2%
6.2%	6.2%	4.9%	9.3%	17.6%	5.7%	5.9%
624,538	619,068	697,923	435,612	-	449,580	300,873
385,184	392,760	471,400	247,815	60,462	347,794	245,848
946,691	958,064	917,425	672,246	-	560,333	712,608
70	77	70	46	-	43	61
109	114	121	90	83	66	76
971	946	983	648	-	586	713
48%	45%	51%	47%	0%	41%	49%

METRO
Capital Asset Statistics by Function/Program
Last Ten Fiscal Years
Unaudited

FUNCTIONS/PROGRAMS	2014	2015	2016
Primary Government:			
<i>Governmental activities:</i>			
General government operations:			
Regional Center facilities	1	1	1
Square footage	110,000	110,000	110,000
Parking spaces - Regional Center garage	162	162	162
Parking spaces - Irving Street garage	485	485	485
Culture and recreation:			
Regional park facilities	8	8	8
Acres (including acres acquired using Natural areas bond proceeds)	2,207	2,305	2,305
Cemeteries	14	14	14
Acres	67	67	67
Golf facilities	1	1	1
Acres	232	232	232
18-hole courses	2	2	2
Marine facilities	3	3	3
Natural areas acquired from Multnomah County	7	7	7
Acres	2,422	2,422	2,422
Open Spaces land target areas	20	20	20
Acres	7,684	7,684	7,684
Natural areas acquired using bond proceeds	27	27	27
Acres	4,647	4,910	5,090
<i>Business-type activities:</i>			
Solid Waste:			
Transfer stations (including hazardous waste facilities)	2	2	2
Latex paint facilities	1	1	1
Closed landfills maintained	1	1	1
Oregon Zoo (1):			
Acres	65	65	65
Buildings and exhibits	67	67	67
Railways	1	2	2
MERC:			
Convention Centers	1	1	1
Square footage	907,000	907,000	907,000
Parking spaces	800	800	716
Exposition Centers	1	1	1
Square footage	330,000	330,000	330,000
Parking spaces	2,256	2,256	2,256

Note: No capital asset indicators are available for the planning, development and research program.

(1) In fiscal year 2016, Metro began reporting the activities of the Zoo in the Oregon Zoo enterprise fund. Prior to this, activities of the Zoo were reported as part of the General Fund, in governmental activities.

Source: Various Metro departments.

2017	2018	2019	2020	2021	2022	2023
1	1	1	1	1	1	1
196,960	196,960	196,960	196,960	196,960	196,960	196,960
162	162	162	162	162	162	162
485	485	485	485	485	485	485
8	8	8	8	8	8	8
2,305	2,305	2,305	2,305	2,305	2,305	2,305
14	14	14	14	14	14	14
67	67	67	67	67	67	67
1	1	1	1	1	1	1
232	232	232	232	232	232	232
2	2	2	2	2	2	2
3	3	3	3	3	3	3
7	7	7	7	7	7	7
2,422	2,422	2,422	2,422	2,422	2,422	2,422
20	20	20	20	20	20	24
7,684	7,684	7,684	7,684	7,684	7,684	7,684
27	27	27	27	27	27	27
5,596	5,778	6,024	6,237	6,338	6,578	6,766
2	2	2	2	2	2	2
1	1	1	1	1	1	1
1	1	1	1	1	1	1
65	65	65	65	65	65	65
68	68	68	68	68	68	68
2	2	2	2	2	2	2
1	1	1	1	1	1	1
907,000	907,000	907,000	907,000	907,000	907,000	907,000
716	791	791	791	791	791	791
1	1	1	1	1	1	1
333,000	333,000	333,000	333,000	333,000	333,000	333,000
2,556	2,556	2,556	2,556	2,556	2,556	2,556

METRO
Property Tax Levies and Collections (1)
Last Ten Fiscal Years
Unaudited

Fiscal year ended June 30,	Total tax levy for fiscal year	Collected within the fiscal year of the levy		Collections in subsequent fiscal years	Total collections to date		Total uncollected taxes for the fiscal year
		Tax collections	Percentage of levy		Tax collections	Percentage of levy	
2014	\$ 61,068,522	\$ 57,913,674	94.8%	\$ 1,374,922	\$ 59,288,596	97.1%	\$ 3,122,857
2015	63,625,056	60,524,636	95.1	1,251,065	61,775,701	97.1	3,256,373
2016	56,981,126	54,251,668	95.2	907,462	55,159,130	96.8	3,355,651
2017	61,417,731	58,526,399	95.3	846,997	59,373,396	96.7	3,523,722
2018	66,623,193	63,459,709	95.3	830,796	64,290,505	96.5	3,392,641
2019	80,232,825	76,823,359	95.8	1,016,197	77,839,556	97.0	2,184,005
2020	118,129,185	112,972,917	95.6	1,413,657	114,386,574	96.8	2,403,194
2021	109,569,884	105,001,839	95.8	991,162	105,993,001	96.7	2,406,117
2022	111,354,054	106,713,185	95.8	749,394	107,462,579	96.5	2,418,035
2023	116,417,354	111,481,104	95.8	-	111,481,104	95.8	2,486,787

(1) Property tax levies provide operating revenue for the General Fund and the Parks and Nature Operating Fund and debt service for Metro’s general obligation bonds.

Source: The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington counties. Data reflects revisions to previous years and therefore may not match previously published reports.

**METRO
Taxable Property Values
Last Ten Fiscal Years
Unaudited**

Fiscal Year Ended June 30,	Real Market Value (1)	Total Assessed Valuation		AV used to Calculate Rates (2)
		(AV)	Urban Renewal Excess	
Metro – Total Area				
2014	\$ 191,403,168,645	143,016,215,233	6,911,680,698	136,104,534,535
2015	211,844,217,262	149,658,475,167	7,196,823,537	142,461,651,630
2016	232,729,794,715	157,332,876,813	7,692,366,115	149,640,510,698
2017	266,256,751,631	164,726,153,314	8,800,597,517	155,925,555,797
2018	299,124,101,410	173,009,992,753	9,598,803,019	163,411,189,734
2019	326,072,241,004	179,748,438,545	10,330,532,400	169,417,906,145
2020	336,012,820,952	187,871,290,559	11,037,634,600	176,833,655,959
2021	353,506,458,459	196,522,905,777	11,731,215,064	184,791,690,713
2022	376,897,140,782	203,819,569,151	10,707,037,199	193,112,531,952
2023	423,733,033,399	213,198,170,547	11,422,397,296	201,775,773,251
Portion of Metro Located in Multnomah County				
2014	\$ 97,169,032,640	65,397,982,385	5,552,059,852	59,845,922,533
2015	107,182,217,862	68,400,496,894	5,690,908,219	62,709,588,675
2016	118,439,572,417	71,365,034,261	6,080,696,726	65,284,337,535
2017	138,109,555,282	74,755,397,687	6,804,941,684	67,950,456,003
2018	157,192,504,703	78,638,078,635	7,438,667,311	71,199,411,324
2019	171,296,770,318	81,401,405,120	7,939,555,685	73,461,849,435
2020	175,102,627,961	84,962,241,690	8,295,865,811	76,666,375,879
2021	182,501,863,490	88,820,136,360	8,672,590,819	80,147,545,541
2022	192,519,602,742	91,514,626,280	7,247,261,158	84,267,365,122
2023	206,962,138,926	95,281,450,380	7,165,195,789	88,116,254,591
Portion of Metro Located in Washington County				
2014	\$ 60,172,881,111	47,774,596,085	278,476,700	47,496,119,385
2015	66,641,438,168	49,956,068,958	328,606,130	49,627,462,828
2016	72,210,640,850	53,190,401,212	308,315,912	52,882,085,300
2017	80,476,887,028	55,606,866,466	528,351,591	55,078,514,875
2018	89,533,841,339	58,356,654,076	660,442,801	57,696,211,275
2019	97,859,133,163	60,798,329,166	802,404,836	59,995,924,330
2020	102,088,763,082	63,665,739,901	1,020,055,114	62,645,684,787
2021	107,528,977,578	66,677,697,092	1,177,844,163	65,499,852,929
2022	115,239,115,251	69,595,064,434	1,447,495,303	68,147,569,131
2023	136,030,329,810	73,310,084,012	1,966,849,817	71,343,234,195
Portion of Metro Located in Clackamas County				
2014	\$ 34,061,254,894	29,843,636,763	1,081,144,146	28,762,492,617
2015	38,020,561,232	31,301,909,315	1,177,309,188	30,124,600,127
2016	42,079,581,448	32,777,441,340	1,303,353,477	31,474,087,863
2017	47,670,309,321	34,363,889,161	1,467,304,242	32,896,584,919
2018	52,397,755,368	36,015,260,042	1,499,692,907	34,515,567,135
2019	56,916,337,523	37,548,704,259	1,588,571,879	35,960,132,380
2020	58,821,429,909	39,243,308,968	1,721,713,675	37,521,595,293
2021	63,475,617,391	41,025,072,325	1,880,780,082	39,144,292,243
2022	69,138,422,789	42,709,878,437	2,012,280,738	40,697,597,699
2023	80,740,564,663	44,606,636,155	2,290,351,690	42,316,284,465

(1) Value represents the Real Market Value of taxable properties, including the reduction in Real Market Value of specially assessed properties such as farm and forestland. This value is also commonly referred to as the Measure 5 Real Market Value by county assessors.

(2) Assessed value of property in Metro on which the Permanent Rate is applied to derive ad valorem property taxes, excluding urban renewal, exempt property within enterprise zones and any other offsets.

Source: The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington counties.

METRO
Property Tax Rates by Type of Levy
Last Ten Fiscal Years
Unaudited

Fiscal Year Ended June 30,	Permanent Rate	Local Option Levy Rate	General Obligation Bond Levy Rate (1)	Total Rate
2014	\$ 0.0966	\$ 0.0960	\$ 0.2768	\$ 0.4694
2015	0.0966	0.0960	0.2660	0.4586
2016	0.0966	0.0960	0.1958	0.3884
2017	0.0966	0.0960	0.2044	0.3970
2018	0.0966	0.0960	0.2163	0.4089
2019	0.0966	0.0960	0.2802	0.4728
2020	0.0966	0.0960	0.4703	0.6629
2021	0.0966	0.0960	0.3974	0.5900
2022	0.0966	0.0960	0.3774	0.5700
2023	0.0966	0.0960	0.3736	0.5662

(1) General obligation (GO) bond levy rate is a calculation of total GO levy divided by Assessed Value used to calculate rates. Data reflects revisions to previous years and therefore may not match previously published reports.

Source: The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington counties.

METRO
Principal Property Tax Taxpayers Within the District by County
(amounts expressed in thousands)
June 30, 2023
Unaudited

Taxpayer account	Type of business	Assessed valuation	Percent of total valuation
MULTNOMAH COUNTY			
Portland General Electric Co.	Electric utility	\$ 753,856	0.86%
Port of Portland	Marine and aviation facilities	737,510	0.84
Pacificorp (PP&L)	Electric utility	692,609	0.79
Boeing Company	Aircraft manufacturing	463,664	0.53
Alaska Airlines Inc	Air travel	371,871	0.42
Lumen Technologies Inc	Telecommunications	324,861	0.37
Weston Investment Co. LLC	Nonresidential construction	306,030	0.35
Verizon Communications Inc	Telecommunications	272,456	0.31
Comcast Corporation	Telecommunications	263,602	0.30
Northwest Natural Gas Co	Natural gas utility	227,139	0.26
All other taxpayers	-	83,702,657	94.97
	Total	\$ 88,116,255	100.00%
WASHINGTON COUNTY			
Intel Corporation	Computer electronics	\$ 1,895,003	2.66%
Nike Inc	Athletic apparel	1,464,501	2.05
Portland General Electric Co	Electric utility	1,124,598	1.58
Pacific Realty Associates	Real estate	440,232	0.62
Northwest Natural Gas Co	Natural gas utility	468,313	0.66
Verizon Communications Inc	Telecommunications	360,262	0.50
Genentech Inc	Biotechnology	328,239	0.46
Comcast Corporation	Telecommunications	274,530	0.38
Northwest Fiber LLC	Telecommunications	223,357	0.31
Lam Research Corporation	Semiconductor production equipment	230,443	0.32
All other taxpayers	-	64,533,756	90.46
	Total	\$ 71,343,234	100.00%
CLACKAMAS COUNTY			
Portland General Electric Co	Electric utility	\$ 444,254	1.05%
General Growth Properties Inc	Real estate	295,644	0.70
PCC Structurals Inc	Metal castings and machining	281,316	0.66
Shorenstein Properties LLC	Real estate	239,742	0.57
Fred Meyer Stores Inc	Retailer	193,980	0.46
Northwest Natural Gas Co	Natural gas utility	184,911	0.44
Comcast Corporation	Telecommunications	81,061	0.19
Meadows Road LLC	Real estate	78,723	0.19
Kaiser Foundation Hosp	Healthcare	74,916	0.18
HS Mercantile Village Venture LLC	Real estate	73,049	0.17
All other taxpayers	-	40,368,688	95.39
	Total	\$ 42,316,284	100.00%

Source: The Departments of Assessment and Taxation for Multnomah, Clackamas and Washington counties.





Audit Comments and Disclosures



Introduction

AUDIT COMMENTS AND DISCLOSURES REQUIRED BY STATE AND FEDERAL REGULATIONS

Oregon Administrative Rules 162-010-0000 through 162-010-0330 incorporated in the Minimum Standards for Audits of Oregon Municipal Corporations, as prescribed by the Secretary of State in cooperation with the Oregon State Board of Accountancy, enumerate the financial statements, schedules, comments and disclosures required in audit reports. The required financial statements and schedules are set forth in the preceding sections of this report.

Metro is the recipient of Federal Grant Awards and requires an audit subject to the requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). As a result, Metro's audit is also required to be performed in compliance with Generally Accepted Government Audit Standards.

Comments and disclosures required by the above rules and regulations are set forth on the following pages.

Report of Independent Auditors Required by Oregon State Regulations

The Metro Council and Metro Auditor
Metro

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements, and have issued our report thereon dated November 27, 2023. Our report includes a reference to other auditors who audited the financial statements of The Oregon Zoo Foundation, a discretely presented component unit, as described in our report on Metro's financial statements. This report does not include the results of the other auditors' testing of internal control over financial reporting or compliance and other matters that are reported on separately by those auditors.

Compliance

As part of obtaining reasonable assurance about whether Metro's basic financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, including provisions of Oregon Revised Statutes (ORS) as specified in Oregon Administrative Rules (OAR) 162-010-0000 to 162-010-0330, of the Minimum Standards for Audits of Oregon Municipal Corporations, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

We performed procedures to the extent we considered necessary to address the required comments and disclosures which included, but were not limited to, the following:

- Accounting records and internal control
- Public fund deposits
- Indebtedness
- Budget
- Insurance and fidelity bonds
- Programs funded from outside sources
- Highway funds
- Investments
- Public contracts and purchasing

In connection with our testing, nothing came to our attention that caused us to believe Metro was not in substantial compliance with certain provisions of laws, regulations, contracts, and grant agreements, including the provisions of ORS as specified in OAR 162-010-0000 through 162-010-0330 of the Minimum Standards for Audits of Oregon Municipal Corporations.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Metro's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. Accordingly, this communication is not suitable for any other purpose.

This report is intended solely for the information and use of the Metro Council, Metro Auditor, and management of Metro and the Oregon Secretary of State and is not intended to be and should not be used by anyone other than these parties.



Ashley Osten, Partner for
Moss Adams LLP
Portland, Oregon
November 27, 2023

Report of Independent Auditors on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

The Metro Council and Metro Auditor
Metro

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements, and have issued our report thereon dated November 27, 2023. Our report includes a reference to other auditors who audited the financial statements of The Oregon Zoo Foundation, a discretely presented component unit, as described in our report on Metro's financial statements. This report does not include the results of the other auditors' testing of internal control over financial reporting or compliance and other matters that are reported on separately by those auditors.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Metro's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether Metro's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

A handwritten signature in cursive script that reads "Moss Adams LLP".

Portland, Oregon
November 27, 2023

Report of Independent Auditors on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance Required by the Uniform Guidance

The Metro Council and Metro Auditor
Metro

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited Metro's compliance with the types of compliance requirements identified as subject to audit in the OMB *Compliance Supplement* that could have a direct and material effect on each of Metro's major federal programs for the year ended June 30, 2023. Metro's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

In our opinion, Metro complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2023.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States (*Government Auditing Standards*); and the audit requirements of Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of Metro and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal program. Our audit does not provide a legal determination of Metro's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules, and provisions of contracts or grant agreements applicable to Metro's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on Metro's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about Metro's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with GAAS, *Government Auditing Standards*, and the Uniform Guidance, we

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding Metro's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of Metro's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control Over Compliance

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses or significant deficiencies in internal control over compliance may exist that were not identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

A handwritten signature in cursive script that reads "Moss Adams LLP".

Portland, Oregon
November 27, 2023

METRO
Schedule of Expenditures of Federal Awards
For the year ended June 30, 2023

Grantor and Program Title	Assistance Listing Number	Grant/Pass Through Number	Federal Expenditures
U. S. DEPARTMENT OF AGRICULTURE			
Forest Service-			
Direct Programs:			
UNO Program	10.U01	21-CS-11062200-013	\$ 2,487
Columbia River Gorge National Scenic Area	10.U02	18-PA-11062200-005	5,734
Total U. S. Department of Agriculture			8,221
U. S. DEPARTMENT OF COMMERCE			
Economic Development Cluster-			
Direct Programs:			
Economic Adjustment Assistance:			
Albina Redevelopment Feasibility Study	11.307	07-69-07716	207,836
Public Works and Economic Adjustment Assistance Program	11.307	07-79-07775	474,229
Subtotal Economic Development Cluster			682,065
National Oceanic and Atmospheric Administration-			
Passed through Oregon Watershed Enhancement Board:			
Pacific Coast Salmon Recovery, Salmon Treaty Program	11.438	220-8207-18722	105,500
Total U. S. Department of Commerce			787,565
U. S. DEPARTMENT OF THE INTERIOR			
Fish and Wildlife Service-			
Direct Programs:			
Endangered Species Recovery Implementation Funds	15.657	F22AP00362-00	343,198
Passed through Association of Zoos and Aquariums:			
Endangered Species Recovery Implementation Funds	15.657	Section 6003(a)(2)ARP	459,655
Passed through Woodland Park Zoo:			
Endangered Species Recovery Implementation Funds	15.657	F22AC00345-00	31,072
Subtotal Endangered Species Recovery Implementation Funds			833,925
Fish and Wildlife Cluster-			
Passed through The Peregrine Fund Inc and Oregon Department of Fish & Wildlife:			
Wildlife Restoration Grant Program	15.611	ODFW #12-22	285,001
Subtotal Fish and Wildlife Cluster			285,001
Passed through Oregon Department of Parks and Recreation:			
Cooperative Endangered Species Conservation Fund	15.615	FY21-E28TW18OZ	25,343
Cooperative Endangered Species Conservation Fund	15.615	FY22-E28TW20OZ	36,970
Subtotal Cooperative Endangered Species Conservation Fund			62,313
Passed through Oregon State Marine Board:			
Clean Vessel Act	15.616	2123-048	1,800
Passed through Washington Department of Fish & Wildlife:			
State Wildlife Grants	15.634	F21AP00716	2,221
State Wildlife Grants	15.634	WDFW23-22214	3,440
Total U. S. Department of the Interior			1,188,700

(Continued)

METRO
Schedule of Expenditures of Federal Awards, *continued*
For the year ended June 30, 2023

<u>Grantor and Program Title</u>	<u>Assistance Listing Number</u>	<u>Grant/Pass Through Number</u>	<u>Federal Expenditures</u>
U. S. DEPARTMENT OF TRANSPORTATION			
Federal Highway Administration-			
Highway Planning and Construction-			
Passed through Oregon Department of Transportation:			
PL Funds - Lead (federal share)	20.205	ODOT-73000-00008469-02	2,833,390
STBG Funds	20.205	ODOT-73000-00008469-02	1,697,220
Freight Planning / Economic Value Atlas STBG Funds	20.205	ODOT-73000-00008469-02	74,263
Next Corridor STBG Funds	20.205	ODOT-73000-00008469-02	364,160
TSMO STBG Funds	20.205	ODOT-73000-00008469-02	255,267
Selection 5303 Funds	20.205	ODOT-73000-00008469-02	1,127,074
"State" STBG Funds - Lead (federal share)	20.205	ODOT-73000-00008469-02	201,893
Delivering Transportation Options (aka ODOT RTO 5)	20.205	ODOT-73000-00008348	143,650
I-5 and I-205: Portland Metropolitan Value Pricing Program	20.205	ODOT # 33518/73000-00004859	41,670
Westside Multimodal Improvement Study	20.205	ODOT # 34729	115,635
Regional Freight Delay & Commodities Movement Study	20.205	ODOT # 34791/34784-SPA01	89,272
Total Highway Planning and Construction			6,943,494
Federal Transit Administration-			
Federal Transit Cluster-			
Federal Transit Capital Investment Grants-			
Direct Programs:			
Montgomery Park to Hollywood HCT Development Strategy	20.500	OR-2020-006	55,111
Passed through to subrecipients:			
City of Portland			55,110
S.W.E.D.S. II	20.500	OR-2021-058	113,769
Passed through to subrecipients:			
HAKI Community Organization			43,283
Hispanic Metro Chamber of Commerce			20,390
Neighborhood House			904
Prosper Portland			11,517
The Immigrant & Refugee Community			18,703
Federal Transit Formula Grants-			
Direct Programs:			
Tualatin Valley (TV) Highway Corridor	20.507	OR-2023-003	36,090
Passed through to subrecipients:			
TriMet			20,734
Regional Travel Options Program	20.507	OR-2023-004	4,183,797
Passed through to subrecipients:			
City of Gresham			33,404
City of Oregon City			30,695
City of Portland			596,662
City of Wilsonville			269,855
Clackamas Community College			64,319
Clackamas County			97
Clackamas Cycling Center			99,422
Forth			10,865
Go Lloyd			12,590
Oregon Walks			206,428
Pear			135,876
Portland Community College			46,136
Ride Connection Inc			288,714
The Street Trust Community Fund			49,242
Tri Met			806,963
Washington Park Transportation			50,530
Westside Transportation Alliance Inc			167,793

(Continued)

METRO
Schedule of Expenditures of Federal Awards, *continued*
For the year ended June 30, 2023

<u>Grantor and Program Title</u>	<u>Assistance Listing Number</u>	<u>Grant/Pass Through Number</u>	<u>Federal Expenditures</u>
U. S. DEPARTMENT OF TRANSPORTATION, <i>continued</i>			
Safe Routes to Schools (SRTS)	20.507	OR-2019-028 / OR-2023-026	652,816
Passed through to subrecipients:			
Beaverton School District 48			96,492
City of Hillsboro			58,129
City of Portland			53,318
City of Tigard			58,993
Clackamas County			75,296
Community Cycling Center			16,401
Multnomah County			73,042
Total Federal Transit Cluster			5,041,583
Metropolitan Transportation Planning and State and Non-Metropolitan Planning and Research			
Direct Programs:			
H.O.P.E - Tualatin Valley Highway	20.505	OR-2021-057	592,198
Passed through to subrecipients:			
TriMet			228,456
Total U.S. Department of Transportation			12,577,275
NATIONAL ENDOWMENT FOR THE ARTS			
Promotion of the Arts Grants to Organizations and Individuals			
Passed through Mid Atlantic Arts:			
Promotion of the Arts Grant	45.024	1890195-56-C21	7,000
Total National Endowment for the Arts			7,000
U.S. ENVIRONMENTAL PROTECTION AGENCY			
Metro Brownfield Assessment FY21-23	66.818	BF-01J86401-0	180,803
Total U.S. Environmental Protection Agency			180,803
U. S. DEPARTMENT OF HOMELAND SECURITY, Federal Emergency Management Agency (FEMA)			
Passed through the City of Portland			
Social Vulnerability Tools	97.067	32002271	21,003
Total U. S. Department of Homeland Security			21,003
Total Expenditures of Federal Awards			\$ 14,770,567

The accompanying notes are an integral part of this schedule.

METRO
Notes to Schedule of Expenditures of Federal Awards
For the fiscal year ended June 30, 2023

NOTE 1 – BASIS OF PRESENTATION

The accompanying Schedule of Expenditures of Federal Awards (the Schedule) includes all federal grant activity of Metro, under programs of the federal government for the year ended June 30, 2023. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Because this Schedule presents only a selected portion of the operations of Metro, it is not intended to and does not present the financial position, changes in net position or cash flows of Metro.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Expenditures reported on the Schedule are reported on the modified accrual basis of accounting, which is described in note II.C to Metro's basic financial statements. Such expenditures are recognized following the cost principles contained in the Uniform Guidance wherein certain types of expenses are not allowable or are limited as to reimbursement. Pass-through entity identifying numbers are presented where applicable. Negative amounts shown on the Schedule represent adjustments or credits made in the normal course of business to amounts reported as expenditures in prior years.

NOTE 3 – ELECTION OF DE MINIMIS INDIRECT RATE

During the current year ended June 30, 2023, Metro did not elect to use the 10-percent de minimis indirect cost rate allowed under the Uniform Guidance.

NOTE 4 – ENDANGERED SPECIES RECOVERY IMPLEMENTATION FUNDS

Metro received Endangered Species Recovery Implementation funding from the Fish and Wildlife Service passed through from the Association of Zoos and Aquariums during the year ended June 30, 2023; however, in accordance with the 2023 OMB Compliance Supplement, issued in May 2023, Metro was able to include expenditures in the Schedule which did not occur during the year ended June 30, 2023. A portion of expenditures reported in the Schedule are for expenditures that occurred prior to the year ended June 30, 2023 totaling \$459,655.

Metro
Schedule of Findings and Questioned Costs
For the Year Ended June 30, 2023

Section I – Summary of Auditor’s Results

Financial Statements

Type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP: Unmodified

Internal control over financial reporting:

- Material weakness(es) identified? Yes No
- Significant deficiency(ies) identified? Yes None reported

Noncompliance material to financial statements noted? Yes No

Federal Awards

Internal control over major federal programs:

- Material weakness(es) identified? Yes No
- Significant deficiency(ies) identified? Yes None reported

Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? Yes No

Identification of major federal programs and type of auditor’s report issued on compliance for major federal programs:

<i>Federal Assistance Listing Numbers</i>	<i>Name of Federal Program or Cluster</i>	<i>Type of Auditor’s Report Issued on Compliance for Major Federal Programs</i>
15.657	Endangered Species Conservation-Recovery Implementation Funds	Unmodified
20.205	Highway Planning and Construction	Unmodified

Dollar threshold used to distinguish between type A and type B programs: \$ 750,000

Auditee qualified as low-risk auditee? Yes No

Metro
Schedule of Findings and Questioned Costs
For the Year Ended June 30, 2023

Section II – Financial Statement Findings

None noted

Section III – Federal Award Findings and Questioned Costs

None noted

Metro
Summary Schedule of Prior Audit Findings
For the Year Ended June 30, 2023

No findings identified in the prior year.

Report of Independent Auditors

The Metro Council and Metro Auditor
Metro

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements, and have issued our report thereon dated November 27, 2023.

In connection with our audit, nothing came to our attention that caused us to believe that Metro failed to comply with the provisions in Exhibit A to Resolution No. 18-4898 with regard to the Affordable Housing General Obligation Bonds, Series 2019. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding Metro's noncompliance with the above-referenced resolution provisions, insofar as they relate to accounting matters.

This report is intended solely for the information and use of Metro and is not intended to be and should not be used by anyone other than these specified parties.



Portland, Oregon
November 27, 2023



Report of Independent Auditors

The Metro Council and Metro Auditor
Metro

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements, and have issued our report thereon dated November 27, 2023.

In connection with our audit, nothing came to our attention that caused us to believe that Metro failed to comply with the provisions in Exhibit A to Resolution No. 19-4988 with regard to the Parks and Nature General Obligation Bonds, Series 2020A and 2020B. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding Metro's noncompliance with the above-referenced resolution provisions, insofar as they relate to accounting matters.

This report is intended solely for the information and use of Metro and is not intended to be and should not be used by anyone other than these specified parties.

Moss Adams LLP

Portland, Oregon
November 27, 2023

Report of Independent Auditors

The Metro Council and Metro Auditor
Metro

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprise Metro's basic financial statements, and have issued our report thereon dated November 27, 2023.

In connection with our audit, nothing came to our attention that caused us to believe that Metro failed to comply with the provisions in Exhibit A to Resolution No. 06-3672B with regard to the Natural Areas General Obligation Bonds, Series 2012A, Series 2018, and Series 2023. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding Metro's noncompliance with the above-referenced resolution provisions, insofar as they relate to accounting matters.

This report is intended solely for the information and use of Metro and is not intended to be and should not be used by anyone other than these specified parties.



Portland, Oregon
November 27, 2023



November 27, 2023

Marissa Madrigal, Chief Operating Officer
Brian Kennedy, Director, Finance & Regulatory Services
Metro
600 NE Grand Avenue
Portland, Oregon 97232

We have completed our audit of the financial statements of Metro for the year ended June 30, 2023 and have issued our report thereon dated November 27, 2023. In planning and performing our audit of the financial statements in accordance with auditing standards generally accepted in the United States of America, we considered Metro's internal control over financial reporting as a basis for designing our auditing procedures and for the purpose of expressing our opinions on the financial statements but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control.

During the course of the audit, we noted certain other matters involving the internal control structure, operations, and financial reporting that are presented for your consideration which are reported to you below. The following does not include the observations and recommendations related to the Information Technology (IT) Controls Assessment which was performed during the year. Please refer to the *IT General Controls Assessment 2023 Fiscal Year Fieldwork Debrief Memo* which has been included as an attachment to this letter. Our comments and recommendations have been discussed with appropriate members of management and are intended to improve the internal control structure or result in other operating efficiencies. We would be pleased to discuss these comments in further detail at your convenience, and to perform any desired additional study of these matters.

Prior Year Observations and Recommendations

OPEB Census

Observation – As part of our testing of Metro's other post-employment benefits obligation, we performed census testing to verify the information included in the detail transmitted to the actuary is complete and accurate. During our testing, we noted the health election information did not map correctly to several employees on the census leading to a difference of approximately \$1,000.

Recommendation – We recommend management review the accuracy of the report prior to providing the information to the actuary for valuation.

Current Year Status – As Metro obtains a new actuarial report once every two years, we were unable to confirm whether the prior year observation was corrected. This item will be carried forward into next year in order to confirm if the observation was adequately resolved.



We wish to thank you, Caleb Ford, Melissa Weber, Erica Gallucci, and the rest of the Metro staff for their support and assistance during our audit, as well as Brian Evans, Metro Auditor, who were all very professional and pleasant to work with regarding the administration of our audit contract with Metro.

Very truly yours,

A handwritten signature in cursive script that reads "Moss Adams LLP".

Moss Adams LLP

cc: Brian Evans, Metro Auditor

Enclosures



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 23-5361 FOR THE PURPOSE OF METRO COUNCIL'S ACCEPTANCE OF THE RESULTS OF THE INDEPENDENT AUDIT FOR FINANCIAL ACTIVITY DURING FISCAL YEAR ENDING JUNE 30, 2023

Date: 11/27/23

Prepared by: Brian Evans
Metro Auditor
503-797-1891

BACKGROUND

Oregon Revised Statute provision 297.425 requires an annual independent audit of Metro's financial statements. Metro Code 2.15.080 that the Auditor shall appoint external certified public accountants to conduct certified financial statement audits.

The current contract for audit services (No. 936766) was awarded to Moss Adams LLP through a competitive procurement process in 2020. The contract is effective May 1, 2020 through April 30, 2024.

The Annual Comprehensive Financial Report (ACFR) has been completed by Metro Finance and Regulatory Services. Moss Adams LLP has audited the financial statements and issued an opinion that these statements fairly represent Metro's financial position as of June 30, 2023. The results have been reviewed by the Metro Auditor and Metro Audit Committee members.

The following reports and letters summarize the results of Metro's financial audit for fiscal year 2022-23:

1. Annual Comprehensive Financial Report including the Single Audit of Federal Awards;
2. Reports for the following voter-approved ballot measures:
 - a. Metro Natural Areas Bond Measure Expenditures,
 - b. Affordable Housing Bond Measure Expenditures, and
 - c. Parks and Nature Bond Measure Expenditures;
3. Management letter recommendations and management responses.

Audited financial information for other voter-approved ballot measures like the Parks and Natural Areas Operating Levy and Supportive Housing Services tax can be found in the ACFR.

ANALYSIS/INFORMATION

1. **Known Opposition** None

2. **Legal Antecedents**

Oregon Revised Statute provision 297.425 requires an annual independent audit of Metro's financial statements. Metro contract No. 936766 with Moss Adams LLP for audit services will expire on April 30, 2024.

Metro Code Chapter 2.15 specifies at Section 2.15.080 that the Auditor shall appoint external certified public accountants to conduct certified financial statement audits. The Metro Charter Section 18 also specifies that the auditor shall be responsible for financial auditing of all aspects of Metro's operations.

3. **Anticipated Effects**

Finance and Regulatory Services management and staff will review and implement the best practices suggestions as appropriate.

4. **Budget Impacts** None known at this time.

RECOMMENDED ACTION

The Metro Auditor recommends approval of Resolution No 23-5361.

**Resolution No. 23-5362 For the
Purpose of Adopting Strategic
Targets
*Resolutions***

Metro Council Meeting
Thursday, December 7, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING METRO'S STRATEGIC TARGETS) RESOLUTION NO. 23-5362
)
) Introduced by Chief Operating Officer
Marissa Madrigal in concurrence with
Council President Lynn Peterson

WHEREAS, the Metro Council directed staff to develop five-year strategic targets in the areas of economy, environment, and housing; and

WHEREAS, the Metro Council directed staff to work with partners and stakeholders from around the region to develop these targets; and

WHEREAS, these strategic targets will guide Metro's future work; and

WHEREAS, staff developed and executed an expedited but robust engagement process in the development of these targets; and

WHEREAS, staff engaged a variety of stakeholders from different areas including business and industry, community-based organizations, local government administration and elected offices, environmental advocacy organizations, and labor and workforce groups; and

WHEREAS, Metro staff with expertise in the three target areas worked cross-departmentally to ground the draft targets with metrics supported by existing data to measure performance over the five years; and

WHEREAS, the Metro Council received an update and reviewed the progress of the strategic targets project at the October 3rd 2023 work session; and

WHEREAS, the Metro Council held a public town hall to get input from members of the public on the draft targets at an October 12th 2023 meeting; and

WHEREAS, the Metro Council held a second work session on the strategic targets project at the October 19th 2023 Council meeting; now therefore,

BE IT RESOLVED that the Metro Council adopts the strategic target "Meeting our Climate and Resilience Goals", in the area of environment, with the following description: "In the face of a changing climate, we must reduce greenhouse gas emissions, be more sustainable, and build resilience to safeguard nature and people."

BE IT RESOLVED that the Metro Council adopts the strategic target "A Resilient Economy for All", in the area of economy, with the following description: "Position the Metro region to take advantage of future growth opportunities, by helping both people and businesses thrive."

BE IT RESOLVED that the Metro Council adopts the strategic target “Housing for All”, in the area of housing, with the following description: “The market provides ample housing at all income levels and everyone in the region can access services that meet their needs.”

ADOPTED by the Metro Council this 7th day of December 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NUMBER 23-5362, FOR THE PURPOSE OF ADOPTING METRO'S STRATEGIC TARGETS

Date: 11/30/2023
Department: Council/COO
Meeting Date: 12/8/2023

Length: 15 mins

Prepared by: Cathy Love, Ina Zucker, 971-500-0726, cathy.love@oregonmetro.gov

Presenters:
Andrea Celentano, Policy Advisor (she/her)
Val Galstad, Program Director (they/them)
Ina Zucker, Program Director (she/her)

ISSUE STATEMENT

In a November 2022 budget meeting, Council gave direction that Metro as an organization needed a set of region-wide strategic targets to guide Metro's work for the next five years. At that meeting and again in February 2023, Council directed staff to engage stakeholders and develop strategic targets in the areas of environment, economy, and housing, by which Metro can measure the region's progress toward these targets and develop a shared vision for the future of greater Portland.

Since April 2023, staff have been working to implement this direction by engaging stakeholders and partners, consulting subject matter experts both internally and externally, and getting additional feedback and direction from Metro Council through briefings. Staff incorporated stakeholder feedback and Council direction in the development of the draft strategic targets. Two work sessions and a town hall on this topic were held in October 2023.

ACTION REQUESTED

Approval of the resolution adopting Metro's Strategic Targets.

IDENTIFIED OUTCOMES

- Council will provide direction to the agency by adopting the resolution setting Metro's Strategic Targets.
- Council will provide direction to the COO to implement Metro's Strategic Targets by developing departmental workplans and a communications plan.

STAFF RECOMMENDATIONS

Staff recommends adoption of the resolution.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Metro's 2021 Strategic Framework affirmed a commitment to public service, safety and resilience. Metro embodies those values through organization-wide guiding principles that define the meaning and scope of those values: Racial Justice, Climate Justice and Resilience, and Shared Prosperity. The strategic targets developed in the areas of environment, economy, and housing specifically speak to these values and will help further Metro's goals.

This work builds on critical plans and priority setting tools previously developed, including: the Strategic Framework, the Strategic Plan to Advance Racial Equity, Diversity and Inclusion, and the racial equity framework. The Strategic Targets project gives Metro a guide for our progress towards a shared regional vision. This project also marks further progress in Metro's strategic planning efforts and will guide the organization towards achieving critical goals in priority focus areas.

Based on Council direction, these targets have been developed to be high impact, composite and multivariate in nature. These targets are also designed to have a Metro-specific component but to be bigger than Metro alone to help inspire regionwide efforts and promote collaboration with our regional partners. Metro can and will work towards each of these targets as an organization, but more progress will be made if we can work with our partners from across the region towards a common goal. More work, engagement and collaboration will be needed with stakeholders and partners once the targets are adopted to establish specific goals in each of the three areas.

With the final adoption of these strategic targets in the current resolution, Metro will have visionary outcomes to guide and support each department's work and future planning. Council will have additional opportunities to decide future policy and give additional direction in the implementation of the strategic targets throughout the budget process in spring 2024, and beyond.

BACKGROUND

In budget meetings in late 2022 and early 2023, Council directed staff to develop strategic targets in the areas of environment, economy and housing to guide future budgeting and policymaking. To implement this direction, a task force of Metro staff members was formed. Metro also hired the Drawbridge Innovations consulting firm to assist with the development of the targets. Metro staff worked with Drawbridge to develop the project's design and a project plan to achieve Council's vision.

Metro staff, with the help of Drawbridge, first engaged external stakeholders and partners in "blue sky" visioning sessions to solicit ideas in the three target areas. Participants were asked, "What is your vivid 5-year vision for the Metro region – especially focused on strategic outcomes under Housing, Environment and the Economy?" Participants included labor and workforce trades, equity leaders, community-based organizations,

environmental advocates, conservation organizations, elected officials, local government leaders, business interests and economic development stakeholders.

Following the visioning sessions, Metro assembled groups of internal subject matter experts from across the agency into “Tiger Teams”. These teams met several times and worked to take the feedback from the visioning sessions and translate these big ideas into strategic targets with measurable metrics that would support the outcomes identified by our stakeholders and partners. Stakeholders and partners were then re-convened for additional input and feedback in a series of workshops.

Councilors received regular status updates on this project and offered direction and feedback throughout the development of the strategic targets. The internal Tiger Teams and Metro task force incorporated feedback from stakeholders and partners and direction from Council into the resolution.

This item came to Council in a work session on October 3, 2023 for input and guidance, and a town hall on strategic targets was held on October 12, 2023. Finally, this item returned to Council for a second work session on October 19, 2023, to review feedback and polling from the town hall and to respond to Council questions and input from the first work session.

ATTACHMENTS

None.

Local Contract Review Board
Consent Agenda
Resolutions

Metro Council Meeting
Thursday, December 7, 2023

BEFORE THE METRO LOCAL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AMENDING METRO'S) RESOLUTION NO. 23-5360
CONTRACTING AND PROCUREMENT)
ADMINISTRATIVE RULES) Introduced by Chief Operating Officer
) Marissa Madrigal in concurrence with
) Council President Lynn Peterson
)

WHEREAS, the Metro Council is the Local Contract Review Board for Metro, and as such is obligated to adopt rules of procedure for procurement and contracting; and

WHEREAS, the Metro Local Contract Review Board has previously adopted (a) administrative rules for public contracting (the "LCRB Contracting Rules"), (b) administrative rules for personal services contracting (the "Personal Services Contracting Rules"), and (c) administrative rules to advance equity in contracting (the "Equity in Contracting Rules"); and

WHEREAS, the Metro Local Contract Review Board has directed procurement staff to periodically review Metro's contracting administrative rules to both confirm ongoing compliance with state law and ensure that such rules reflect current and optimal business practices; and

WHEREAS, procurement staff has completed such a periodic review and now proposes revisions to Metro's contracting administrative rules; now therefore

BE IT RESOLVED THAT THE METRO LOCAL CONTRACT REVIEW BOARD:

1. Adopts the revised LCRB Contracting Rules attached hereto as Exhibit A, effective January 1, 2024;
2. Adopts the revised Personal Services Contracting Rules attached hereto as Exhibit B, effective January 1, 2024; and
3. Adopts the revised Equity in Contracting Rules attached hereto as Exhibit C, effective January 1, 2024.

ADOPTED by the Metro Local Contract Review Board this 7 day of December, 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

Effective January 1, 2024

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05-0120	Policy.....	1

DIVISION 10 - DEFINITIONS

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DIVISION 46 - GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

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46-0320	Preference for Recycled Materials.....	13
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**METRO
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DIVISION 5 - INTRODUCTION

05-0100 Content and Source of Rules

(1) These Metro Local Contract Review Board Administrative Rules (these “Administrative Rules”) implement ORS Chapters 279, 279A, 279B and 279C, the Oregon Public Contracting Code, referred to in this document as “the State Code.” These Administrative Rules are rules of procedure for public contracting as required under ORS 279A.065. These Administrative Rules consist of the following divisions:

(a) Division 10, Definitions, was compiled from definitions from Model Rules Divisions 46, 47, 48 and 49 and the former Metro Contract Policies Code.

(b) Division 46 implements ORS chapter 279A, General Provisions. Division 46 applies to all public contracting conducted under these Administrative Rules.

(c) Division 47 implements ORS chapter 279B, Public Procurements. Division 47 applies to Procurement of Goods and Services.

(d) Division 48 implements ORS chapter 279C, Public Improvements and Related Contracts. Division 48 applies to the Procurement of architectural, engineering, land surveying and related services Contracts.

(e) Division 49 implements ORS chapter 279C, Public Improvements and Related Contracts. Division 49 applies to the Procurement of construction services and Public Improvements.

(2) The primary source documents for these Administrative Rules are the State Code, the Oregon Attorney General’s Model Public Contract Rules (the “Model Rules”), and the former Metro Contract Policies Code. To create these Administrative Rules, the Model Rules have been revised to meet the particular requirements of Metro. For ease of reference, these Administrative Rules will maintain the same division numbering system as the Model Rules.

05-0120 Policy

Metro shall conduct public contracting to further the following policies, and policies set forth in ORS Chapters 279, 279A, 279B and 279C, as those chapters may be amended, and these Administrative Rules. A sound and responsive public contracting system should:

(1) Simplify, clarify and modernize procurement practices so that they reflect the market place and industry standards.

(2) Instill public confidence through ethical and fair dealing, honesty and good faith on the part of government officials and those who do business with the government.

(3) Promote efficient use of federal, state and local government resources, maximizing the economic investment in public contracting within this state.

(4) Clearly identify rules and policies that implement each of the socioeconomic programs that overlay public contracting and accompany the expenditure of public funds mandated by the legislature or Local Contract Review Board.

(5) Allow impartial and open competition, protecting both the integrity of the public contracting process and the competitive nature of public procurement. In public procurement, as set out in ORS chapter 279B, meaningful competition may be obtained by evaluation of performance factors and other aspects of service and product quality, as well as pricing, in arriving at best value.

(6) Provide a public contracting structure that can take full advantage of evolving procurement methods as they emerge within various industries, while preserving competitive Bidding as the standard for Public Improvement Contracts unless otherwise exempted.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.015 & ORS 279A.065

**METRO
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DIVISION 10 - DEFINITIONS

10-0000 Definitions

Unless the context of a specifically applicable definition in the State Code requires otherwise, capitalized terms used in these Administrative Rules have the meaning set forth in the division of the Administrative Rules in which they appear, and if not defined there, the meaning set forth in these Division 10 rules, and if not defined here, the meaning set forth in the State Code. The following terms, when capitalized in these Administrative Rules, have the meaning given below:

Addendum or Addenda. An addition to, deletion from, a material change in, or general interest explanation of a Solicitation Document.

Administering Contracting Agency. A contracting agency described in ORS 279A.200(1)(a), and for Interstate Cooperative Procurements includes the entities specified in ORS 279A.220(4).

Administrative Rules. These Metro Public Contract Review Board Administrative Rules.

Advantageous. In Metro's best interests, as assessed according to the judgment of Metro.

Affected Person or Affected Offeror. A Person whose ability to participate in a Procurement is adversely affected by a decision of Metro.

Bid. A Written response to an Invitation to Bid.

Bidder. A Person who submits a Bid in response to an Invitation to Bid.

Closing. The date and time specified in a Solicitation Document as the deadline for submitting Offers.

Competitive Quote. A quote made in response to Request for Quote issued pursuant to Rule 49-0160.

Competitive Range. The number of Proposers with whom Metro will conduct Discussions or negotiate if Metro intends to conduct discussions or negotiations in accordance with Rule 47-0261 or Rule 49-0650.

Concession Services Agreement. A contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of Goods or Services from a site within a building or upon lands owned or operated by Metro and under which the concessionaire makes payments to Metro based, at least in part, on the concessionaire's revenue from sales. The term "concession agreement" does not include an agreement which is merely a flat-fee or per-foot rental, lease, license, permit or other arrangement for the use of public property.

Conduct Disqualification. A Disqualification pursuant to ORS 279C.440 and Rule 49-0370, or Debarment pursuant to Rule 47-0575.

Contract. A Public Contract, as such term is defined in ORS 279A.010.

Contract Price. As the context requires, the maximum payments that Metro will or may incur under a Contract, including bonuses, incentives and contingency amounts, if the Contractor fully performs under the Contract.

Contractor. The Person, including a Consultant as defined in Administrative Rule 48-0110(1), with whom Metro executes a Contract.

Days. Calendar days, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later, unless otherwise specified by these Administrative Rules or the Solicitation Document.

Descriptive Literature. Informational materials concerning available products or services submitted by Offerors in response to a Solicitation Document.

Disqualification. The preclusion of a Person from contracting with Metro after Notice and hearing pursuant to Rule 46-0210 or ORS 279C.440 and Rule 49-0370.

Electronic. Any means of transmission of information by electronic device, including but not limited to electronic mail.

Electronic Advertisement. Notice of Metro's Solicitation Document, or Request for Qualifications (RFQ) or information, or a request for price quotations, available over the Internet via Metro's Electronic Procurement System.

Electronic Offer. A response to a Solicitation Document or a request for price quotations submitted to Metro via Metro's Electronic Procurement System.

Electronic Procurement System. An information system that Persons may access through the Internet or that Persons may otherwise remotely access through a computer, that enables Persons to send Electronic Offers and Metro to post Electronic Advertisements, receive Electronic Offers, and conduct other activities related to Metro Procurements.

Emergency. Circumstances that could not have been reasonably foreseen, that create a substantial risk of loss, damage, interruption of services or threat to property, public health, welfare or safety, and that require prompt execution of a Contract to remedy the condition.

Emerging Small Business. A business concern described in ORS 200.005(3) and 200.005(4) and certified as such with the State of Oregon pursuant to ORS 200.055.

Foreign Contractor. A Contractor that is not domiciled in or registered to do business in the State of Oregon. See Rule 49-0490.

Goods. Supplies, equipment, or materials, and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, and combinations of any of the items identified in this definition.

Goods and Services/Goods or Services. Any combination of any of the items identified in the definitions of "Goods" and "Services".

Intermediate Procurement. A sourcing method authorized by Rule 47-0270, Rule 48-0210 and Rule 49-0160.

Intermediate Proposal. A response to an Intermediate Request for Proposals.

Intermediate Request for Proposals. An Intermediate Procurement method that requests potential Contractors submit proposals for providing goods or services described in the request. See Rule 47-0270 and Rule 48-0210.

Invitation to Bid or ITB. The Solicitation Document issued to invite Offers from prospective Contractors under either ORS 279B.055 or 279C.335. As used herein, an "Invitation to Bid" or "ITB" has previously been referred to at Metro as a "Request for Bid" or an "RFB".

Local Contract Review Board. The Metro Council acting as the Local Contract Review Board pursuant to ORS 279A.060; also referred to as "Board."

Nonresident Bidder. A Bidder described in ORS 279A.120(1)(a).

Offer. A Written response to a Solicitation Document.

Offeror. A Person that submits an Offer; a Bidder or a Proposer.

Opening. The date, time and place announced in the Solicitation Document for the opening of Bids or Proposals. Competitive, sealed Bids shall be opened publically in accordance with ORS 279B.055(5)(a)

Original Contract. As defined in ORS 279A.200(1)(f), the initial Contract or Price Agreement solicited and awarded during a Cooperative Procurement by an Administering Contracting Agency.

Person. An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity who has the legal capacity to enter into a Contract.

Personal Services. As used in division 46 of these Administrative Rules, the services performed under a Personal Services Contract governed by Metro's Personal Services Contracting Rules or pursuant to ORS 279A.055. "Personal Services" as used in Division 48 and Division 49 of these Administrative Rules (and as used in Division 46 when applicable to Division 48 or Division 49) has the meaning set forth in ORS 279C.100.

Personal Services Contracting Rules. The Metro administrative procedures that apply to the Procurement of Personal Services Contracts.

Price Agreement. A Public Contract for the Procurement of Goods or Services at a set price with: (a) no guarantee of a minimum or maximum purchase; or (b) an initial order or minimum purchase combined with a continuing Contractor obligation to provide Goods and Services in which Metro does not guarantee a minimum or maximum additional purchase.

Price Quote. A quote made in response to Request for Quote issued pursuant to Rule 47-0270.

Procurement. As defined in ORS 279A.010, the act of purchasing, leasing, renting or otherwise acquiring goods or services as well as the act of contracting for a Public Improvement. "Procurement" includes each function and procedure undertaken or required to be undertaken by Metro to enter into a Public Contract, administer a Public Contract and obtain the performance of a Public Contract under the State Code.

Procurement Officer. The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegate.

Product Sample. The exact Goods, or a representative portion of the exact Goods requested by a Solicitation Document.

Proposal. A Written response to a Request for Proposals.

Proposer. A Person who submits a Proposal in response to Metro's Request for Proposals.

Public Improvement. As defined in ORS 279A.010, a project for construction, reconstruction or major renovation on real property by or for Metro. "Public Improvement" does not include projects for which no funds of Metro are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a Public Improvement.

Public Works. Public Works as defined in ORS 279C.800(5).

Purchasing Contracting Agency. A contracting agency described in ORS 279A.200(1)(h).

Qualified Nonprofit Agency for Individuals with Disabilities. A nonprofit organization whose purpose provide training or employment for individuals with disabilities and which:

- (1) Meets the definition given in ORS 279.835(6); and
- (2) Is currently listed by the Oregon Department of Administrative Services (DAS) as a source of products or services suitable for procurement by public agencies .

Request for Proposals or RFP. A Solicitation Document calling for Proposals.

Request for Qualifications or RFQu. A Written document issued by Metro to which Contractors respond in Writing by describing their experience with and qualifications for the Services or Architectural, Engineering or Land Surveying Services, or Related Services, described in the document.

Request for Quotes or RFQ. An Intermediate Procurement method that requests Price Quotes for Goods or Services (see Rule 47-0270) or Competitive Quotes for Public Improvements (see Rule 49-0160).

Responsible. Meeting the standards set forth in Administrative Rule 47-0640 or 49-0390(2), and not debarred or disqualified by Metro under Administrative Rule 47-0575 or 49-0370.

Responsive. Having the characteristic of substantial compliance in all material respects with applicable Solicitation requirements.

Services. Services other than “Personal Services” designated under ORS 279A.055 and covered in the Personal Services Contracting Manual.

Sign, Signed or Signature. Any Written mark, word or symbol attached to or logically associated with a document and executed or adopted by a Person with the intent to be bound.

Small Procurement. A sourcing method authorized by Rule 47-0265.

Solicitation. A request by Metro for prospective Contractors to submit Offers.

Solicitation Document. An Invitation to Bid, Request for Proposals, Request for Quotes, Intermediate Request for Proposals or other document issued to invite Offers from prospective Contractors pursuant to ORS Chapter 279B or 279C. The following are not Solicitation Documents if they do not invite Offers from prospective Contractors: a Request for Qualifications, a prequalification of Bidders, a request for information, or a request for product prequalification.

Specifications. A description of the physical or functional characteristics, or of the nature of a supply, Services or construction item, including any requirement for inspecting, testing or preparing a supply, Services or construction item for delivery and quantities or qualities of materials to be furnished under a Contract. Specifications generally will state the result to be obtained and may, on occasion, describe the method and manner of doing the work to be performed.

State Code. The Oregon Public Contracting Code ORS chapters 279, 279A, 279B and 279C.

Unauthorized Purchase. The Procurement made without following the requirements set forth in the State Code or these Rules or without delegated authority. See Rule 46-0200.

Writing or Written. Conventional paper documents, whether handwritten, typewritten or printed, in contrast to spoken words. It also includes electronic transmissions when required by applicable law or permitted by a Solicitation Document or Contract.

Source: The State Code, Attorney General Model Rules, Former Metro Contract Policies

**METRO
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DIVISION 46 - GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

46-0100 Application; Federal Law Supremacy

(1) If a conflict arises between these Division 46 rules and rules in Divisions 47, 48 and 49, the rules in Divisions 47, 48 and 49 take precedence over these Division 46 rules.

(2) Except as otherwise expressly provided in ORS 279C.800 through 279C.870, and notwithstanding ORS Chapters 279A, 279B, and 279C.005 through 279C.670, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of ORS Chapters 279A, 279B, or 279C.005 through 279C.670 or these Administrative Rules, or require additional conditions in Public Contracts not authorized by ORS Chapters 279A, 279B, and 279C.005 through 279C.670 or these Administrative Rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030 & ORS 279A.065

46-0130 Application of the State Code and Administrative Rules; Exceptions

(1) Except as set forth in this section, Metro shall exercise all procurement authority related to Public Contracting in accordance with the State Code and these Administrative Rules.

(2) Metro has specifically opted out of the Oregon Department of Justice Model Rules for Public Contracting and has elected to exercise its own contracting authority by adopting these Administrative Rules pursuant to ORS 279A.065. Except for those portions of the Oregon Department of Justice Model Rules for Public Contracting pertaining to the Procurement of Construction Manager/General Contractor Services under ORS 279A.065(3), (where the State Code provides that Metro is not permitted to opt out) the Oregon Department of Justice Model Rules for Public Contracting do not apply to Metro.

(3) Other than the Division 48 Administrative Rules that apply to Architectural, Engineering and Surveying Services and Related Services, contracts or classes of contracts for Personal Services designated as such by the Metro Local Contract Review Board are not subject to Divisions 46, 47, and 49 of these Administrative Rules.

(4) These Administrative Rules do not apply to Contracts or classes of Contracts described in ORS 279A.025(2) to which the State Code, ORS Chapters 279A, 279B and 279C, do not apply. Contracts that are exempt from competitive Bidding under the State Code, including but not limited to the following, retain that exemption regardless of any provisions of these Administrative Rules:

(a) Contracts between Metro and:

- A. Another "Contracting Agency" as defined by ORS 279A.010;
- B. The Oregon Health and Science University;
- C. The Oregon State Bar;
- D. A governmental body of another state;

- E. The federal government;
- F. An American Indian tribe or an agency of an American Indian tribe;
- G. A nation, or a governmental body in a nation, other than the United States; or
- H. An intergovernmental entity formed between or among governmental bodies of this or another state, the federal government, an American Indian tribe or an agency of an American Indian tribe, a nation other than the United States or a governmental body in a nation other than the United States.

(b) Contracts pursuant to 10 U.S.C. § 381 (relating to law enforcement equipment suitable for counter-drug activities through the Department of Defense), the Electronic Government Act of 2002 (relating to automated data processing equipment, including firmware, software, supplies, support equipment, and services from federal supply schedules), or other federal law that Metro Council determines are similar to those Acts in effectuating or promoting transfers of property to Metro;

(c) Contracts, agreements or other documents entered into, issued or established in connection with:

A. The incurring of debt by a public body, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated Contracts, agreements or other documents, regardless of whether the obligations that the Contracts, agreements or other documents establish are general, special or limited;

B. The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law;

C. The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures;

D. Banking, money management or other predominantly financial transactions of Metro that, by their character, cannot practically be established under competitive contractor selection procedures, based upon findings of the Purchasing Administrator.

(d) Grants, defined as follows:

A. An agreement under which:

(i) Metro receives moneys, property or other assistance, including, but not limited to, federal assistance that is characterized by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets;

(ii) The assistance received by Metro is from a grantor for the purpose of supporting or stimulating a program or activity of Metro; and

(iii) No substantial involvement by the grantor is anticipated in the program or activity other than involvements associated with monitoring compliance with grant conditions.

B. An agreement under which:

(i) Metro provides moneys, property or other assistance, including by not limited to federal assistance that is characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;

(ii) The assistance is provided to a recipient for the purpose of supporting or stimulating a program or activity of the recipient; and

(iii) No substantial involvement by Metro is anticipated in the program or activity of the recipient other than involvement associated with monitoring compliance with the grant conditions.

(e) Acquisitions or disposals of real property or interests in real property;

(f) Transfer, sale or disposal of personal property;

(g) Sole source expenditures when rates are set by law or ordinance for purposes of these rules concerning source selection;

(h) Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125(4), 243.221, 243.275, 243.291, 243.303 and 243.565;

(i) Revenue Generating Contracts, defined as agreements whose primary purpose is generating revenue for Metro and are typically awarded to the offeror proposing the most Advantageous or highest monetary return to Metro. The Metro Council may designate a particular Contract as a revenue-generating Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.050, ORS 279A.055, ORS 279A.065 & ORS 279A.180

46-0140 Solicitation Document Templates; Contract Forms and Contract Templates; Contract Administrator Accountability

(1) The Procurement Officer will make available to all Metro departments Solicitation Document templates, Contract forms, and Contract templates. Metro departments and staff shall use approved Solicitation Document templates, Contract forms or Contract templates.

(2) All Solicitation Document templates, Contract forms, and Contract templates must be in a form preapproved by the Metro Attorney. The Metro Attorney may exempt from required use a Solicitation Document template, Contract form, or Contract template, subject to any conditions the Metro Attorney may impose on the continued use of the exempted and approved Solicitation Document template, Contract form or Contract template.

(3) Metro must identify the staff employee who will oversee such specific Contract, or specifically identified Contracts, or a specifically identified category of Contracts. Such staff employee will be designated as the "Contract Administrator" for the Contract or Contracts. The Contract Administrator is responsible for reading and understanding all advice and recommendations given with respect to the Contract and Procurement. As used herein, "advice and recommendations" means material advice and recommendations from the Office of Metro Attorney or the Procurement Office with respect to a specific Contract and amendments to the Contract, or a Procurement that resulted in the Contract. Material advice or recommendations are communications that address: (i) subject matter that modifies or influences the meaning, performance, administration, or means of enforcement of a Contract; or (ii) the allocation of significant liabilities or risk under a Contract.

Stat. Auth.: ORS 279A.065, OL 2015, ch 646 (HB 2375)

Stats. Implemented: OL 2015, ch 646 (HB 2375)

46-0200 Unauthorized Purchases

(1) The Procurement Officer may approve claims for payment arising from Unauthorized Purchases or may refer such claims to the Chief Operating Officer for approval.

(2) Prior to processing a request for approval of payment of an Unauthorized Purchase, the Procurement Officer shall require the following information:

(a) Description of the Goods or Services furnished as a result of the Unauthorized Purchase;

(b) A detailed statement of facts relating to the unauthorized purchase, including the name and position of the person who made the unauthorized purchase and an explanation of the reason Metro Procurement requirements were not followed;

(c) Documentation that the amount claimed by the Contractor is fair and reasonable;

(d) Copies of all invoices and other documents pertinent to the transaction;

(e) Verification that the Goods or Services have been received and accepted by Metro;

(f) A statement of the steps taken or planned to prevent recurrence of such Unauthorized Purchase.

46-0210 Discrimination; Disqualification

(1) Metro shall include in each Solicitation Document a requirement that Offerors certify in their Offers, in a form prescribed by Metro:

(a) That the Offeror has not discriminated, and will not discriminate, against a subcontractor in the awarding of a subcontract because the subcontractor is certified under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, an emerging small business, or a business that a service-disabled veteran owns; and

(b) That the Offeror will not, in the performance of the Contract, discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income.

(2) **Disqualification.**

(a) Metro may disqualify a Person from consideration of award of Metro Contracts under ORS 200.065(5), or suspend a Person's right to bid on or participate in any Public Contract pursuant to ORS 200.075(1) after providing the Person with notice and a reasonable opportunity to be heard in accordance with this section.

(b) As provided in ORS 200.065 and 200.075 Metro may disqualify or suspend a Person's right to submit an Offer or to participate in a Contract (e.g. act as a subcontractor) as follows:

A. Metro may disqualify a Person upon finding that the Person engaged in any of the activities made unlawful by ORS 200.065(1) or (2), or if the Person has been disqualified by another public entity pursuant to ORS 200.065.

B. Metro may suspend a Person upon finding that the Person engaged in any of the acts prohibited by ORS 200.075(a) through (c).

(c) Metro may disqualify or suspend a Person's right to submit Offers or participate in Public Contracts only for the length of time permitted by ORS 200.065 or ORS 200.075, as applicable.

(d) Metro shall notify the Person in Writing of a proposed Disqualification pursuant to this section, served personally or by registered or certified mail, return receipt requested. This notice must:

- A. State that Metro intends to disqualify or suspend the Person;
- B. Set forth the reasons for the Disqualification;
- C. Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if Metro does not receive the Person's Written request for a hearing within the time stated, the Person will have waived its right to a hearing;
- D. Include a statement that the hearing will be conducted pursuant to ORS 200.065 and 200.075;
- E. Include a reference to the particular sections of the statutes and rules involved;
- F. State the proposed Disqualification period; and
- G. State that the Person may be represented by legal counsel.

(e) Metro shall schedule a hearing upon Metro's receipt of the Person's timely request. Metro shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing prior to the hearing.

(f) Metro shall notify the Person in Writing of its Disqualification, served personally or by registered or certified mail, return receipt requested. The notice must contain:

- A. The effective date and period of Disqualification;
- B. The grounds for Disqualification; and
- C. A statement of the Person's appeal rights and applicable appeal deadlines.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, ORS 200.075, ORS 279A.065, ORS 279A.105 & ORS 279A.110

Contract Preferences

46-0300 Preference for Oregon Goods and Services

(1) **Tiebreaker Preference and award When Offers Are Identical.** Under ORS 279A.120, when Metro receives Offers identical in price, fitness, availability and quality, and chooses to award a Contract, Metro shall award the Contract based on the following order of precedence:

(a) Metro shall award the Contract to the Offeror among those submitting identical Offers who is offering Goods or Services, or both, that are manufactured, produced or to be performed in Oregon.

(b) If two or more Offerors submit identical Offers, and they all offer Goods or Services, or both, that are manufactured, produced or to be performed in Oregon, Metro shall award the Contract by drawing lots among the identical Offers. Metro shall provide the Offerors who submitted the identical Offers notice of the date, time and location of the drawing of lots and an opportunity for these Offerors to be present when the lots are drawn.

(c) If Metro receives identical Offers, and none of the identical Offers offer Goods or Services, or both, that are manufactured, produced or to be performed in Oregon, then Metro shall award the Contract by drawing lots among the identical Offers. Metro shall provide to the Offerors who submitted

the identical Offers notice of the date, time and location of the drawing of lots and an opportunity for these Offerors to be present when the lots are drawn.

(2) **Determining if Offers are Identical.** Metro shall consider Offers identical in price, fitness, availability and quality as follows:

(a) Bids received in response to an Invitation to Bid are identical in price, fitness, availability and quality if the Bids are Responsive, and offer the Goods or Services, or both, described in the Invitation to Bid at the same price.

(b) Proposals received in response to a Request for Proposals are identical in price, fitness, availability and quality if they are Responsive and achieve equal scores when scored in accordance with the evaluation criteria set forth in the Request for Proposals.

(c) Offers received in response to a Special Procurement conducted under ORS 279B.085 are identical in price, fitness, availability and quality if, after completing the contracting procedure approved by the Local Contract Review Board, Metro determines, in Writing, that two or more Offers are equally Advantageous to Metro.

(d) Offers received in response to an Intermediate Procurement conducted pursuant to ORS 279B.070 are identical if the Offers equally best serve the interests of Metro in accordance with ORS 279B.070(4).

(3) **Determining if Goods or Services are Manufactured or Produced in Oregon.** In applying section (1) of this Rule, Metro shall determine whether a Contract is predominantly for Goods or Services and then use the predominant purpose to determine if the Goods or Services are manufactured, produced, or performed in Oregon. Metro may request, either in a Solicitation Document, following Closing, or at any other time Metro determines is appropriate, any information Metro may need to determine if the Goods or Services are manufactured or produced in Oregon. Metro may use any reasonable criteria to determine if Goods or Services are manufactured, produced, or performed in Oregon, provided that the criteria reasonably relate to that determination, and provided that Metro applies those criteria equally to each Offer.

(4) **Procedure for Drawing Lots.** When this Rule calls for the drawing of lots, Metro shall draw lots by a procedure that affords each Offeror subject to the drawing a substantially equal probability of selection and that does not allow the person making the selection the opportunity to manipulate the drawing of lots to increase the probability of selecting one Offeror over another.

(5) **Discretionary Preference and award.** Under ORS 279A.128, Metro may provide, in a Solicitation Document for Goods or Services a specified percentage preference of not more than ten percent for Goods fabricated or processed entirely in Oregon or Services performed entirely in Oregon. For competitive Proposals, the preference percentage allowed under this section will be added to the total overall Proposal score. If more than one Offeror qualifies for the preference, Metro may give a further preference to a qualifying Offeror that resides in or is headquartered in Oregon. Metro may establish a preference percentage higher than ten percent by Written order that finds good cause to establish the higher percentage and which explains Metro's reasons and evidence for finding good cause to establish a higher percentage. Metro may not apply the preferences described in this section in a Procurement for Emergency work, minor alterations, ordinary repairs or maintenance of public improvements, or construction work that is described in ORS 297C.320.

Stat. Auth.: ORS 279A.065; OL 2011, ch 237

Stats. Implemented: ORS 279A.065; ORS 279A.120 & ORS 279A.128; OL 2011, ch 237

46-0310 Reciprocal Preferences

When evaluating Bids pursuant to Administrative Rule 47-0255, 47-0257 or 49-0390 and applying the reciprocal preference provided under ORS 279A.120(2)(b) Metro may rely on the list prepared and maintained by the Oregon Department of Administrative Services pursuant to ORS 279A.120(4) to determine (i) whether the Nonresident Bidder's state gives preference to in-state bidders and (ii) the amount of such preference.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.120

46-0320 Preference for Recycled Materials

(1) In comparing Goods from two or more Offerors, if at least one Offeror offers Goods manufactured from Recycled Materials, and at least one Offeror does not, Metro shall select the Offeror offering Goods manufactured from Recycled Materials if each of the conditions specified in ORS 279A.125(2) exists. When making the determination under ORS 279A.125(2)(d), Metro shall consider the costs of the Goods following any adjustments Metro makes to the price of the Goods after evaluation pursuant to Administrative Rule 46-0310.

(2) The determination of whether Goods are manufactured from Recycled Materials must be made in accordance with standards established by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.125

Cooperative Procurement

46-0400 Authority for Cooperative Procurements

(1) Metro may participate in, sponsor, conduct or administer Joint Cooperative Procurements, Permissive Cooperative Procurements and Interstate Cooperative Procurements in accordance with ORS 279A.200 through 279A.225.

(2) Metro shall determine in Writing whether the Solicitation and award process for an Original Contract arising out of a Cooperative Procurement is substantially equivalent to those identified in ORS 279B.055, 279B.060 or 279B.085, consistent with ORS 279A.200(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

46-0410 Responsibilities of Administering Contracting Agencies and Purchasing Contracting Agencies

(1) If Metro is an Administering Contracting Agency of a Cooperative Procurement, Metro may establish the conditions under which Persons may participate in the Cooperative Procurement administered by Metro. Such conditions may include, without limitation, whether each Person who participates in the Cooperative Procurement must pay administrative fees to Metro, whether each Person must enter into a Written agreement with Metro, and any other matters related to the administration of the Cooperative Procurement and the resulting Original Contract. When acting as an Administering Contracting Agency Metro may, but is not required to, include provisions in the

Solicitation Document for a Cooperative Procurement and advertise the Solicitation Document in a manner to assist Purchasing Contracting Agencies' compliance with State Code.

(2) If Metro, acting as a Purchasing Contracting Agency, enters into a Contract based on a Cooperative Procurement, Metro shall comply with State Code and these Administrative Rules, including without limitation those sections of the State Code and these Administrative Rules that govern:

- (a) The extent to which Metro, as a Purchasing Contracting Agency, may participate in the Cooperative Procurement;
- (b) The advertisement of the Solicitation Document related to the Cooperative Procurement; and
- (c) Public notice of Metro's intent, as a Purchasing Contracting Agency, to establish Contracts based on a Cooperative Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.205

46-0420 Joint Cooperative Procurements

If Metro chooses to participate in, sponsor, conduct or administer a Joint Cooperative Procurement, Metro may do so only in accordance with ORS 279A.210.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.210

46-0430 Permissive Cooperative Procurements

If Metro chooses to participate in, sponsor, conduct or administer a Permissive Cooperative Procurement, it may do so only in accordance with ORS 279A.215.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.215

46-0440 Advertisements of Intent to Establish Contracts through a Permissive Cooperative Procurement

(1) For purposes of determining whether Metro, acting as a Purchasing Contracting Agency, must give notice of intent to establish a Contract through a Permissive Cooperative Procurement as required by ORS 279A.215(2)(a), the estimated amount of the Procurement will exceed \$250,000 if:

- (a) Metro's Contract arising out of the Permissive Cooperative Procurement expressly provides that Metro will make payments over the term of the Contract that will, in aggregate, exceed \$250,000, whether or not the total amount or value of the payments is expressly stated;
- (b) Metro's Contract arising out of the Permissive Cooperative Procurement expressly provides for payment, whether in a fixed amount or up to a stated maximum amount, that exceeds \$250,000; or
- (c) At the time Metro enters into the Contract, Metro reasonably contemplates, based on historical or other data available to Metro, that the total payments it will make for Goods or Services, or both, under the Contract will, in aggregate, exceed \$250,000 over the anticipated duration of the Contract.

(2) If Metro intends to establish a Contract arising out of the Permissive Cooperative Procurement it administers, it may satisfy the notice requirements set forth in ORS 279A.215(2)(a) by including the information required by ORS 279A.215(2)(b) in the Solicitation Document related to the Permissive Cooperative Procurement, and including instructions in the Solicitation Document to potential Offerors describing how they may submit comments in response to Metro's intent to establish a Contract through the Permissive Cooperative Procurement. The content and timing of such notice must comply in all respects with ORS 279A.215(2), ORS 279A.215(3) and these Administrative Rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.215

46-0450 Interstate Cooperative Procurements

If Metro chooses to participate in, sponsor, conduct or administer an Interstate Cooperative Procurement, it may do so only in accordance with ORS 279A.220.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.220

46-0460 Advertisements of Interstate Cooperative Procurements

(1) The Solicitation Document for an Interstate Cooperative Procurement is advertised in Oregon for purposes of ORS 279A.220(2)(a) if it is advertised in Oregon in compliance with ORS 279B.055(4) or ORS 279B.060(4) by:

(a) The Administering Contracting Agency;

(b) The Purchasing Contracting Agency;

(c) The Cooperative Procurement Group, or a member of the Cooperative Procurement Group, of which the Purchasing Contracting Agency is a member; or

(d) Another Purchasing Contracting Agency that is subject to the State Code, so long as such advertisement would, if given by the Purchasing Contracting Agency, comply with ORS 279B.055(4) or ORS 279B.060(4) with respect to the Purchasing Contracting Agency.

(2) A Purchasing Contracting Agency or the Cooperative Procurement Group of which the Purchasing Contracting Agency is a member satisfies the advertisement requirement under ORS 279A.220(2)(b) if the notice is advertised in the same manner as provided in ORS 279B.055(4)(b) and (c).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.220

46-0470 Protests and Disputes

(1) An Offeror or potential Offeror wishing to protest the Procurement process, the contents of a Solicitation Document related to a Cooperative Procurement or the award or proposed award of an Original Contract shall make the protest in accordance with ORS 279B.400 through ORS 279B.425 unless the Administering Contracting Agency is not subject to the State Code. If the Administering Contracting Agency is not subject to the State Code, then the Offeror or potential Offeror shall make the protest in accordance with the processes and procedures established by the Administering Contracting Agency.

(2) Any other protests related to a Cooperative Procurement, or disputes related to a Contract arising out of a Cooperative Procurement, must be made and resolved as set forth in ORS 279A.225.

(3) The failure of a Purchasing Contracting Agency to exercise any rights or remedies it has under a Contract entered into through a Cooperative Procurement will not affect the rights or remedies of any other contracting agency that participates in the Cooperative Procurement, including the Administering Contracting Agency, and will not prevent any other Purchasing Contracting Agency from exercising any rights or seeking any remedies that may be available to it under its own Contract arising out of the Cooperative Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279A.225

46-0480 Contract Amendments

Metro, acting as a Purchasing Contracting Agency, may amend a Contract entered into pursuant to a Cooperative Procurement as set forth in Administrative Rule 47-0800.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

DIVISION 47 - PUBLIC PROCUREMENTS FOR GOODS OR SERVICES

General Provisions

47-0000 Application

These Division 47 rules implement ORS Chapter 279B, Public Procurements and apply to the Procurement of Goods and Services. These Division 47 rules are not applicable to the procurement of Personal Services Contracts. Procurements of Personal Services are governed by Metro's Personal Services Contracting Rules. These Division 47 rules are also not applicable to procurements of Public Improvements, which are governed by ORS Chapter 279C and procured in accordance with the rules set forth in Division 49.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.015

Source Selection

47-0250 Methods of Source Selection

(1) Metro may award a Contract for Goods and Services using any method authorized by State Code or these Administrative Rules. Such different methods are called methods of "source selection." Source selection methods include Cooperative Procurements, competitive Bids, competitive Proposals and small, Intermediate, sole-source, Emergency and special procurements.

(2) State law requires Metro to use the Services of Qualified Nonprofit Agency for Individuals with Disabilities in certain instances. When required, Metro must use a Qualified Nonprofit Agency for Individuals with Disabilities pursuant to ORS 279 before proceeding with a purchase through other methods of source selection.

(3) The methods of contractor selection must conform to the procedures identified in these Administrative Rules. The Procurement Officer is authorized, but not required, to waive any nonconformity with the rules of contractor selection if the Procurement Officer determines that the defect was minor and likely would not have had an effect on the outcome of the selection process.

47-0255 Competitive Bidding

(1) **Generally.** Metro may procure Goods or Services by competitive sealed Bids as set forth in ORS 279B.055 and these Administrative Rules. Metro may issue a request for information, a request for interest or other preliminary documents to obtain information useful in the preparation of an Invitation to Bid. An Invitation to Bid is used to initiate a Bidding Solicitation, awarded by low cost only, and must contain the information required by ORS 279B.055(2) and by section (2) of this Rule. Metro shall provide public notice of the competitive Bid Solicitation as set forth below in Administrative Rule 47-0300.

(2) **Invitation to Bid.** In addition to the provisions required by ORS 279B.055(2), the Invitation to Bid must include the following:

(a) General Information.

A. Notice of any pre-Offer conference as follows:

- (i) The time, date and location of any pre-Offer conference;
- (ii) Whether attendance at the conference will be mandatory or voluntary; and
- (iii) A provision that provides that statements made by Metro's representatives at the conference are not binding upon Metro unless confirmed by Written Addenda.

B. The form and instructions for submission of Bids and any other special information, e.g., whether Bids may be submitted by Electronic means (See Administrative Rule 47-0330 for required provisions of Electronic Bids);

C. The time, date and place of Opening;

D. The office where the Solicitation Document may be reviewed;

E. A statement that each Bidder must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120(1);

F. Bidder's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Administrative Rule 46-0210(2)); and

G. How Metro will notify Bidders of Addenda and how Metro will make Addenda available (See Administrative Rule 47-0430).

(b) Metro's Need to Purchase. The character of the Goods or Services Metro is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. As required by ORS 279B.055, Metro's description of its need to purchase must:

A. Identify the scope of the work to be performed under the resulting Contract, if Metro awards one;

B. Outline the anticipated duties of the Contractor under any resulting Contract;

C. Establish the expectations for the Contractor's performance of any resulting Contract;
and

D. Unless Metro for Good Cause (as defined below in Section (3) of this Rule) specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services that Metro is purchasing.

(c) Bidding and Evaluation Process.

- A. The anticipated Solicitation schedule, deadlines, protest process, and evaluation process;
 - B. Metro shall set forth objective evaluation criteria in the Solicitation Document in accordance with the requirements of ORS 279B.055(6)(a). Evaluation criteria need not be precise predictors of actual future costs, but to the extent possible, the evaluation factors must be reasonable estimates of actual future costs based on information Metro has available concerning future use; and
 - C. If Metro intends to award Contracts to more than one Bidder pursuant to Administrative Rule 47-0600(4)(c), Metro shall identify in the Solicitation Document the manner in which it will determine the number of Contracts it will award.
- (d) Applicable preferences pursuant to ORS 279B.055(6)(b).
 - (e) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385.
 - (f) All contractual terms and conditions in the form of Contract provisions Metro determines are applicable to the Procurement. As required by State Code, the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:
 - A. Metro's reduction or withholding of payment under the Contract;
 - B. Metro's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the statement of work or to meet the performance standards established by the resulting Contract; and
 - C. Metro's rights, which Metro may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contract or applicable law.
- (3) **Good Cause.** For the purposes of this Rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of Metro. Metro shall document in the Procurement file the basis for the determination of Good Cause for specification otherwise. Metro will have Good Cause to specify otherwise under the following circumstances:
- (a) The use or purpose to which the Goods or Services will be put does not justify a requirement that the Contractor meet the highest prevalent standards in performing the Contract;
 - (b) Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with or will operate efficiently or effectively with components, equipment, parts, Services or information technology including hardware, Services or software with which the Goods or Services will be used, integrated, or coordinated;
 - (c) The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evolution of products, performance techniques, scientific developments, that a reliable highest prevalent standard does not exist or has not been developed; and
 - (d) Any other circumstances in which Metro's interest in achieving economy, efficiency, compatibility or availability in the Procurement of the Goods or Services reasonably outweighs Metro's practical need for the highest prevalent standard in the applicable or closest industry or business that supplies the Goods or Services to be delivered under the resulting Contract.

47-0257 Multistep Competitive Bidding

(1) **Generally.** Metro may procure Goods or Services by using multistep competitive Bidding under ORS 279B.055(12).

(2) **Phased Process.** Multistep competitive Bidding is a phased Procurement process that seeks information or unpriced submittals in the first phase combined with regular competitive Bidding, inviting Bidders who submitted technically eligible submittals in the first phase to submit competitive sealed Bids in the second phase. The Contract must be awarded to the lowest Responsible Bidder.

(3) **Public Notice.** When Metro uses multistep competitive Bidding, Metro shall give public notice for the first phase in accordance with Administrative Rule 47-0300. Public notice is not required for the second phase. However, Metro shall give Notice of the second phase to all Bidders, inform Bidders of the right to protest Addenda issued after the initial Closing under Administrative Rule 47-0430, and inform Bidders excluded from the second phase of the right, if any, to protest their exclusion under Administrative Rule 47-0720.

(4) **Procedures Generally.** In addition to the procedures set forth in Administrative Rule 47-0300 through 47-0490, Metro shall employ the procedures set forth in this Rule for multistep competitive Bidding and in the Invitation to Bid.

(5) Procedure for Phase One of Multistep Competitive Bidding.

(a) **Form.** Metro shall initiate multistep Bidding by issuing an Invitation to Bid in the form and manner required for competitive sealed Bids except as provided in this Rule. In addition to the requirements set forth Administrative Rule 47-0255(2), the multistep Invitation to Bid must state:

A. That the Solicitation is a multistep competitive Bid Procurement and describe the process Metro will use to conduct the Procurement;

B. That Metro requests unpriced submittals and that Metro will consider price Bids only in the second phase and only from those Bidders whose unpriced submittals are found eligible in the first phase;

C. Whether Bidders must submit price Bids at the same time as unpriced submittals and, if so, that Bidders must submit the price Bids in a separate sealed envelope;

D. The criteria to be used in the evaluation of unpriced submittals.

(b) **Evaluation.** Metro shall evaluate unpriced submittals in accordance with the criteria set forth in the Invitation to Bid.

(6) Procedure for Phase Two of Multistep competitive Bidding.

(c) After the completion of phase one, if Metro does not cancel the Solicitation, Metro shall invite each eligible Bidder to submit a price Bid.

(d) Metro shall conduct phase two as any other competitive sealed Bid Procurement except:

A. As specifically set forth in this Rule or the Invitation to Bid; and

B. No public notice need be given of the invitation to submit price Bids because such notice was previously given.

47-0260 Competitive Proposals

(1) **Generally.** Metro may procure Goods or Services by competitive Proposals as set forth in ORS 279B.060. Metro shall use a Request for Proposals to initiate a competitive Proposal Solicitation. The Request for Proposals must contain the information required by ORS 279B.060(2) and by section (2) of this Administrative Rule. Metro shall provide public notice of the Request for Proposals as set forth in Administrative Rule 47-0300.

(2) **Request for Proposals.** In addition to the provisions required by ORS 279B.060(2), the Request for Proposals must include the following:

(a) **General Information.**

A. Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) A provision that provides that statements made by Metro's representatives at the conference are not binding on Metro unless confirmed by Written Addenda.

B. The form and instructions for submission of Proposals and any other special information, e.g., whether Proposals may be submitted by Electronic means. (See Administrative Rule 47-0330 for required provisions of Electronic Proposals);

C. The office where the Solicitation Document may be reviewed;

D. Proposer's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4). (See Administrative Rule 46-0210(2)); and

E. How Metro will notify Proposers of Addenda and how Metro will make Addenda available. (See Administrative Rule 47-0430).

(b) **Metro's Need to Purchase.** The character of the Goods or Services Metro is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements. As required by ORS 279B.060(2)(c), Metro's description of its need to purchase must:

A. Identify the scope of the work to be performed under the resulting Contract, if Metro awards one;

B. Outline the anticipated duties of the Contractor under any resulting Contract;

C. Establish the expectations for the Contractor's performance of any resulting Contract; and

D. Unless the Contractor under any resulting Contract will provide architectural, engineering, photogrammetric mapping, transportation planning, or land surveying services, or related services that are subject to ORS 279C.100 to 279C.125, or Metro for Good Cause specifies otherwise, the scope of work must require the Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services that Metro is purchasing.

(c) **Proposal and Evaluation Process.**

A. The anticipated Solicitation schedule, deadlines, protest process, and evaluation process;

B. Metro shall set forth selection criteria in the Solicitation Document in accordance with the requirements of ORS 279B.060(3)(e). Evaluation criteria need not be precise predictors of actual future costs and performance, but to the extent possible, the criteria will:

(i) Afford Metro the ability to compare the Proposals and Proposers, applying the same standards of comparison to all Proposers;

(ii) Rationally reflect Proposers' abilities to perform the resulting Contract in compliance with the Contract's requirements; and

(iii) Permit Metro to determine the relative pricing offered by the Proposers, and to reasonably estimate the costs to Metro of entering into a Contract based on each Proposal, considering information available to Metro and subject to the understanding that the actual Contract costs may vary as a result of the statement of work ultimately negotiated or the quantity of Goods or Services for which Metro contracts.

C. If Metro's Solicitation process calls for Metro to establish a Competitive Range, Metro shall generally describe, in the Solicitation Document, the criteria or parameters Metro will apply to determine the Competitive Range. Metro, however, subsequently may determine or adjust the number of Proposers in the Competitive Range in accordance with Administrative Rule 47-0261(6).

(d) Applicable Preferences, including those described in ORS 279A.120, 279A.125(2) and 282.210.

(e) The Proposers' certification of compliance with the Oregon tax laws in accordance with ORS 305.385.

(f) All contractual terms and conditions Metro determines are applicable to the Procurement. Metro's determination of contractual terms and conditions that are applicable to the Procurement may take into consideration, as authorized by ORS 279B.060(3), those contractual terms and conditions Metro will not include in the Request for Proposals because Metro either will reserve them for negotiation, or will request Proposers to offer or suggest those terms or conditions. (See Administrative Rule 47-0260(3)).

(g) As required by ORS 279B.060(2)(h), the Contract terms and conditions must specify the consequences of the Contractor's failure to perform the scope of work or to meet the performance standards established by the resulting Contract. Those consequences may include, but are not limited to:

A. Metro's reduction or withholding of payment under the Contract;

B. Metro's right to require the Contractor to perform, at the Contractor's expense, any additional work necessary to perform the scope of work or to meet the performance standards established by the resulting Contract; and

C. Metro's rights, which Metro may assert individually or in combination, to declare a default of the resulting Contract, to terminate the resulting Contract, and to seek damages and other relief available under the resulting Contract or applicable law.

(3) **Applicable Terms.** Metro may include the applicable contractual terms and conditions in the form of Contract provisions, or legal concepts to be included in the resulting Contract. Further, Metro may specify that it will include or use Proposer's terms and conditions that have been pre-negotiated under Administrative Rule 47-0550(3), but Metro may only include or use a Proposer's pre-negotiated terms

and conditions in the resulting Contract to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. Metro may not agree to any Proposer's terms and conditions that were expressly rejected in a Solicitation protest under Administrative Rule 47-0420.

(4) **For multiple award Contracts.** Metro may enter into Contracts with different terms and conditions with each Contractor to the extent those terms and conditions do not materially conflict with the applicable contractual terms and conditions. Metro may not agree to any Proposer's terms and conditions that were expressly rejected in a Solicitation protest under Administrative Rule 47-0420.

(5) **Good Cause.** For the purposes of this Rule, "Good Cause" means a reasonable explanation for not requiring Contractor to meet the highest standards prevalent in the industry or business most closely involved in providing the Goods or Services under the Contract, and may include an explanation of circumstances that support a finding that the requirement would unreasonably limit competition or is not in the best interest of Metro. Metro shall document in the Procurement file the basis for the determination of Good Cause for specifying otherwise. Metro will have Good Cause to specify otherwise when Metro determines:

(h) The use or purpose to which the Goods or Services will be put does not justify a requirement that the Contractor meet the highest prevalent standards in performing the Contract;

(i) Imposing express technical, standard, dimensional or mathematical specifications will better ensure that the Goods or Services will be compatible with, or will operate efficiently or effectively with, associated information technology, hardware, software, components, equipment, parts, or on-going Services with which the Goods or Services will be used, integrated, or coordinated;

(j) The circumstances of the industry or business that provides the Goods or Services are sufficiently volatile in terms of innovation or evolution of products, performance techniques, or scientific developments, that a reliable highest prevalent standard does not exist or has not been developed;

(k) That other circumstances exist in which Metro's interest in achieving economy, efficiency, compatibility or availability in the Procurement of the Goods or Services reasonably outweighs Metro's practical need for the highest standard prevalent in the applicable or closest industry or business that supplies the Goods or Services to be delivered under the resulting Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060, OL 2015, ch 325 (HB 2716)

47-0261 Multi-tiered and Multistep Proposals

(1) **Generally.** Metro may use one or more, or any combination, of the methods of contractor selection set forth in ORS 279B.060(7), 279B.060(8) and these Administrative Rules to procure Goods or Services. In addition to the procedures set forth in Administrative Rules 47-0300 through 47-0490 for methods of contractor selection, Metro may provide for a multi-tiered or multistep selection process that permits award to the highest ranked Proposer at any tier or step, calls for the establishment of a Competitive Range, or permits either serial or competitive simultaneous discussions or negotiations with one or more Proposers.

(2) Multi-tiered and multistep competitions may use any combination or series of Proposals, discussions, negotiations, demonstrations, offers, or other means of soliciting information from Proposers that bear on the selection of a Contractor or Contractors. In multi-tiered and multistep

competitions, Metro may use these means of soliciting information from prospective Proposers and Proposers in any sequence or order, as determined in the discretion of Metro, including, but not limited to, processes that embrace:

(a) The evaluation of Proposals only, including the evaluation of serial Proposals (a series of more than one Proposal from each Proposer that remains eligible in the competition at the particular tier of the competition);

(b) The use of Proposals in connection with discussions with Proposers that lead to best and final Offers;

(c) The use of Proposals in connection with serial negotiations with Proposers that lead to best and final Offers or to the award of a Contract;

(d) The use of Proposals in connection with competitive negotiations with Proposers that lead to best and final Offers or to the award of a Contracts; and

(e) The use of Proposals in multi-tiered competition designed to identify, at each stage of the competition, a class of Proposers that fall within a Competitive Range of Proposers that have a reasonable chance of being determined the most Advantageous Proposer or, in multiple-award situations, a reasonable chance of being determined an awardee of a Public Contract.

(3) When Metro's Request for Proposals prescribes a multi-tiered or multistep contractor selection process, Metro nevertheless may, at the completion of any stage in the competition and on determining the most Advantageous Proposer (or, in multiple-award situations, on determining the awardees of the Public Contracts), award a Contract (or Contracts) and conclude the Procurement without proceeding to subsequent stages. Metro also may, at any time, cancel the Procurement when the cancellation or rejection is in the best interest of Metro in accordance with ORS 279B.100.

(4) **Exclusion Protest.** Metro may provide, before the notice of intent to award, an opportunity for a Proposer to protest exclusion from the Competitive Range or from subsequent phases of multi-tiered or multistep competitive Proposals as set forth in Administrative Rule 47-0720.

(5) **Award Protest.** Metro shall provide an opportunity to protest its intent to award a Contract pursuant to ORS 279B.410 and Administrative Rule 47-0740. An Affected Offeror may protest, for any of the bases set forth in Administrative Rule 47-0720(2), its exclusion from the Competitive Range or from any phase of a multi-tiered or multistep competitive Proposal process, or may protest an Addenda issued following initial Closing, if Metro did not previously provide Proposers the opportunity to protest the exclusion or Addenda. The failure to protest will be considered the Proposer's failure to pursue an administrative remedy made available to the Proposer by Metro.

(6) **Competitive Range.** When Metro's Solicitation process conducted under ORS 279B.060(8) calls for Metro to establish a Competitive Range at any stage in the Procurement process, Metro may do so as follows:

(a) **Determining Competitive Range.**

A. Metro may establish a Competitive Range after evaluating all Responsive Proposals in accordance with the evaluation criteria in the Request for Proposals. After evaluation of all Proposals in accordance with the criteria in the Request for Proposals, Metro may determine and rank the Proposers in the Competitive Range. Notwithstanding the foregoing, however, in instances in which Metro determines that a single Proposer has a reasonable chance of being determined the most Advantageous Proposer, Metro need not determine or rank Proposers in the Competitive Range. In addition,

notwithstanding the foregoing, Metro may establish a Competitive Range of all Proposers to enter into discussions to correct deficiencies in Proposals.

B. Metro may establish the number of Proposers in the Competitive Range in light of whether Metro's evaluation of Proposals identifies a number of Proposers who have a reasonable chance of being determined the most Advantageous Proposer, or whether the evaluation establishes a natural break in the scores of Proposers that indicates that a particular number of Proposers are closely competitive or have a reasonable chance of being determined the most Advantageous Proposer.

(b) **Protesting Competitive Range.** Metro must provide Written notice to all Proposers identifying Proposers in the Competitive Range. Metro may provide an opportunity for Proposers excluded from the Competitive Range to protest Metro's evaluation and determination of the Competitive Range in accordance with Administrative Rule 47-0720.

(7) **Discussions.** Metro may initiate oral or Written discussions with all "eligible Proposers" on subject matter within the general scope of the Request for Proposals. In conducting discussions, Metro:

(a) Shall treat all eligible Proposers fairly and may not favor any eligible Proposer over another;

(b) May disclose other eligible Proposers' Proposals or discussions only in accordance with ORS 279B.060(8)(b) or (c);

(c) May adjust the evaluation of a Proposal as a result of discussions. The conditions, terms, or price of the Proposal may be changed during the course of the discussions provided the changes are within the scope of the Request for Proposals.

(d) At any time during the time allowed for discussions, Metro may:

A. Continue discussions with a particular eligible Proposer;

B. Terminate discussions with a particular eligible Proposer and continue discussions with other eligible Proposers; or

C. Conclude discussions with all remaining eligible Proposers and provide, to the then-eligible Proposers, notice requesting best and final Offers.

(8) **Negotiations.** Metro may commence serial negotiations with the highest-ranked eligible Proposer or commence simultaneous negotiations with all eligible Proposers. Metro may negotiate:

(a) The statement of work;

(b) The Contract Price as it is affected by negotiating the statement of work and other terms and conditions authorized for negotiation in the Request for Proposals or Addenda thereto; and

(c) Any other terms and conditions reasonably related to those authorized for negotiation in the Request for Proposals or Addenda thereto. Proposers may not submit for negotiation, and Metro may not accept, alternative terms and conditions that are not reasonably related to those authorized for negotiation in the Request for Proposals or any Addenda.

(9) **Terminating Negotiations.** At any time during discussions or negotiations Metro conducts under this Rule, Metro may terminate discussions or negotiations with the highest-ranked Proposer, or the eligible Proposer with whom it is currently discussing or negotiating, if Metro reasonably believes that:

(a) The eligible Proposer is not discussing or negotiating in good faith; or

(b) Further discussions or negotiations with the eligible Proposer will not result in the parties agreeing to the terms and conditions of a Contract in a timely manner.

(c) **Continuing Serial Negotiations.** If Metro is conducting serial negotiations and Metro terminates negotiations with an eligible Proposer, Metro may then commence negotiations with the next highest scoring eligible Proposer, and continue the sequential process until Metro has either:

A. Determined to award the Contract to the eligible Proposer with whom it is currently discussing or negotiating; or

B. Decided to cancel the Procurement under ORS 279B.100.

(d) **Competitive Simultaneous Negotiations.** If Metro chooses to conduct competitive negotiations, Metro may negotiate simultaneously with competing eligible Proposers. Metro:

A. Shall treat all eligible Proposers fairly and may not favor any eligible Proposer over another; and

B. May disclose other eligible Proposers' Proposals or the substance of negotiations with other eligible Proposers only if Metro notifies all of the eligible Proposers with whom Metro will engage in negotiations of Metro's intent to disclose before engaging in negotiations with any eligible Proposer.

(e) Any oral modification of a Proposal resulting from negotiations must be reduced to Writing.

(10) **Best and Final Offers.** If Metro requires best and final Offers, Metro must establish a common date and time by which eligible Proposers must submit best and final Offers. If Metro is dissatisfied with the best and final Offers, Metro may make a determination that it is in Metro's best interest to conduct additional discussions, negotiations or change Metro's requirements and require another submission of best and final Offers. Metro must inform all eligible Proposers that if they do not submit notice of withdrawal or another best and final Offer, their immediately previous Offers will be considered their best and final Offers. Metro shall evaluate Offers as modified by the best and final Offers. Metro shall conduct the evaluations as described in Administrative Rule 47-0600. Metro may not modify evaluation factors or their relative importance after the date and time that best and final Offers are due.

(11) **Multistep Competitive Proposals.** Metro may procure Goods or Services by using multistep competitive Proposals under ORS 279B.060(8)(b)(g). Multistep competitive Proposals is a phased Procurement process that seeks necessary information or unpriced technical Proposals in the first phase and, in the second phase, invites Proposers who submitted technically qualified Proposals to submit competitive price Proposals on the technical Proposals. Metro must award the Contract to the Responsible Proposer submitting the most Advantageous Proposal in accordance with the terms of the Solicitation Document applicable to the second phase.

(a) **Public Notice.** When Metro uses multistep competitive Proposals, Metro shall give public notice for the first phase in accordance with Administrative Rule 47-0300. Public notice is not required for the second phase. However, Metro shall give notice of the subsequent phases to all Proposers and inform any Proposers excluded from the second phase of the right, if any, to protest exclusion under Administrative Rule 47-0720.

(b) **Procedure for Phase One of Multistep competitive Proposals.** Metro may initiate a multistep competitive Proposals Procurement by issuing a Request for Proposals in the form and manner required for competitive Proposals except as provided in this Rule. In addition to the requirements required for competitive Proposals, the multistep Request for Proposals must state:

- A. That unpriced technical Proposals are requested;
- B. That the Solicitation is a multistep competitive Proposal Procurement and that, in the second phase, priced Proposals will be accepted only from those Proposers whose unpriced technical Proposals are found qualified in the first phase;
- C. The criteria for the evaluation of unpriced technical Proposals; and
- D. That the Goods or Services being procured must be furnished generally in accordance with the Proposer's technical Proposal as found to be finally qualified and must meet the requirements of the Request for Proposals.

(c) **Addenda to the Request for Proposals.** After receipt of unpriced technical Proposals, Addenda to the Request for Proposals must be distributed only to Proposers who submitted unpriced technical Proposals.

(d) **Receipt and Handling of Unpriced Technical Proposals.** Unpriced technical Proposals need not be opened publicly.

(e) **Evaluation of Unpriced Technical Proposals.** Unpriced technical Proposals will be evaluated solely in accordance with the criteria set forth in the Request for Proposals.

(f) **Discussion of Unpriced Technical Proposals.** Metro may seek clarification of a technical Proposal of any Proposer who submits a qualified, or potentially qualified technical Proposal. During the course of such discussions, Metro may not disclose any information derived from one unpriced technical Proposal to any other Proposer.

(g) **Methods of Contractor Selection for Phase One.** In conducting phase one, Metro may employ any combination of the methods of contractor selection that call for the establishment of a Competitive Range or include discussions, negotiations, or best and final Offers as set forth in this Rule.

(h) **Procedure for Subsequent Phases.** On the completion of phase one, Metro shall invite each qualified Proposer to submit price Proposals. Metro shall conduct phase two as any other competitive Proposal Procurement except as set forth in this Rule.

(i) No public notice need be given of the request to submit price Proposals because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

47-0265 Small Procurements

(1) **Generally.** For Procurements of Goods or Services less than or equal to \$25,000, Metro may award a Contract as a Small Procurement pursuant to ORS 279B.065 and in accordance with this Administrative Rule. State Code prohibits a Procurement from being artificially divided or fragmented so as to constitute a Small Procurement under this section.

(2) **Methods Available.** Metro may choose any method of selecting such Contractors, including, but not limited to, offering and directly awarding the Contract to only one firm or conducting a competition for the Contract. However, if the Goods or Services are available from a Qualified Nonprofit Agency for Individuals with Disabilities, they must be purchased as provided under Oregon law.

(3) **Amendments.** Metro may amend a Contract awarded as a Small Procurement in accordance with Administrative Rule 47-0800, but the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of \$25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

Stat. Auth.: ORS 279A.065 & ORS 279B.065

Stats. Implemented: ORS 279B.065

47-0270 Intermediate Procurements

(1) **Generally; Price Quotes or Intermediate Proposals.** For Procurements of Goods or Services greater than \$25,000 and less than or equal to \$250,000, pursuant to ORS 279B.070 Metro may award a Contract as an Intermediate Procurement after seeking three Written Intermediate Proposals or Price Quotes. Notwithstanding the foregoing, if the Goods or Services are available from a Qualified Nonprofit Agency for Individuals with Disabilities, they must be purchased as provided under Oregon law.

(a) State Code prohibits a Procurement from being artificially divided or fragmented so as to constitute a Intermediate Procurement under this section.

(b) The Intermediate Request for Proposal and the Request for Quotes are both Written solicitation processes. If three Written Price Quotes or Intermediate Proposals are not reasonably available or Metro concluded that a Written Intermediate solicitation process will not result in a robust, competitive procurement, Metro may proceed with an oral procurement method. Metro shall keep records of the sources of the Quotes or Intermediate Proposals received.

(c) Metro uses an Electronic Procurement System as a primary tool for contacting potential Contractors. In the event a potential contractor is not registered on Metro's Electronic Procurement System, Metro may email or otherwise directly distribute the Solicitation document to such potential contractor.

(2) **Negotiations.** Metro may negotiate with a prospective Contractor who offers to provide Goods or Services in response to an Intermediate Procurement to clarify its Price Quote or Intermediate Proposal or to effect modifications that will make the Offer more Advantageous to Metro.

(3) **Award.** If a Contract is to be awarded, Metro shall award the Contract to the responsive, Responsible Offeror who provides the lowest Price Quote, or if criteria other than price are to be considered, whose Intermediate Proposal is the highest scoring. Metro may consider other criteria, in addition to price, in making the award: experience, expertise, product functionality, suitability for a particular purpose, equity, sustainability, and Contractor Responsibility under ORS 279B.110. For Intermediate Request for Proposals, Metro may choose to establish an evaluation committee with various experts from within and outside Metro. For Intermediate Proposals there is no required minimum number of evaluators on the panel. The Procurement Officer must approve the composition of any evaluation committee.

(4) **Amendments.** Metro may amend a Contract awarded as an Intermediate Procurement in accordance with Administrative Rule 47-0800, but the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of \$250,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

(5) **BOLI Applicability.** For Intermediate Contracts for minor alterations, ordinary repair or maintenance necessary to preserve a public improvement, where applicable Metro shall comply with the prevailing wage provisions of ORS 279C.800 to 279C.870. For Intermediate Contracts that involve Public Works, as defined in ORS 279C.800, Metro shall provide notification of award to BOLI as required by ORS 279C.835.

Stat. Auth.: ORS 279A.065 & ORS 279B.070

Stats. Implemented: ORS 279B.070

47-0275 Sole-Source Procurements

(1) **Generally.** In accordance with ORS 279B.075, Metro may award a Contract without competition as a sole-source Procurement when it is determined that the Goods or Services, or class of Goods or Services, are available from only one source. Such determination must be made by the Procurement Officer for Procurements under \$250,000. For all other Procurements the determination must be made by the Metro Local Contract Review Board. The determination must be made based on Written findings that include, where applicable, findings:

(a) Based on a brief description of the Contract or Contracts to be covered including volume of contemplated future purchases;

(b) Based on a description of the Goods or Services to be purchased; That current market research supports the determination that the Goods or Services are available from only one seller or source;

(c) That the efficient utilization of existing Goods or Services requires the acquisition of compatible Goods or Services;

(d) That the Goods or Services required for the exchange of software or data with other public or private agencies are available from only one source;

(e) That the required product is data processing equipment which will be used for research where there are requirements for exchange of software and data with other research establishments;

(f) That the Goods or Services are for use in a pilot or an experimental project; or

(g) Other findings that support the conclusion that the Goods or Services are available from only one source.

(2) **Public Notice.** For sole-source Contracts in excess of \$50,000, Metro shall give public notice of its determination that the Goods or Services or class of Goods or Services are available from only one source. Such notice must be published in a manner similar to public notice of competitive Bids under ORS 279B.055(4) and Administrative Rule 47-0300. The public notice must describe the Goods or Services to be acquired by a sole-source Procurement, identify the prospective Contractor and include the date, time and place that protests are due. Metro shall give Affected Persons at least seven (7) Days

from the date of the notice of the determination that the Goods or Services are available from only one source to protest the sole source determination.

(3) **Protest.** An Affected Person may protest Metro's determination that the Goods or Services or class of Goods or Services are available from only one source in accordance with Administrative Rule 47-0710.

Stat. Auth.: ORS 279A.065 & ORS 279B.075

Stats. Implemented: ORS 279B.075

47-0280 Emergency Procurements

(1) Metro may award a Contract as an Emergency Procurement without the use of competitive Bidding or competitive Proposals when the requirements of ORS 279B.080 and this Administrative Rule are met.

(2) Metro shall document the nature of the Emergency and describe the method used for the selection of the particular Contractor. Metro shall encourage competition for Emergency Procurements to the extent reasonable under the circumstances.

(3) The authority to declare an Emergency and authorize an Emergency Procurement is as follows:

(a) The Procurement Officer or designee may declare the existence of an Emergency and authorize Metro or any of its departments to enter into an Emergency Procurement Contract under \$250,000.

(b) The director of a department may declare the existence of an Emergency and authorize that department to enter into an Emergency Procurement Contract under \$250,000 only if the Procurement Officer or person to whom the powers of the Procurement Officer have been delegated, is not available when the Procurement needs to be made.

(c) The Chief Operating Officer may declare the existence of an Emergency and authorize Emergency Procurement Contracts that exceed \$250,000.

(4) All documentation of Emergency Procurements must be sent to the Procurement Officer for record keeping purposes.

(5) After the award of an Emergency Procurement Contract, Metro shall execute a Written Contract with the Contractor as soon as possible, and in no event later than sixty (60) Days after the award.

(6) All Emergency Procurement Contracts, whether or not Signed by the Contractor, will be deemed to contain a termination for convenience clause permitting Metro to immediately terminate the Contract at its discretion and, unless the Contract was void, Metro shall pay the Contractor only for work performed prior to the date of termination plus the Contractor's unavoidable costs incurred as a result of the termination. In no event will Metro pay for anticipated lost profits or consequential damages as a result of the termination.

(7) In accordance with ORS 279B.080(2), for an Emergency Procurement of construction services that are not Public Improvements, Metro shall ensure competition for a Contract for the Emergency work that is reasonable and appropriate under the Emergency circumstances. In conducting the Procurement, Metro shall set a Solicitation time period that Metro determines to be reasonable under the Emergency circumstances and may issue Written or oral requests for Offers or make direct appointments without competition in case of extreme necessity.

47-0285 Special Procurements

(1) **Generally.** Metro may award a Contract as a Special Procurement pursuant to the requirements of this Administrative Rule and ORS 279B.085. Special Procurements allow Metro to enter into a series of Contracts over time pursuant to the authorization provided in regard to the Special Procurement and without necessarily following the requirements for Intermediate Procurement or formal competitive Bids or Proposals.

(2) As used in this Rule and Rules 47-0288, 47-0700 and 47-0730:

(a) “Special Procurement” means, unless the context requires otherwise, a Class Special Procurement, a Contract-Specific Special Procurement or both. A Special Procurement allows Metro to custom-design any contracting approach it determines will meet its procurement needs.

(b) “Class Special Procurement” means a contracting procedure that differs from the procedures described in these rules and is for the purpose of entering into a series of Contracts over time for the acquisition of a specified class of Goods or Services.

(c) “Contract-Specific Special Procurement” means a contracting procedure that differs from the procedures described in these rules and is for the purpose of entering into a single Contract or a number of related Contracts for the acquisition of specified Goods or Services on a one-time basis or for a single project.

(3) The Local Contract Review Board may approve a Special Procurement if it finds that the use of a Special Procurement complies with the requirements set forth in ORS 279B.085(4).

(4) **Public Notice.** Metro shall give public notice of the Local Contract Review Board's approval of a Special Procurement in the same manner as public notice of competitive Bids under ORS 279B.055(4) and Administrative Rule 47-0300. The public notice must describe the Goods or Services or class of Goods or Services to be acquired through the Special Procurement. Metro shall give Affected Persons at least seven (7) Days from the date of the notice of approval of the Special Procurement to protest the Special Procurement. When a Class Special Procurement has been approved, additional future procurements that fall within the class may be awarded according to the terms of the original Special Procurement, without a new request for, notice of, and approval of the Special Procurement.

(5) **Protest.** An Affected Person may protest the request for approval of a Special Procurement in accordance with ORS 279B.400 and Administrative Rule 47-0700.

47-0288 Special Procurements Authorized by Rule

The Local Contract Review Board declares the following as Class Special Procurements:

(1) **Manufacturer Direct Supplies.** Metro may purchase Goods directly from a manufacturer if the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributor(s).

- (2) **Advertisements.** Metro may directly purchase media advertising, including print (e.g. newspaper), broadcast (e.g. television, radio), display (e.g. billboard), internet (e.g. web based publications) and other electronic media formats.
- (3) **Intellectual Property (Periodicals, Books, Proprietary Software Licenses, Art, and Other Products of the Creative Process).** Metro may directly purchase intellectual property (including, but not be limited to, periodicals, books, proprietary software licenses, reference materials, audio and visual media, and other products of the creative process) when the product is protected under intellectual property law (e.g. copyright, patent). If there is more than one source of the intellectual property, and the product is not being purchased directly from the creator or other original source, every attempt should be made to establish a competitive selection process to achieve the greatest economy.
- (4) **Financial Products.** Metro may directly purchase financial products such as bond insurance, surety bonds for Metro bond reserves and liquidity facilities such as letters of lines of credit. Metro may pay fees associated with such transactions, including, but not limited to, registrar, paying agent, and escrow agent fees and fees associated with outstanding debt issues.
- (5) **Employee Benefits Contracts.** Metro may purchase employee benefit insurance, and other taxable employee benefits, without a competitive Solicitation process, regardless of dollar amount.
- (6) **Insurance Contracts.** Contracts for insurance may be awarded directly to an insurer after Metro obtains Proposals from an insurance consultant. The insurance consultant will be selected in accordance with the applicable procedures set forth in the Personal Services Contracting Rules. Among the services to be provided by the consultant is the securing of competitive Proposals from insurance carriers for all coverages for which the insurance consultant is given responsibility and advice to Metro about the costs and benefits of the various Proposals. Metro may then negotiate or enter into the insurance Contract that appears most Advantageous to Metro without advertisement or issuance of its own Request for Proposals.
- (7) **Used Personal Property or Equipment.** Metro may directly purchase used personal property and equipment. Used property and used equipment is property or equipment that has been placed in use by a previous owner or user for a period of time, and which is recognized in the relevant trade or industry, if there is one, as qualifying the personal property or equipment as “used”.
- (8) **Hazardous Material Removal and Oil Clean-up.** Metro may enter into a Public Contract without competitive Solicitation when ordered to clean up oil or other hazardous waste pursuant to the authority granted the Oregon Department of Environmental Quality under ORS Chapter 466, and such DEQ order necessitates the prompt establishment and performance of the Contract in order to comply with the statutes regarding spill or release of oil or hazardous materials. Metro shall not contract pursuant to this section in the absence of an order from DEQ to clean up a site with a time limitation that would not permit hiring a Contractor under the usual, required Procurement processes.
- (9) **Rating Agency Contracts.** Metro may purchase the services of Moody’s Investors Service, Standard and Poor’s, or similar rating agencies without competitive Solicitation.
- (10) **Information Technology (Software and Hardware Maintenance, Licenses, Subscriptions and Upgrades).** Metro may directly enter into a Contract or renew existing Contracts for information technology (including hardware or software maintenance, licenses, subscriptions, and upgrades) where the maintenance, upgrades, subscriptions and licenses are either available from only one source or, if available from more than one source, are obtained from Metro’s current provider in order to utilize the pre-existing knowledge of the provider regarding the specifics of Metro’s information technology system. Metro shall document in the Procurement file the facts that justify either that maintenance,

license(s), subscriptions and upgrades were available from only one source or, if from more than one source, that obtaining such Goods and Services from the current vendor is most Advantageous to Metro.

(11) **Equipment Maintenance, Repair and Overhaul.** Metro may directly award a Contract for equipment maintenance, repair and/or overhaul if:

(a) Service and/or parts required are unknown, and the cost cannot be determined without extensive preliminary dismantling or testing;

(b) Service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; or

(c) Services and/or parts must be acquired from the provider of the equipment and/or software being maintained in order to be compatible, preserve warranties, provide the best possible service, or conform to other similar agreements being provided by the same provider for maximizing economy and/or servicing functions.

(12) **Price-regulated Goods and Services, utilities and utility related services.** Metro may directly purchase, without a competitive Solicitation process, goods, services, repair, equipment and/or maintenance work, where the rate or price for such Goods and Services is established by federal, state, or local regulatory authority or when the Services can be provided only by a specific utility.

(13) **Goods, Services or Equipment Required by a Federal or State Grant Agreement.** Metro may directly purchase, without a competitive Solicitation process, Goods, Services or equipment when they are required in the federal or state grant agreement to be purchased from a specific source or when a specific brand name is required and no competition is otherwise available.

(14) **Membership Dues.** Metro may directly purchase, without a competitive Solicitation process, dues or memberships in professional or community organizations for the benefit of Metro.

(15) **Services Related to Legal Advice.** Metro may directly enter into a Contract, without a competitive Solicitation process, Services related to the provision of legal advice to Metro.

(16) **Seminar, Training Registration and Conference Fees.** Metro may directly purchase, without a competitive Solicitation process, seminar registrations and training session fees for attendance at seminars, conferences and training courses hosted by outside entities.

(17) **Event Sponsorship Agreements.** Metro may directly pay to sponsor an event, whether or not Metro receives Goods or Services in return for its payment.

(18) **Sponsorship Agreements.** Sponsorship Agreements, under which Metro receives a gift or donation in exchange for recognition of the donor, may be awarded in any manner which Metro deems appropriate to meet its needs, including by direct award.

(19) **Contractor Provided Funding.** Metro may directly award contracts for Goods or Services to a Contractor who provides substantial materials or a substantial portion of the funding for a project.

(20) **Maintenance and Training Services from the Contractor Supplying Goods.** Metro may directly purchase, without a competitive Solicitation process, maintenance or training services directly from a Contractor from whom Metro has previously acquired Goods and the services or training is directly related to such Goods.

(21) **Nonprofit Partnerships.** Metro may directly award Contracts for Goods and Services when the Contractor is a not-for-profit organization and where both parties share in the decision making process work together to define a scope of work, contribute resources, share responsibilities, and accept risk and benefits according to a mutually agreed upon arrangement.

(22) **Zoos and Animal Conservation Organizations.** Metro may directly award Contracts for Goods and Services when the contractor is (a) a not-for-profit entity and (b) a zoo or other organization dedicated to the study, conservation, or care of zoo animals.

(23) **Concession Services Agreements.**

(a) **Small Concessions.** Small Concessions are Concession Services Agreements to sell or promote food, beverages, merchandise or Services, including but not limited to performances and entertainment, to the public for which the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less. Small Concessions shall be awarded based on any method determined by Metro to provide an opportunity to all persons desiring to operate a concession, including without limitation, by direct award, private negotiation, or using a competitive process.

(b) **Major Concessions.** Major Concessions are Concessions Services Agreements to sell or promote food, beverages, merchandise or Services, including but not limited to performances and entertainment, to the public for which the concessionaire's projected annual gross revenues under the Contract are estimated to exceed \$500,000 annually. Major Concessions shall be awarded using a Request for Proposals under these Rules.

(24) **Animals and Animal Transportation.** Contracts for the acquisition or transport of animals may be awarded in any manner which Metro deems appropriate to meet Metro's needs, including by direct award.

(25) **Perishables (e.g. Medication, Food, Plants, Chemicals and Laboratory Supplies).** Metro may directly purchase, without a competitive Solicitation process, perishables, including (without limitation) animal medication, animal food, human food, plants, chemicals and laboratory supplies upon the department's determination that the quality of the desired perishable item is of greater importance than the cost. However if longevity is not an issue and multiple sources exist, standard Procurement practices shall be utilized to the extent possible.

(26) **Items for Resale.** Metro may directly purchase, without a competitive Solicitation process, Goods and Services being purchased for resale (including, without limitation, Zoo gift shop retail inventory and food for resale). This Special Procurement category applies to Goods and Services that are specifically for resale as opposed to internal use or consumption.

(27) **Third Party Payroll Services.** Metro may directly contract for third party payroll services including, but not limited to, timekeeping and payroll services, unemployment coverage, workers compensation coverage, payment of health care contributions, retirement contributions and other related services.

Procurement Process

47-0300 Public Notice of Solicitation Documents for Formal Procurements

(1) **Notice of Solicitation Documents.** Metro shall provide public notice of every formal Solicitation in accordance with subsection (2) of this Rule. Metro may give additional notice using any method it determines appropriate to foster and promote competition, including:

(a) Mailing or emailing notice of the availability of the Solicitation Document to Persons that have expressed an interest in Metro's Procurements;

(b) Publishing the advertisement for Offers in newspapers or other publications of general circulation in the area where the Contract is to be performed and in as many additional issues and publications as Metro may determine; or

(c) **Placing Notice on Metro's Internet Web site.**

(2) **Required Advertising.** Metro shall advertise every notice of a formal Solicitation as follows:

(a) Metro shall publish the advertisement for formal Offers in accordance with the requirements of ORS 279B.055(4)(a) and (b) and ORS 279B.060(5); or

(b) Because Metro finds that it would be cost effective to Electronically post notice of Solicitations, Metro will publish advertisements for formal Offers on Electronic Procurement System.

(3) **Content of Advertisement.** All advertisements for formal Offers must set forth:

(a) Where, when, how, and for how long the Solicitation Document may be obtained;

(b) A general description of the Goods or Services to be acquired;

(c) The interval between the first date of notice of the Solicitation Document given in accordance with subsection (2) above and Closing, which may not be less than fourteen (14) Days for an Invitation to Bid and twenty-one (21) Days for a Request for Proposals, unless Metro determines that a shorter interval is in the public's interest, and that a shorter interval will not substantially affect competition. However, in no event may the interval between the first date of notice of the Solicitation Document given in accordance with subsection (2) above and Closing be less than seven (7) Days as set forth in ORS 279B.055(4)(f). Metro shall document the specific reasons for the shorter public notice period in the Procurement file;

(d) The date that Persons must file applications for prequalification if prequalification is a requirement and the class of Goods or Services is one for which Persons must be prequalified;

(e) The office where Contract terms, conditions and Specifications may be reviewed;

(f) The name, title and address of the individual authorized by Metro to receive Offers;

(g) For formal ITB's, the scheduled Opening; and

(h) Any other information Metro deems appropriate.

(4) **Fees.** Metro may charge a fee or require a deposit for the Solicitation Document.

(5) **Notice of Addenda.** Metro shall provide potential Offerors notice of any Addenda to a Solicitation Document in accordance with Administrative Rule 47-0430.

Stat. Auth.: ORS 279A.065, ORS 279B.055 & ORS 279B.060

Stats. Implemented: ORS 279B.055 & ORS 279B.060

47-0310 Bids and Proposals are Offers

(1) **Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's Offer to enter into a Contract.

(a) In competitive Bids and competitive Proposals, the Offer is always a "Firm Offer," i.e. the Offer shall be held open by the Offeror for Metro's acceptance for the period specified in Administrative Rule 47-0480. Metro may elect to accept the Offer at any time during the specified period, and Metro's award of the Contract constitutes acceptance of the Offer and binds the Offeror to the Contract.

(b) Notwithstanding the fact that a competitive Proposal is a "Firm Offer" for the period specified in Administrative Rule 47-0480, Metro may elect to discuss or negotiate certain contractual provisions, as identified in these rules or in the Solicitation Document, with the Proposer. Where negotiation is permitted by the rules or the Solicitation Document, Proposers are obligated to negotiate in good faith and only on those terms or conditions that the rules or the Solicitation Document have reserved for negotiation.

(2) **Contingent Offers.** Except to the extent the Proposer is authorized to propose certain terms and conditions pursuant to Administrative Rule 47-0261, a Proposer may not make its Offer contingent upon Metro's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.

(3) **Offeror's Acknowledgment.** By Signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits Proposers to propose alternative terms or conditions under Administrative Rule 47-0261, the Offeror's Offer is deemed to have accepted (i) any nonnegotiable terms and conditions and (ii) any proposed terms and conditions offered for negotiation upon and to the extent accepted by Metro in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, ORS 279B.055 & ORS 279B.60

47-0330 Electronic Procurement

(1) **Electronic Procurement Authorized.** Metro may conduct all phases of a Procurement, including without limitation the posting of Electronic Advertisements and the receipt of Electronic Offers, by Electronic methods if and to the extent Metro specifies in a Solicitation Document, a Request for Quotes, or any other Written instructions on how to participate in the Procurement.

(2) Metro shall open an Electronic Offer in accordance with Electronic security measures in effect at Metro at the time of its receipt of the Electronic Offer. Unless Metro provides procedures for the secure receipt of Electronic Offers, the Person submitting the Electronic Offer assumes the risk of premature disclosure due to submission in unsealed form.

(3) Metro's use of Electronic Signatures must be consistent with applicable statutes and rules. Metro may limit the use of Electronic methods of conducting a Procurement as Advantageous to Metro.

(4) If Metro determines that Bid or Proposal security is or will be required, Metro should not authorize Electronic Offers unless Metro has another method for receipt of such security.

(5) **Rules Governing Electronic Procurements.** Metro shall conduct all portions of an Electronic Procurement in accordance with these Division 47 Administrative rules, unless otherwise set forth in this Rule.

(6) **Preliminary Matters.** As a condition of participation in an Electronic Procurement Metro may require potential Contractors to register with Metro before the date and time on which Metro will first accept Offers, to agree to the terms, conditions, or other requirements of a Solicitation Document, or to agree to terms and conditions governing the Procurement, such as procedures that Metro may use to attribute, authenticate or verify the accuracy of an Electronic Offer, or the actions that constitute an Electronic Signature.

(7) **Offer Process.** Metro may specify that Persons must submit an Electronic Offer by a particular date and time, or that Persons may submit multiple Electronic Offers during a period of time established in the Electronic Advertisement. When Metro specifies that Persons may submit multiple Electronic Offers during a specified period of time, Metro must designate a time and date on which Persons may begin to submit Electronic Offers, and a time and date after which Persons may no longer submit Electronic Offers. The date and time after which Persons may no longer submit Electronic Offers need not be specified by a particular date and time, but may be specified by a description of the conditions that, when they occur, will establish the date and time after which Persons may no longer submit Electronic Offers. When Metro will accept Electronic Offers for a period of time, then at the designated date and time that Metro will first receive Electronic Offers, Metro must begin to accept real time Electronic Offers on Metro's Electronic Procurement System, and must continue to accept Electronic Offers in accordance with section (8)(b) of this Rule until the date and time specified by Metro, after which Metro will no longer accept Electronic Offers.

(8) **Receipt of Electronic Offers.**

(a) When Metro conducts an Electronic Procurement that provides that all Electronic Offers must be submitted by a particular date and time, Metro shall receive the Electronic Offers in accordance with these Administrative Rules.

(b) When Metro specifies that Persons may submit multiple Electronic Offers during a period of time, Metro shall accept Electronic Offers, and Persons may submit Electronic Offers, in accordance with the following:

A. Following receipt of the first Electronic Offer after the day and time Metro first receives Electronic Offers Metro shall post on Metro's Electronic Procurement System, and updated on a real time basis, the lowest Electronic Offer price or the highest ranking Electronic Offer. At any time before the date and time after which Metro will no longer receive Electronic Offers, a Person may revise its Electronic Offer, except that a Person may not lower its price unless that price is below the then lowest Electronic Offer.

B. A Person may not increase the price set forth in an Electronic Offer after the day and time that Metro first accepts Electronic Offers.

C. A Person may withdraw an Electronic Offer only in compliance with these Administrative Rules.

(9) **Failure of the E-Procurement System.** In the event of a failure of Metro's Electronic Procurement System that interferes with the ability of Persons to submit Electronic Offers, protest or to otherwise participate in the Procurement, Metro may cancel the Procurement in accordance with Administrative Rule 47-0660, or may extend the date and time for receipt of Electronic Offers by providing notice of the extension immediately after the Electronic Procurement System becomes available.

Stat. Auth.: ORS 279A.065 & ORS 279B.055

Stats. Implemented: ORS 279A.065

Bid and Proposal Preparation

47-0400 Offer Preparation

(1) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the instructions set forth in the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its

Offer prior to Closing in accordance with the requirements for submitting an Offer set forth in the Solicitation Document.

(2) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.

(3) **Documents.** An Offeror shall provide Metro with all documents and Descriptive Literature required by the Solicitation Document. If the Solicitation Document instructs Offerors not to include documents or literature, such as warranty provisions, Metro is entitled to disregard those documents in determining whether the Offer is responsive to Metro's request.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

47-0410 Offer Submission

(1) **Product Samples and Descriptive Literature.** Metro may require Product Samples or Descriptive Literature if Metro determines either is necessary or desirable to evaluate the quality, features or characteristics of an Offer. Metro will dispose of Product Samples, or make them available for the Offeror to retrieve in accordance with the Solicitation Document.

(2) **Identification of Offers.**

(a) To ensure proper identification and handling, Offers must be submitted in a sealed envelope appropriately marked or in the envelope provided by Metro, whichever is applicable. If Metro permits Electronic Offers in the Solicitation Document, the Offeror may submit and identify Electronic Offers in accordance with these Administrative Rules and the instructions set forth in the Solicitation Document.

(b) Metro is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(3) **Receipt of Offers.** The Offeror is responsible for ensuring Metro receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer. Offers not so received are late as provided in Administrative Rule 47-0460 and must be returned unopened.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

47-0420 Pre-Offer Conferences

(1) **Purpose.** Metro may hold pre-Offer conferences with prospective Offerors prior to Closing, to explain the Procurement requirements, obtain information, or to conduct site inspections.

(2) **Required Attendance.** Metro may require attendance at the pre-Offer conference as a condition for making an Offer.

(3) **Scheduled Time.** If Metro holds a pre-Offer conference, it must be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by Metro's representative at the pre-Offer conference do not change the Solicitation Document unless Metro confirms such statements with a Written Addenda to the Solicitation Document.

(5) **Agency Announcement.** Metro must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Administrative Rule 47-0255(2) or 47-0260(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

47-0430 Addenda to Solicitation Document

(1) **Issuance; Receipt.** Metro may change a Solicitation Document only by Written Addenda. An Offeror shall provide Written acknowledgment of receipt of all issued Addenda with its Offer, unless Metro otherwise specifies in the Addenda.

(2) **Notice and Distribution.** Metro may notify prospective Offerors of Addenda in a manner intended to foster competition and to make prospective Offerors aware of the Addenda. The Solicitation Document must specify how Metro will provide notice of Addenda and how Metro will make the Addenda available before Closing, and at each subsequent step or tier of evaluation if Metro will engage in a multistep competitive Bidding process in accordance with Administrative Rule 47-0257, or a multi-tiered or multistep competitive Proposal process in accordance with Administrative Rule 47-0261.

(3) **Timelines; Extensions.**

(a) Metro shall issue Addenda within a reasonable time to allow prospective Offerors to consider the Addenda in preparing their Offers. Metro may extend the Closing if Metro determines prospective Offerors need additional time to review and respond to Addenda. Except to the extent justified by a countervailing public interest, Metro may not issue Addenda related to an Invitation to Bid or a Request for Proposal less than 72 hours before the Closing unless the Addenda also extends the Closing.

(b) Notwithstanding subsection (3)(a) of this Rule, Addenda that modifies the evaluation criteria, selection process or procedure for any tier of competition under a multistep competitive Bid or a multi-tiered or multistep competitive Proposal issued in accordance with ORS 279B.060(6)(d) and Administrative Rule 47-0261 must be issued no fewer than five (5) Days before the beginning of that tier or step of competition, unless Metro determines that a shorter period is sufficient to allow Offerors to prepare for that tier or step of competition. Metro shall document the factors it considered in making that determination, which may include, without limitation, the scope of the changes to the Solicitation Document, the location of the remaining eligible Proposers, or whether shortening the period between issuing an Addenda and the beginning of the next tier or step of competition favors or disfavors any particular Proposer or Proposers.

(4) **Request for Change or Protest.** Unless a different deadline is set forth in the Addenda, an Offeror may submit a Written request for change or protest to the Addenda, as provided in Administrative Rule 47-0730, by the close of Metro's next business day after issuance of the Addenda, or up to the last day allowed to submit a request for change or protest under Administrative Rule 47-0730, whichever date is later. If the date established in the previous sentence falls after the deadline for receiving protests to the Solicitation Document in accordance with Administrative Rule 47-0730, then Metro may consider an Offeror's request for change or protest to the Addenda only, and Metro may not consider a request for change or protest to matters not added or modified by the Addenda. Notwithstanding any provision of this section (4), Metro is not required to provide a protest period for Addenda issued after initial Closing during a multi-tier or multistep Procurement process conducted pursuant to ORS 279B.055 or ORS 279B.060.

Stat. Auth.: ORS 279A.065 & ORS 279B.060

Stats. Implemented: ORS 279B.060

47-0440 Pre-Closing Modification or Withdrawal of Offers

(1) **Modifications.** An Offeror may modify its Offer in Writing prior to the Closing. An Offeror must prepare and submit any modification to its Offer to Metro in accordance with Administrative Rule 47-0400 and 47-0410, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror must mark the submitted modification as follows:

- (a) Bid (or Proposal) Modification; and
- (b) Solicitation number (or other identification as specified in the Solicitation Document).

(2) **Withdrawals.**

(a) An Offeror may withdraw its Offer by Written notice submitted on the Offeror's letterhead, Signed by an authorized representative of the Offeror, delivered to the individual and location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by Metro prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in person prior to the Closing, upon presentation of appropriate identification and evidence of authority satisfactory to Metro.

(b) Metro may release an unopened Offer withdrawn under subsection (2)(a) of this Rule to the Offeror or its authorized representative, after voiding any date and time stamp mark.

(c) The Offeror must mark the Written request to withdraw an Offer as follows:

- A. Bid (or Proposal) Withdrawal; and
- B. Solicitation number (or other identification as specified in the Solicitation Document).

(3) **Documentation.** Metro shall include all documents relating to the modification or withdrawal of Offers in the appropriate Procurement file.

Stat. Auth.: ORS 279A.065 & ORS 279B.055
Stats. Implemented: ORS 279B.055

47-0450 Receipt, Opening, and Recording of Bids and Proposals; Confidentiality of Formal Offers

(1) **Receipt.** Metro must electronically or mechanically time-stamp or hand-mark each Bid or Proposal and any modification upon receipt. Metro may not open Bids or Proposals or modifications upon receipt, but shall maintain it as confidential and secure until Opening. If Metro inadvertently opens an Offer or a modification prior to the Opening, Metro is required return the Offer or modification to its secure and confidential state until Opening. Metro shall document the resealing for the Procurement file (e.g. "Metro inadvertently opened the Bid due to improper identification").

(2) **Opening and Recording of Bids.** Metro shall publicly open Bids, including any modifications made pursuant to Administrative Rule 47-0440(1). To the extent practicable, Metro will read aloud the name of each Bidder, and such other information as Metro considers appropriate. However, Metro may withhold from disclosure information in accordance with ORS 279B.055(5)(c) and ORS 279B.060(6). In the case of voluminous Bids, Metro may elect not to read Offers aloud and will only disclose the name of each Bidder.

(3) **Availability.** After Opening, Offers will be available for public inspection except for those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with applicable law. See ORS 192.345(2); ORS 646.461 to 646.475.

(a) To the extent such designation is not in accordance with applicable law, Metro will make those portions available for public inspection. The Offeror must separate information designated as confidential from other non-confidential information at the time of submitting its Offer.

(b) Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and will be publicly available regardless of an Offeror's designation to the contrary. Metro may determine the appropriate charge to be paid for copies made pursuant to public records requests and may request payment for such copies before they are released.

(c) Notwithstanding anything contrary above, Metro is not required to disclose the contents of Proposals until after Metro posts a notice of intent to award pursuant to Administrative Rule 47-0610.

Stat. Auth.: ORS 279A.065 & ORS 279B.055
Stats. Implemented: ORS 279B.055

47-0460 Late Offers, Late Withdrawals and Late Modifications

(1) **Any Offer received after Closing is late.** An Offeror's request for withdrawal or modification of an Offer received after Closing is late. Metro may not consider late Offers, withdrawals or modifications except as permitted in Administrative Rule 47-0470 or 47-0261.

(2) For manual submissions of Offers, the Metro Regional Center reception desk time clock will be the clock of record and the date and time imprint of that clock on an Offer will determine the timeliness of the submission. Late manual submissions must be returned to the Offeror unopened with a copy of the envelope containing the Metro's time stamp on the Offer retained for the Procurement file.

(3) For Electronic submissions, when permitted, the time shown by Metro as to the date of arrival of the Electronic submission will determine the timeliness of the submission. Late Electronic submissions will be deleted from Metro's files, returned Electronically to the Offeror and the time of the submission and the time of return must be documented in the Procurement file.

(4) Failure to properly return or dispose of a late submission does not mean an Offer or submission arrived on time.

Stat. Auth.: ORS 279A.065 & ORS 279B.055
Stats. Implemented: ORS 279B.055

47-0470 Mistakes

(1) **Generally.** To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, Metro should carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) **Treatment of Mistakes.** Metro may not allow an Offeror to correct or withdraw an Offer for an error in judgment. If Metro discovers certain mistakes in an Offer after Closing, but before award of the Contract, Metro may take the following action:

(a) Metro may waive, or permit an Offeror to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

A. Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

B. Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

C. Acknowledge receipt of an Addenda to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addenda and intended to be bound by its terms; or the Addenda involved did not affect price, quality or delivery.

(b) Metro may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms Metro's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example, a missing unit price may be established by dividing the total price for the units by the quantity of units for that item, or a missing or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). Unit prices will prevail over extended prices in the event of a discrepancy between extended prices and unit prices.

(c) Metro may permit an Offeror to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

A. The nature of the error;

B. That the error is not a minor informality under this subsection or an error in judgment;

C. That the error cannot be corrected or waived under subsection (b) of this section;

D. That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;

E. That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;

F. That the Offeror will suffer substantial detriment if Metro does not grant the Offeror permission to withdraw the Offer;

G. That Metro's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on Metro or the public it represents; and

H. That the Offeror promptly gave notice of the claimed error to Metro.

(d) The criteria in subsection (2)(c) of this Rule will determine whether Metro will permit an Offeror to withdraw its Offer after Closing. These criteria also will apply to the question of whether Metro will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to Metro based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by Metro, whether by award to the next lowest Responsive and Responsible Bidder or the most Advantageous Responsive and Responsible Proposer, or by resort to a new Solicitation.

(3) **Rejection for Mistakes.** Metro shall reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(4) **Identification of Mistakes after award.** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract entered into pursuant to these Administrative Rules only to the extent permitted by applicable law.

(5) **Written Determination.** All decisions to permit the correction or withdrawal of Offers, or to cancel an award or a Contract based on mistakes, must be supported by a Written determination by Metro that states the reasons for the action taken.

Stat. Auth.: ORS 279A.065 & ORS 279B.055
Stats. Implemented: ORS 279B.055

47-0480 Time for Acceptance

A Bid or Proposal is a Firm Offer, irrevocable, valid and binding on the Offeror for not less than thirty (30) Days following Closing, unless otherwise specified in the Solicitation Document.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065

47-0490 Extension of Time for Acceptance of Offer

Metro may request, orally or in Writing, that Offerors extend, in Writing, the time during which Metro may consider their Offer(s). If an Offeror agrees to such extension, the Bid or Proposal will continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period. An extension may occur after the expiration of the initial Offer period.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065

Qualifications and Duties

47-0500 Responsibility of Bidders and Proposers

(1) Before awarding a Contract Metro shall determine that the Bidder submitting the lowest Bid or Proposer submitting the most Advantageous Proposal is Responsible. Metro shall use the standards set forth in ORS 279B.110 and Administrative Rule 47-0640(1)(c)(F) to determine if a Bidder or Proposer is Responsible. In the event Metro determines a Bidder or Proposer is not Responsible it shall prepare a Written determination of non-Responsibility as required by ORS 279B.110 and reject the Offer.

(2) For purposes of this Rule, Metro may investigate any Person submitting an Offer. The investigation may include that Person's officers, directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this Rule or to apply the debarment provisions of ORS 279B.130.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279B.110

47-0525 Qualified Products Lists

Metro may develop and maintain a qualified products list pursuant to ORS 279B.115.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.115

47-0550 Prequalification of Prospective Offerors; Pre-negotiation of Contract Terms and Conditions

(1) Metro may prequalify prospective Offerors to submit Bids or Proposals for Public Contracts to provide particular types of Goods or Services pursuant to ORS 279B.120 and ORS 279B.125.

(2) When Metro permits or requires prequalification of Offerors, Metro shall prepare a prequalification application setting forth the criteria and qualifications for prequalification. Upon receipt of a prequalification application, Metro shall investigate the prospective Offeror as necessary to determine whether the prospective Offeror is qualified. The determination must be made in less than thirty (30) Days, if practicable, if the prospective Offeror requests an early decision to allow the prospective Offeror as much time as possible to prepare a Offer for a Contract that has been advertised. In making its determination, Metro shall consider only the applicable standards of Responsibility listed in Administrative Rule 47-0640(1)(c)(F). Metro shall promptly notify the prospective Offeror whether the prospective Offeror is qualified.

(3) Notwithstanding the prohibition against revocation of prequalification in ORS 279B.120(3), Metro may determine that a prequalified Offeror is not Responsible prior to Contract award.

(4) Metro may pre-negotiate some or all Contract terms and conditions including prospective Proposer Contract forms such as license agreements, maintenance and support agreements or similar documents for use in future Procurements. Such pre-negotiation of Contract terms and conditions (including prospective Proposer forms) may be part of the prequalification process of a Proposer in section (1) or the pre-negotiation may be a separate process and not part of a prequalification process. Unless required as part of the prequalification process, the failure of Metro and the prospective Proposer to reach agreement on pre-negotiated Contract terms and conditions does not prohibit the prospective Proposer from responding to Procurements. Metro may agree to different pre-negotiated Contract terms and conditions with different prospective Proposers. When Metro has pre-negotiated different terms and conditions with Proposers or when permitted, Proposers offer different terms and conditions, Metro may consider the terms and conditions in the Proposal evaluation process.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.015, ORS 279B.120

47-0575 Debarment of Prospective Offerors

(1) **Generally.** Metro may debar prospective Offerors from consideration for Metro Contracts for a period up to three years for the reasons listed in ORS 279A.110 or ORS 279B.130(2). Metro shall comply with the notice and hearing provisions after providing notice and the opportunity for hearing as set forth in this Rule and ORS 279B.130.

(2) **Notice of Intent to Debar.** Metro may notify the Person in Writing of a proposed debarment personally or by registered or certified mail, return receipt requested. This notice must:

- (a) State that Metro intends to debar the Person;
- (b) Set forth the reasons for the debarment;

(c) Include a statement that the Person has a right to appeal the notice of intent to debar and have a hearing in accordance with Administrative Rule 47-0760 and a statement of the time within which an appeal must be filed;

(d) Include a reference to the particular sections of the statutes and rules involved;

(e) State that the Person may be represented by legal counsel at the hearing.

(3) **Appeal and Hearing.** Appeal of the notice and hearing on the appeal must be in accordance with the provisions of Administrative Rule 47-0760.

(4) **Responsibility.** Notwithstanding the limitation on the term for debarment in ORS 279B.130(1)(b), Metro may determine that a previously debarred Offeror is not Responsible prior to Contract award.

(5) **Imputed Knowledge.** Metro may attribute improper conduct of a Person or its affiliate or affiliates having a contract with a prospective Offeror to the prospective Offeror for purposes of debarment where the impropriety occurred in connection with the Person's duty for or on behalf of, or with the knowledge, approval, or acquiescence of, the prospective Offeror.

(6) **Limited Participation.** Metro may allow a debarred Person to participate in Solicitations and Contracts on a limited basis during the debarment period upon Written determination that participation is Advantageous to Metro. The determination must specify the factors on which it is based and define the extent of the limits imposed.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.130

Offer Evaluation and Award

47-0600 Offer Evaluation and award

(1) **Evaluation.** Metro shall evaluate Offers only as set forth in the Solicitation Document, pursuant to ORS 279B.055(6)(a) and ORS 279B.060(6)(b), and in accordance with applicable law. Metro may not evaluate Offers using any other requirement or criterion.

(a) **Evaluation of Bids; Preferences.**

A. **Nonresident Bidders.** In determining the lowest Responsive Bid, Metro shall apply the reciprocal preference set forth in ORS 279A.120(2)(b) and Administrative Rule 46-0310 for Nonresident Bidders.

B. **Public Printing.** Metro shall, for the purpose of evaluating Bids, apply the public printing preference set forth in ORS 282.210.

C. **Award When Bids are Identical.** If Metro determines that two or more Bids are identical under Administrative Rule 46-0300, Metro shall award a Contract in accordance with the procedures set forth in Administrative Rule 46-0300.

(b) Evaluation of Proposals.

A. **Award When Proposals are Identical.** If Metro determines that two or more Proposals are identical under Administrative Rule 46-0300, Metro shall award a Contract in accordance with the procedures set forth in Administrative Rule 46-0300.

B. **Public Printing.** Metro shall for the purpose of evaluating Proposals apply the public printing preference set forth in ORS 282.210.

(c) **Recycled Materials.** When procuring Goods, Metro shall give preference for recycled materials as set forth in ORS 279A.125 and Administrative Rule 46-0320.

(2) Clarification of Bids or Proposals. After Opening, Metro may conduct discussions with apparent Responsive Offerors for the purpose of clarification to assure full understanding of the Bids or Proposals. All Bids or Proposals, in Metro's sole discretion, needing clarification must be accorded such an opportunity. Metro shall document clarification of any Offer in the Procurement file.

(3) Negotiations.

(a) **Bids.** Metro may not negotiate with any Bidder. After award of the Contract Metro and Contractor may only modify the Contract in accordance with Administrative Rule 47-0800.

(b) **Proposals.** Metro may conduct discussions or negotiate with Proposers only in accordance with ORS 279B.060(6)(b) and Administrative Rule 47-0261. After award of the Contract, Metro and Contractor may only modify the Contract in accordance with Administrative Rule 47-0800.

(4) Award.

(a) **General.** If awarded, Metro shall award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer submitting the most Advantageous, Responsive Proposal. Metro may award by item, groups of items or the entire Offer provided such award is consistent with the Solicitation Document and in the public interest.

(b) **Multiple Items.** An Invitation to Bid or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, a "market basket" of items representative of Metro's expected purchases, or grand total of all items.

(c) Multiple Awards -- Bids.

A. Notwithstanding subsection (4)(a) of this Rule, Metro may award multiple Contracts under an Invitation to Bid in accordance with the criteria set forth in the Invitation to Bid. A multiple award may be made if award to two or more Bidders of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility and skills. A notice to prospective Bidders that multiple Contracts may be awarded for any Invitation to Bid may not preclude Metro from awarding a single Contract for such Invitation to Bid.

B. If an Invitation to Bid permits the award of multiple Contracts, Metro shall specify in the Invitation to Bid the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services.

(d) Multiple Awards -- Proposals.

A. Notwithstanding subsection (4)(a) of this Rule, Metro may award multiple Contracts under a Request for Proposals in accordance with the criteria set forth in the Request for Proposals. A multiple award may be made if award to two or more Proposers of similar Goods or Services is necessary for adequate availability, delivery, service or product compatibility. A notice to prospective

Proposers that multiple Contracts may be awarded for any Request for Proposals may not preclude Metro from awarding a single Contract for such Request for Proposals.

B. If a Request for Proposals permits the award of multiple Contracts, Metro shall specify in the Request for Proposals the criteria it will use to choose from the multiple Contracts when purchasing Goods or Services, which may include consideration and evaluation of the Contract terms and conditions agreed to by the Contractors.

(e) **Partial awards.** If after evaluation of Offers, Metro determines that an acceptable Offer has been received for only parts of the requirements of the Solicitation Document:

A. Metro may award a Contract for the parts of the Solicitation Document for which acceptable Offers have been received; or

B. Metro may reject all Offers and may issue a new Solicitation Document on the same or revised terms, conditions and Specifications.

(f) **All or None Offers.** Metro may award all or none Offers if the evaluation shows an all or none award to be the lowest cost for Bids or the most Advantageous for Proposals of those submitted.

Stat. Auth.: ORS 279A.065 & ORS 279B.060

Stats. Implemented: ORS 279B.055 & ORS 279B.060

47-0610 Notice of Intent to award

(1) **Notice of Intent to award.** Metro shall provide Written notice of its intent to award to all Bidders and Proposers pursuant to ORS 279B.135 at least seven (7) Days before the award of a Contract, unless Metro determines that circumstances justify prompt execution of the Contract, in which case Metro may provide a shorter notice period. Metro shall document the specific reasons for the shorter notice period in the Procurement file. A Written notice of intent to award is not required for Contracts awarded as a Small Procurement, an Intermediate Procurement, a sole-source Procurement, an Emergency Procurement or a Special Procurement authorized under Rule 47-0288.

(2) **Finality.** Metro's award may not be final until the later of the following:

(a) The expiration of the protest period provided pursuant to Administrative Rule 47-0740; or

(b) Metro provides Written responses to all timely-filed protests denying the protests and affirming the award.

Stat. Auth.: ORS 279A.065 & ORS 279B.135

Stats. Implemented: ORS 279B.135

47-0620 Documentation of award

(1) **Basis of award.** After award, Metro shall make a record showing the basis for determining the successful Offeror part of Metro's Procurement file.

(2) **Contents of Award Record.** Metro's record must include:

(a) **For Bids:** Bids, the completed Bid tabulation sheet, and Written justification for any rejection of lower Bids.

(b) **For Proposals:** Proposals, the completed evaluation of the Proposals, Written justification for any rejection of higher scoring Proposals, and if Metro permitted negotiations in accordance with

Administrative Rule 47-0261, Written documentation of the content of any discussions, negotiations, best and final Offers, or any other procedures Metro used to select a Proposer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065

47-0630 Availability of Award Decisions

(1) **Contract Documents.** To the extent required by the Solicitation Document, Metro shall deliver to the successful Offeror a Contract, Signed purchase order, Price Agreement, or other contractual documents as applicable.

(2) **Availability of Award Decisions.** A Person may obtain tabulations of awarded Bids or evaluation summaries of Proposals for a minimal charge, in person or by submitting to Metro a Written request accompanied by payment. The requesting Person shall provide the Solicitation Document number and, if documents must be mailed, enclose a self-addressed, stamped envelope. In addition, Metro may make available tabulations of Bids and Proposals through the Electronic Procurement System of Metro, email, or Metro's website.

(3) **Availability of Procurement Files.** After issuance of the notice of intent to award, Metro shall make Procurement files available in accordance with applicable law. Metro may withhold from disclosure the public materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.345 or ORS 192.502 including trade secrets, as defined in ORS 192.345 and information submitted to a public body in confidence, as described in ORS 192.502.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055 & ORS 279B.060

47-0640 Rejection of an Offer

(1) **Rejection of an Offer.**

(a) Metro may reject any Offer when Metro determines that rejection is in the best interest of Metro, as set forth in ORS 279B.100.

(b) Metro shall reject an Offer upon Metro's finding that the Offer:

A. Is contingent on Metro's acceptance of terms and conditions (including Specifications) that materially differ from the Solicitation Document;

B. Takes exception to terms and conditions (including Specifications) set forth in the Solicitation Document;

C. Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the Solicitation Document or in contravention of applicable law;

D. Offers Goods or Services that fail to meet the Specifications of the Solicitation Document;

E. Is late;

F. Is not in substantial compliance with the Solicitation Document;

G. Is not in substantial compliance with all prescribed public Procurement procedures; or

H. Fails to comply with any applicable equity in contracting programs adopted pursuant to Metro's Equity in Contracting Administrative Rules.

- (c) Metro shall reject an Offer upon Metro's finding that the Offeror:
- A. Has not been prequalified under ORS 279B.120 and Metro required mandatory prequalification;
 - B. Has been debarred as set forth in ORS 279B.130;
 - C. Has not met the requirements of ORS 279A.105 regarding subcontracting to COBID Certified Businesses, if required by the Solicitation Document;
 - D. Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;
 - E. Has failed to provide the certification of non-discrimination required under ORS 279A.110(4); or
 - F. Is non-Responsible. Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before awarding a Contract, Metro must have information that indicates that the Offeror meets the applicable standards of Responsibility. To be a Responsible Offeror, Metro must determine, under ORS 279B.110, that the Offeror:
 - (i) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities;
 - (ii) Has completed previous contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the procurement and otherwise performed the Contract in a satisfactory manner. Metro should carefully scrutinize an Offeror's record of contract performance if the Offeror is or recently has been materially deficient in Contract performance. In reviewing the Offeror's performance, Metro should determine whether the Offeror's deficient performance was expressly excused under the terms of the Contract, or whether the Offeror took appropriate corrective action. Metro may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. Metro shall make its basis for determining an Offeror non-Responsible under this subparagraph part of the Procurement file as required by ORS 279B.110(2)(b);
 - (iii) Has a satisfactory record of integrity. An Offeror may lack integrity if Metro determines the Offeror demonstrates a lack of business ethics such as violation of state environmental laws or false certifications made to Metro. Metro may find an Offeror non-Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for debarment under ORS 279B.130 may be used to determine an Offeror's integrity. Metro may find an Offeror non-responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Offeror's performance of a contract or subcontract. Metro shall make its basis for determining that an Offeror is non-Responsible under this subparagraph part of the Procurement file as required by ORS 279B.110(2)(c);
 - (iv) Is legally qualified to contract with Metro. Metro may determine that an Offeror is not legally qualified if (a) the Offeror is unable to warrant that it has all required licenses, insurance

and/or registrations or (b) the Offeror is not legally authorized to do business in the State of Oregon. Provided, however, in no event shall these Rules require Metro investigate, enforce or opine as to which licenses law might apply or otherwise interpret licensing rules specifically enforced by other governing agencies;

(v) Has attested in Writing that the Offeror complied with the tax laws of this state and of political subdivisions of this state; and

(vi) Has supplied all necessary information in connection with the inquiry concerning Responsibility. If the Offeror fails to promptly supply information requested by Metro concerning Responsibility, Metro shall base the determination of Responsibility on any available information, or may find the Offeror non-Responsible.

(2) For the purposes of subparagraph (1)(c)F(v) of this Rule:

(a) The period for which the Offeror must attest that it complied with the applicable tax laws must extend no fewer than six years into the past from the date of the Closing.

(b) Tax laws include, but are not limited to, ORS 305.620, ORS chapters 316, 317 and 318, any tax provisions imposed by a political subdivision that apply to the Offeror or to the performance of the Contract, and any rules and regulations that implement or enforce those tax laws.

(c) Metro may exercise discretion in determining whether a particular form of attesting to compliance with the tax laws is “credible and convenient” under ORS 279B.110(2)(e), taking into consideration the circumstances in which the attestation is made and the consequences of making a false attestation. Therefore, Metro may accept forms of attestation that range from a notarized statement to a less formal document that records the Offeror’s attestation. However, Metro may not accept the certificate of compliance with tax laws required by ORS 305.385 unless that certificate embraces, in addition to the tax laws described in ORS 305.380, the tax laws of political subdivisions.

(3) **Form of Business Entity.** For purposes of this Rule, Metro may investigate any Person submitting an Offer. The investigation may include that Person’s officers, directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this Rule or to apply the debarment provisions of ORS 279B.130.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100, ORS 279B.110, OL 2015, ch 454 (SB 491), OL 2015, ch 539 (SB 675)

47-0650 Rejection of All Offers

(1) **Rejection.** Metro may reject all Offers as set forth in ORS 279B.100. Metro may notify all Offerors of the rejection of all Offers, along with the reasons for rejection of all Offers.

(2) **Criteria.** Metro may reject all Offers based upon the following criteria:

(a) The content of or an error in the Solicitation Document, or the Procurement process unnecessarily restricted competition for the Contract;

(b) The price, quality or performance presented by the Offerors are too costly or of insufficient quality to justify acceptance of any Offer;

(c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;

(d) Causes other than legitimate market forces threaten the integrity of the competitive process. These causes may include, without limitation, those that tend to limit competition, such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct, and inadvertent or intentional errors in the Solicitation Document;

(e) Metro cancels the Procurement or Solicitation in accordance with Administrative Rule 47-0660; or

(f) Any other circumstance indicating that awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

47-0660 Cancellation, Rejection, Delay or Suspension of a Procurement or Solicitation

(1) **Cancellation in the Public Interest.** Any Solicitation or Procurement may be canceled, or any or all Bids or Proposals may be rejected in whole or in part, when the cancellation or rejection is in the best interest of Metro, as determined by Metro. Any Solicitation or Procurement described in a Solicitation may be delayed or suspended when the delay or suspension is in the best interest of Metro, as determined by Metro. The reasons for the cancellation or rejection will be made part of the Procurement file. Metro may not be liable to any Bidder, Proposer or other Affected Persons for any loss or expense caused by or resulting from the cancellation or rejection of a Solicitation, Bid, Proposal or award.

(2) **Notice of Cancellation Before Closing.** If Metro cancels a Procurement or Solicitation prior to Closing, Metro shall provide Written notice of cancellation in the same manner that Metro initially provided notice of the Solicitation. Such notice of cancellation must:

(a) Identify the Solicitation Document;

(b) Briefly explain the reason for cancellation; and

(c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(3) **Notice of Cancellation After Closing.** If Metro cancels a Procurement or Solicitation after Closing, Metro shall provide Written notice of cancellation to all Offerors who submitted Offers.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

47-0670 Disposition of Offers if Procurement or Solicitation Canceled

(1) **Prior to Opening.** If Metro cancels a Procurement or Solicitation prior to Opening, Metro shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, Metro shall open the Offer to determine the source and then return it to the Offeror. For Electronic Offers, Metro shall delete the Offers from Metro's Electronic Procurement System or information technology system.

(2) **After Opening.** If Metro rejects all Offers or otherwise cancels a Procurement after Opening, Metro will retain all such Offers as part of Metro's Solicitation file. If a Request for Proposals is

cancelled after Proposals are received, Metro may return a Proposal to the Proposer that submitted it. Metro shall keep a list of returned Proposals in the Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.100

Remedies

47-0700 Protests and Judicial Review of Special Procurements

(1) **Purpose.** An Affected Person may protest the Local Contract Review Board's approval of a Special Procurement. Pursuant to ORS 279B.400(1), before seeking judicial review of the approval of a Special Procurement, an Affected Person must file a Written protest with the Procurement Officer and exhaust all administrative remedies.

(2) **Delivery.** Notwithstanding the requirements for filing a writ of review under ORS Chapter 34 pursuant to ORS 279B.400(4)(a), an Affected Person must deliver a Written protest to the Procurement Officer within seven (7) Days after the first date of public notice of Metro's approval of a Special Procurement, unless a different protest period is provided in the public notice of the approval of a Special Procurement. Metro may not consider a protest submitted after the timeline established for submitting such protest under this Rule.

(3) **Content of Protest.** The Written protest must include:

- (a) A detailed statement of the legal and factual grounds for the protest;
- (b) A description of the resulting harm to the Affected Person; and
- (c) The relief requested.

(4) **Required Metro Response.** Metro shall take the following actions, as appropriate:

- (a) Inform the Affected Person in Writing if the protest was not timely filed;
- (b) Inform the Affected Person if it failed to meet the requirements of section (3) of this Rule and the reasons for that failure;
- (c) If the protest was timely filed and provides the information required by section (3), issue a decision in Writing and provide that decision to the Affected Person within a reasonable period of time;
- (d) If Metro denies the protest, inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contract Review Board.

(5) **Optional Metro Response.** In addition to the requirements set forth above in section (4), Metro may do any of the following:

- (a) Agree with the protest and take any corrective action necessary;
- (b) Issue a Written response to the protest and provide that decision to the Affected Person;
- (c) Refer the protest and any response from the Procurement Officer to the Local Contract Review Board for decision;
- (d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(6) **Judicial Review.** An Affected Person may seek judicial review of the Procurement Officer's final decision (or if referred to the Local Contract Review Board by the Procurement Officer, the Board's final decision) denying a protest of the approval of a Special Procurement in accordance with ORS 279B.400. Judicial review is not available if the protest denial is withdrawn by Metro.

Stat. Auth.: ORS 279A.065 & ORS 279B.400
Stats. Implemented: ORS 279B.400

47-0710 Protests and Judicial Review of Sole-Source Procurements

(1) **Purpose.** For sole-source Procurements requiring public notice, an Affected Person may protest the determination of the Procurement Officer or the Board under Administrative Rule 47-0275 that the Goods or Services or class of Goods or Services are available from only one source. Pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Person must file a Written protest with the Procurement Officer and exhaust all administrative remedies.

(2) **Delivery.** Unless otherwise specified in the public notice of the sole-source Procurement, an Affected Person must deliver a Written protest to the Procurement Officer within seven (7) Days after the first date Metro posts public notice that it will make a sole source purchase. The Procurement Officer may not consider a protest submitted after the timeline established for submitting such protest under this Rule or such different time period as may be provided in the Notice of Intent to make a Sole Source purchase.

(3) **Content of Protest.** The Written protest must include:

- (a) A detailed statement of the legal and factual grounds for the protest;
- (b) Evidence or supporting documentation that supports the grounds on which the protest is based;
- (c) A description of the resulting harm to the Affected Person; and
- (d) The relief requested.

(4) **Required Metro Response.** Metro shall take the following actions, as appropriate:

- (a) Inform the Affected Person in Writing if the protest was not timely filed;
- (b) Inform the Affected Person if it failed to meet the requirements of set forth above in section (3) of this Rule and the reasons for that failure;
- (c) If the protest was timely filed and provides the information required by section (3) of this Rule, issue a decision in Writing and provide that decision to the Affected Person within a reasonable period of time;
- (d) If Metro denies the protest, inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contracting Board.

(5) **Optional Metro Response.** In addition to the requirements of subsection (4), Metro may do any of the following:

- (a) Agree with the protest and take any corrective action necessary;
- (b) Issue a Written response to the protest and provide that decision to the Affected Person;
- (c) Refer the protest and any response from the Procurement Officer to the Local Contract Review Board for decision;

(d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(6) **Judicial Review.** An Affected Person may not seek judicial review of Metro's approval of a Sole Source Procurement unless it has complied fully with the protest requirements of this Rule and received a final decision denying the protest either from the Procurement Officer of the Local Contract Review Board if referred to the Board by the Procurement Officer. Judicial review of the sole-source Procurement protest will be in accordance with ORS 279B.420. Judicial review is not available if Metro elects not to make a Sole Source Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.075

47-0720 Protests and Judicial Review of Multi-tiered and Multistep Solicitations

(1) **Purpose.** An Affected Offeror may protest exclusion from the Competitive Range or from subsequent tiers or steps of a Solicitation in accordance with the applicable Solicitation Document. When such a protest is permitted by the Solicitation Document, then pursuant to ORS 279B.420(3)(f), before seeking judicial review, an Affected Offeror must file a Written protest with Metro and exhaust all administrative remedies.

(2) **Basis for Protest.** An Affected Offeror may protest its exclusion from a tier or step of competition only if:

(a) The Affected Offeror is Responsible and submitted a Responsive Offer;

(b) Metro made a mistake that, if corrected, would have made the Affected Person eligible to participate in the next stage of the Procurement;

(c) In the case of a Request for Proposals, the exercise of judgment used by the evaluation committee members in scoring Written Proposals and oral interviews, including the use of outside expertise, was biased or not exercised in good faith. The unbiased, good faith judgment of Evaluation is not grounds for protest. The unbiased, good faith judgment of evaluation committee members will not be a basis for sustaining a protest.

(3) **Delivery.** Unless otherwise specified in the Solicitation Document, an Affected Offeror must deliver a Written protest to the Procurement Officer within seven (7) Days after issuance of the notice of the Competitive Range or notice of subsequent tiers or steps.

(4) **Content of Protest.** The Affected Offeror's protest must be in Writing and must include the following information:

(a) Sufficient information to identify the errors that led to the Affected Person's exclusion from the Competitive Range or from subsequent stages of a Procurement;

(b) A detailed statement of all the legal and factual grounds for the protest;

(c) Evidence or supporting documentation that supports the grounds on which the protest is based;

(d) A description of the resulting harm to the Affected Person; and

(e) The relief requested.

(5) **Required Metro Response.** Metro shall take the following actions, as appropriate:

- (a) Inform the Affected Offeror in Writing if the protest was not timely filed;
 - (b) Inform the Affected Offeror if it failed to meet the requirements set forth above in section (4) of this Rule and the reasons for that failure;
 - (c) If the protest was timely filed and provides the information required by section (4) of this Rule, issue a decision in Writing and provide that decision to the Affected Offeror within a reasonable period of time.
 - (d) If Metro denies the protest, inform the Affected Offeror if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contracting Board.
- (6) **Optional Metro Response.** In addition to the requirements of subsection (5) of this Rule, the Procurement Officer may do any of the following:
- (a) Agree with the protest and take any corrective action necessary;
 - (b) Issue a Written response to the protest and provide that decision to the Affected Person;
 - (c) Refer the protest and any response by the Procurement Officer to the Local Contract Review Board for decision; or
 - (d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.
- (7) **Judicial Review.** Judicial review of Metro's decision relating to a multi-tiered or multistep Solicitation protest must be in accordance with ORS 279B.420. An Affected Person may not seek judicial review unless it has complied fully with the protest requirements of this Rule and has exercised all administrative appeal rights. Judicial review is not available if Metro elects not to make a Procurement.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

47-0730 Protests and Judicial Review of Solicitations

- (1) **Purpose.** A prospective Offeror may protest the Procurement process or the Solicitation Document for a Contract solicited under ORS 279B.055, 279B.060 and 279B.085 as set forth in ORS 279B.405(2). Pursuant to ORS 279B.405(3), before seeking judicial review, a prospective Offeror must file a Written protest with Metro and exhaust all administrative remedies.
- (2) **Delivery.** Unless otherwise specified in the Solicitation Document, a prospective Offeror must deliver a Written protest to the Procurement Officer within seven (7) Days after a Solicitation Document is first advertised. Metro may not consider a protest submitted after the timeline established for submitting such protest under this Rule or such different time period as may be provided in the Solicitation Document. A Written Protest of any Addenda must be submitted by the close of the next business day after issuance of the Addenda.
- (3) **Content of Protest.** In addition to the information required by ORS 279B.405(4), a prospective Offeror's Written protest shall include a statement of the desired changes to the Procurement process or the Solicitation Document that the prospective Offeror believes will remedy the conditions upon which the prospective Offeror based its protest.
- (4) **Required Metro Response.** Metro shall take the following actions, as appropriate:
- (a) Inform the Affected Person in Writing if the protest was not timely filed;

(b) Inform the Affected Person if it failed to meet the requirements of set forth above in section (3) of this Rule and the reasons for that failure;

(c) If the protest was timely filed and provides the information required by section (3) of this Rule, issue a decision in Writing and provide that decision to the Affected Person no less than three (3) business days before Offers are due, unless a Written determination is made by Metro that circumstances exist that require a shorter time limit;

(d) If Metro denies the protest, inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contracting Board. When the decision is final, the Affected Person must seek judicial review before the Opening of Bids, Proposals or Offers.

(5) **Optional Metro Response.** In addition to the requirements of subsection (4), Metro may do any of the following:

(a) Agree with the protest and take any corrective action necessary;

(b) Issue a Written response to the protest and provide that decision to the Affected Person;

(c) Refer the protest and any response by the Procurement Officer to the Local Contract Review Board for decision;

(d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest, including without limitation, extending Closing if Metro determines an extension is necessary to consider the protest and to issue an Addenda to the Solicitation Document.

(6) **Clarification.** Prior to the deadline for submitting a protest, a prospective Offeror may request that Metro clarify any provision of the Solicitation Document. Metro's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on Metro unless Metro amends the Solicitation Document by Addenda.

(7) **Judicial Review.** Judicial review of Metro's decision relating to a Solicitation protest must be in accordance with ORS 279B.405. An Affected Person may not seek judicial review unless it has complied fully with the protest requirements of this section and exercised all administrative appeal rights. Judicial review is not available if Metro withdraws the Solicitation Document that was the subject of the protest.

Stat. Auth.: ORS 279A.065 & ORS 279B.405

Stats. Implemented: ORS 279B.405

47-0740 Protests and Judicial Review of Contract Award

(1) **Generally.** An Offeror may protest the award of a Contract, or the intent to award of a Contract, whichever occurs first, only if the conditions set forth in ORS 279B.410(1) are satisfied. In the case of a Request for Proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for protest.

(2) **Exhaustion of Remedies.** An Offeror must file a Written protest with the Purchasing Officer and exhaust all administrative remedies before seeking judicial review of Metro's Contract award decision.

(3) **Delivery.** Unless otherwise specified in the Solicitation Document, an Offeror must deliver a Written protest to Metro within seven (7) Days after the award of a Contract, or issuance of the notice of intent to award the Contract, whichever occurs first.

(4) **Content of Protest.** An Offeror's Written protest shall include the following information:

(a) Sufficient information to identify the award that is the subject of the protest;

(b) A detailed statement of all the legal and factual grounds for the protest (see section (1) of this Rule);

(c) Evidence or supporting documentation that supports the grounds on which the protest is based;

(d) A description of the resulting harm to the Affected Person; and

(e) The relief requested.

(5) **Required Metro Response.** Metro shall take the following actions, as appropriate:

(a) Inform the Affected Person in Writing if the protest was not timely filed;

(b) Inform the Affected Person if it failed to meet the content requirements set forth above in section (4) of this Rule the reasons for that failure;

(c) If the protest was timely filed and provides the information required by ORS 279B.410(2), issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest;

(d) If Metro denies the protest, inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contract Review Board.

(6) **Optional Metro Response.** In addition to the requirements of section (5) above, Metro may do any of the following:

(a) Agree with the protest and issue a revised Notice of Intent to award or take any other corrective action that may be necessary to ensure that the Contract is awarded to the appropriate Offeror;

(b) Issue a Written response to the protest and provide that decision to the Affected Person;

(c) Refer the protest and any response by the Procurement Officer to the Local Contract Review Board for decision;

(d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(7) **Judicial Review.** Judicial review of Metro's decision relating to a Contract award must be in accordance with ORS 279B.415 and this Rule. An Affected Person may not seek judicial review of a Contract award unless it has complied fully with the protest requirements of this section. Judicial review is not available if Metro elects not to make an award.

Stat. Auth.: ORS 279A.065 & ORS 279B.410

Stats. Implemented: ORS 279B.410 & ORS 279B.415

47-0745 Protests and Judicial Review of Qualified Products List Decisions

(1) **Purpose.** A prospective Offeror may protest Metro's decision to exclude the prospective Offeror's Goods from Metro's qualified products list under ORS 279B.115. A prospective Offeror must file a Written protest and exhaust all administrative remedies before seeking judicial review of Metro's qualified products list decision.

(2) **Delivery.** Unless otherwise stated in Metro's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list, a prospective Offeror must deliver a Written

protest to Metro within seven (7) Days after issuance of Metro's decision to exclude the prospective Offeror's Goods from the qualified products list.

(3) **Content of Protest.** The prospective Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(4) **Metro Response.** Metro may not consider a prospective Offeror's qualified products list protest submitted after the timeline established for submitting such protest under this Rule, or such different time period as may be provided in Metro's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list. Metro shall issue a Written disposition of the protest in a timely manner. If Metro upholds the protest, it shall include the successful protestor's Goods on the qualified products list.

(5) **Judicial Review.** Judicial review of Metro's decision relating to a qualified products list protest must be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.115

47-0750 Judicial Review of Other Violations

Any violation of ORS Chapter 279A or ORS 279B by Metro for which no judicial remedy is otherwise provided in the State Code is subject to judicial review as set forth in ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.420

47-0760 Review of Prequalification and Debarment Decisions

(1) Review of Metro's prequalification and debarment decisions is as set forth in ORS 279B.425.

(2) The Local Contract Review Board hereby delegates its authority to the Chief Operating Officer for the purposes of receiving notice that a Person has appealed. Upon receipt of the notice the Chief Operating Officer may notify the Person appealing of a time and place of a hearing designed to consider the appeal within thirty (30) Days or a date mutually agreed upon by both parties.

(3) The Local Contract Review Board delegates its authority to conduct a hearing to the Chief Operating Officer. The Chief Operating Officer may subdelegate the authority to conduct a hearing to any person the Chief Operating Officer deems appropriate, including the Procurement Officer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.425

47-0800 Amendments to Contracts and Price Agreements

(1) **Generally.** Metro may amend a Contract reasonably related to the scope of work under the original Contract without additional competition.

(2) **Contract Increases.** Contract amendments for additional Goods and Services are allowed under the following circumstances, without any additional approvals:

(a) The original Contract was issued following a competitive Solicitation or alternative process (e.g. as a Special Procurement or Sole Source Procurement) and unit prices or additive alternates were

provided that established the cost basis for the additional Goods or Services and a binding obligation exists on the parties covering the terms and conditions of the additional work;

(b) The original Contract was issued pursuant to a declaration of Emergency, in accordance with Rule 47-0280;

(c) The additional Goods or Services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, that affect performance of the original Contract;

(d) The amendment resolves a bona fide dispute with the Contractor and is within the general scope of the original Contract; or

(e) The aggregate increase resulting from all amendments to the Contract does not exceed twenty-five percent (25%) of the original Contract price. Escalation clauses agreed to in the original Contract (e.g. COLA increases) are excluded from the 25% calculation.

(3) **Limits on Contract Increases; Authority.** If the circumstances set forth in section (2) of this Rule are not applicable, Metro may nonetheless amend a Contract for additional Goods and Services if the amendment is Advantageous to Metro. For Contracts that exceed \$250,000, such a determination shall be made by the Chief Operating Officer prior to authorization of delivery of goods or performance of the services. All Contract Amendments processed under this section (3) shall be treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(4) **Renegotiated Contract.** Metro may renegotiate the terms and conditions of a Contract without additional competition and amend a Contract if it is Advantageous subject to the following conditions:

(a) The Goods or Services to be provided under the amended Contract are the same as the Goods or Services to be provided under the unamended Contract; and

(b) Metro determines that, with all things considered, the amended Contract is at least as favorable to Metro as the unamended Contract; and

(c) The amended Contract does not have a total term greater than allowed in the Solicitation Documents, if any, or if no Solicitation Documents, as described in the sole source notice or the approved Special Procurement, if any, after combining the initial and extended terms. For example, a one-year Contract described as renewable each year for up to four additional years, may be renegotiated as a two to five-year Contract, but not beyond a total of five years.

If the circumstances set forth in section (4) of this Rule are not applicable, Metro may nonetheless amend and renegotiate the terms of the Contract if the amendment is Advantageous to Metro and the amendment is approved by the Local Contract Review Board.

(5) **Small or Intermediate Contracts.** Metro may amend a Contract awarded as a small or Intermediate Procurement pursuant Rule 47-0265 for Small Procurements or Rule 47-0270 for Intermediate Procurements.

(6) **Emergency Contracts.** Metro may amend a Contract awarded as an Emergency Procurement if the Emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing Emergency.

(7) **Price Agreements.** Metro may amend or terminate a Price Agreement as follows:

(a) As permitted by the Price Agreement;

(b) As permitted by this Rule;

(c) Metro fails to receive funding, appropriations, limitations, allotments or other expenditure authority, including the continuation of program operating authority sufficient, as determined in the discretion of Metro, to sustain purchases at the levels contemplated at the time of contracting;

(d) Any change in law or program termination that makes purchases under the price agreement no longer authorized or appropriate for Metro's use; or

(e) As otherwise permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279B.140

47-0820 Records Maintenance; Right to Audit Records

(1) Contractors and subcontractors shall maintain all fiscal records relating to a Contract executed with Metro in accordance with generally accepted accounting principles. In addition, Contractors and subcontractors shall maintain any other records necessary to clearly document:

(a) Contract performance, including, but not limited to, compliance with plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or subcontractor under the Contract or subcontract;

(b) Any claims arising from or relating to their performance under a Contract;

(c) Any cost and pricing data; and,

(d) Payment to suppliers and subcontractors.

(2) Such records must be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer.

(3) Contractors and subcontractors shall make all their records available to Metro (and its authorized representatives, including but not limited to the staff of any Metro department and the Metro Auditor) within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor shall pay all costs for Metro employees, and any necessary consultants hired by Metro, including travel, per diem costs, salary, and any other expenses incurred by Metro in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.

(4) Metro and its authorized representatives (including but not limited to the staff of any Metro department and the Metro Auditor) are entitled to inspect, examine, copy and audit the books and records of any Contractor or subcontractor upon request by Metro for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and financial statements. Metro will keep such documents confidential to the extent permitted by Oregon law, subject to subsection 5 below.

(5) Contractors and subcontractors shall disclose the records requested by Metro and agree to their admission as evidence in any proceeding between the parties, including, but not limited to a court proceeding, arbitration, mediation or other alternative dispute resolution process.

(6) In the event that the records disclose that Metro is owed money or establishes that any portion of any claim made against Metro is not warranted, the Contractor or subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum due or that becomes due to the Contractor by Metro.

(7) Failure of the Contractor or subcontractor to keep or disclose records as required may result in disqualification as a Bidder or Proposer for future Metro Contracts or may result in a finding that the Contractor or subcontractor is not a Responsible Bidder or Proposer.

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

**DIVISION 48 - CONSULTANT SELECTION: ARCHITECTURAL, ENGINEERING, PHOTOGRAMMETRIC
MAPPING, TRANSPORTATION PLANNING, LAND SURVEYING AND RELATED SERVICES CONTRACTS**

48-0100 Application

These Division 48 Rules implement ORS 279C and apply to the screening and selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services. These Rules set forth the procedures through which Metro will select consultants to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services.

Stat. Auth.: ORS 279A.065; ORS 279A.070
Stats. Implemented: ORS 279A.065

48-0110 Definitions

The definitions for this Division 48 are found in Division 10, except the following definitions apply only to this Division 48:

- (1) **"Consultant"** means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or provider of Related Services, as those terms are defined in ORS 279C.100. A Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors or providers of Related Services, or any combination of the foregoing.
- (2) **"Estimated Fee"** means Metro's reasonably projected fee to be paid for a Consultant's services under the anticipated Contract, excluding all anticipated reimbursable or other non-professional fee expenses. The Estimated Fee is used solely to determine the applicable Contract Solicitation method and is distinct from the total amount payable under the Contract.
- (3) **"Formal Selection Procedure"** means the Consultant selection method provided for under Rule 48-0220.
- (4) **"Intermediate Selection Procedure"** means the Consultant selection method provided for under Rule 48-0210.
- (5) **"Price Agreement,"** for purposes of this Division 48, is limited to mean an agreement related to the procurement of Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services, under agreed-upon terms and conditions, including, but not limited to terms and conditions of later work orders or task orders for Project-specific Services, and which may include Consultant compensation information, with:
 - (a) No guarantee of a minimum or maximum purchase; or
 - (b) An initial work order, task order or minimum purchase, combined with a continuing Consultant obligation to provide Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services in which Metro does not guarantee a minimum or maximum additional purchase.

(6) **"Project"** means all components of Metro's planned undertaking that give rise to the need for a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services under a Contract.

(7) **"Proposer"** means a Consultant who submits a Proposal to Metro in response to a Request for Proposals.

(8) **"Related Services"** means Personal Services, other than Architectural, Engineering and Land Surveying Services, that are related to the planning, design, engineering or oversight of public improvement projects or components thereof, including but not limited to landscape architectural services, facilities planning services, energy planning services, space planning services, environmental impact studies, hazardous substances or hazardous waste or toxic substances testing services, wetland delineation studies, wetland mitigation studies, Native American studies, historical research services, endangered species studies, rare plant studies, biological services, archaeological services, cost estimating services, appraising services, material testing services, mechanical system balancing services, commissioning services, project management services, construction management services and owner's representative services or land-use planning services.

(9) **"Transportation Planning Services"** are defined in ORS 279C.100. Transportation Planning Services include only Project-specific transportation planning involved in the preparation of categorical exclusions, environmental assessments, environmental impact statements and other documents required for compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services do not include transportation planning for corridor plans, transportation system plans, interchange area management plans, refinement plans and other transportation plans not directly associated with an individual Project that will require compliance with the National Environmental Policy Act, 42 USC 4321 et. seq. Transportation Planning Services also do not include transportation planning for Projects not subject to the National Environmental Policy Act, 42 USC 4321 et. seq.

Stat. Auth.: ORS 279A.065, ORS 279A.070

Stats. Implemented: ORS 279A.065

48-0120 List of Pre-Qualified Consultants; Performance Record

(1) Metro may conduct Request for Qualifications process to compile a list of Consultants who are interested in providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services. The RFQu will request prospective Consultants provide Metro with statements of qualifications and related performance information. Metro may use this information to create a list of pre-qualified Consultants.

(2) Metro may compile and maintain a record of each Consultant's performance under Metro Contracts, including information obtained from Consultants during an exit interview. Upon request and in accordance with the Oregon Public Records Law (ORS 192.410 through 192.505), Metro may make available copies of the records.

(3) Metro shall keep a record of all Contracts and will make these records available to the public consistent with the requirements of the Oregon Public Records Law (ORS 192.410 to 192.505).

Stat. Auth.: ORS 279A.065(6)(a); ORS 279A.070; Or. Laws 2011, chapter 458; and Or. Laws 2013, chapter 522

Stats. Implemented: ORS 279A.065; ORS 279C.110; Or. Laws 2011, chapter 458; and Or. Laws 2013, chapter 522

48-0130 Applicable Selection Procedures; Pricing Information; Disclosure of Proposals; Conflicts of Interest

(1) When selecting the most qualified Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, Metro shall follow the applicable selection procedure under either Administrative Rule 48-0200 (Direct Appointment Procedure), 48-0210 (Intermediate Selection Procedure) or 48-0220 (Formal Selection Procedure). When selecting a Consultant under this section(1), Metro may solicit or use pricing policies and pricing Proposals, or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, to determine a Consultant's compensation **only after** Metro has selected the most qualified Consultant in accordance with the applicable selection procedure.

(2) The restriction on Metro's Solicitation or use of pricing policies, pricing Proposals or other pricing information does not apply to selection procedures used by Metro to select a Consultant when (a) the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services for the Project do not exceed \$100,000 (b) the Consultant will be performing Related Services or (c) in an Emergency.

(3) Metro is not required to follow the selection procedures in section (1) of this Rule, when Metro has established Price Agreements with more than one Consultant and is selecting a single Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services under an individual work order or task order. Provided, however, the criteria and procedures Metro uses to select a single Consultant, when Metro has established Price Agreements with more than one Consultant, must meet the requirements of Administrative Rule 48-0270 (Price Agreements).

(4) For purposes of these Division 48 Rules, a "mixed" Contract is one requiring the Consultant to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services and also provide other Services or other related Goods under the Contract. Metro's classification of a procurement that will involve a "mixed" Contract will be determined by the predominant purpose of the Contract. Metro will determine the predominant purpose of the Contract by determining which of the Services involves the majority of the total Estimated Fee to be paid under the Contract. If the majority of the total Estimated Fee to be paid under the Contract is for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, Metro shall comply with the requirements of ORS 279C.110 and Administrative Rule 48-0130(1). If majority of the total Estimated Fee to be paid under the Contract is for Related Services, Metro shall comply with the requirements of ORS 279C.120 and Administrative Rule 48-0130(2). If the majority of the total Estimated Fee to be paid under the Contract is for some other Services or Goods under the Public Contracting State Code, Metro shall comply with the applicable provisions of the Public Contracting State Code and Divisions 46, 47 and 49 of these Rules that match the predominant purpose of the Contract.

(5) Consistent with the requirements of ORS 279C.107 and the remaining requirements of ORS 279C.100, 279C.105 and 279C.110 through 279C.125, subsections (a) through (c) apply to Proposals received by Metro for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services:

(a) For purposes of Proposals received by Metro under Administrative Rule 48-0200 (Direct Appointment Procedure), a formal notice of intent to award is not required. As a result, while Metro may make Proposals under 48-0200 (Direct Appointment Procedure) open for public inspection following Metro's decision to begin Contract negotiations with the selected Consultant, 48-0200

Proposals are not required to be open for public inspection until after Metro has executed a Contract with the selected Consultant.

(b) In the limited circumstances permitted by ORS 279C.110, 279C.115 and 279C.120, where Metro is conducting discussions or negotiations with Proposers who submit Proposals that Metro has determined to be closely competitive or to have a reasonable chance of being selected for award, Metro may open Proposals so as to avoid disclosure of Proposal contents to competing Proposers, consistent with the requirements of ORS 279C.107. Otherwise, Metro may open Proposals in such a way as to avoid disclosure of the contents until after Metro executes a Contract with the selected Consultant. If Metro determines that it is in the best interest of Metro to do so, Metro may make Proposals available for public inspection following Metro's issuance of a notice of intent to award a Contract to a Consultant; and

(c) Disclosure of Proposals and Proposal information is otherwise governed by ORS 279C.107.

(6) As required by ORS 279C.307, pertaining to requirements to ensure the objectivity and independence of providers of certain Personal Services which are procured under ORS chapter 279C, Metro may not:

(a) Procure the Personal Services identified in ORS 279C.307 from a Contractor or an affiliate of a Contractor who is a party to the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Personal Services; or

(b) Procure the Personal Services identified in ORS 279C.307 through the Public Contract that is subject to administration, management, monitoring, inspection, evaluation or oversight by means of the Personal Services.

(7) The requirements of ORS 279C.307 and section (6) of this Rule apply in the following circumstances, except as provided in section (8) of this Rule:

(a) Metro requires the Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Public Contract or performance under a Public Contract that is subject to ORS chapter 279C. A Public Contract that is "subject to ORS chapter 279C" includes a Public Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, a Public Contract for Related Services or a Public Contract for construction services under ORS chapter 279C.

(b) The Procurements of Personal Services subject to the restrictions of ORS 279C.307 include, but are not limited to, the following:

A. Procurements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, which involve overseeing or monitoring the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

B. Procurements for commissioning services, which involve monitoring, inspecting, evaluating or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C;

C. Procurements for project management services, which involve administration, management, monitoring, inspecting, evaluating compliance with or otherwise overseeing the performance of a Contractor providing Architectural, Engineering, Photogrammetric Mapping,

Transportation Planning or Land Surveying Services, construction services subject to ORS chapter 279C, commissioning services or other Related Services for a Project;

D. Procurements for special inspections and testing services, which involve inspecting, testing or otherwise overseeing the performance of a construction Contractor under a Public Contract for construction services subject to ORS chapter 279C; and

E. Procurements for other Related Services or Personal Services, which involve administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing the Public Contracts described in section (7)(a) of this Rule.

(8) The restrictions of ORS 279C.307 do not apply in the following circumstances, except as further specified below:

(a) To Metro's Procurement of both design services and construction services through a single "Design-Build" Procurement, as that term is defined in Administrative Rule 49-0610. Such a Design-Build Procurement includes a Procurement under an Energy Savings Performance Contract, as defined in ORS 279A.010. Provided, however, the restrictions of ORS 279C.307 do apply to Metro's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Design-Build Contract or performance under such a Contract resulting from a Design-Build Procurement; and

(b) To Metro's Procurement of both pre-construction services and construction services through a single Procurement of Construction Manager/General Contractor Services, as that term is defined in ORS 279C.332(3). Provided, however, the restrictions of ORS 279C.307 do apply to Metro's Procurement of Personal Services for the purpose of administering, managing, monitoring, inspecting, evaluating compliance with or otherwise overseeing a Construction Manager/General Contractor Services Contract or performance under such a Contract resulting from a Procurement of Construction Manager/General Contractor Services.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.100-279C.125, OL 2009, ch. 880, sec. 11, OL 2011, ch 458

Selection Procedures

48-0200 Direct Appointment Procedure

(1) Metro may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these Rules if:

- (a) **Emergency.** Metro finds that an Emergency exists;
- (b) **Small Estimated Fee.** The Estimated Fee to be paid under the Contract does not exceed \$25,000;
- (c) **Pre-Qualified Consultant.** The Consultant has been pre-qualified pursuant to Metro's process described in Rule 48-0120 and the Estimated Fee to be paid under the Contract does not exceed \$100,000; or
- (d) **Continuation of Project.** Where the Contract meets the following requirements:

A. The services consist of or are related to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services rendered under the earlier Contract;

B. Metro used either the formal selection procedure under Administrative Rule 48-0220 (Formal Selection Procedure) or the Intermediate selection procedure applicable to selection of the Consultant at the time of original selection to select the Consultant for the earlier Contract.

(2) Metro may select a Consultant for a Contract awarded under (1)(a), (1)(b), or (1)(d) above from the following sources:

- (a) Metro's current list of pre-qualified Consultants created under Administrative Rule 48-0120;
- (b) A list of Consultants from another public jurisdiction; or
- (c) Consultants offering the required Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services that Metro reasonably can identify under the circumstances.

(3) Metro shall direct negotiations with a Consultant selected under this Rule toward obtaining Written agreement on:

- (a) The Consultant's performance obligations and performance schedule;
- (b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to Metro as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services; and
- (c) Any other provisions Metro believes to be in Metro's best interest to negotiate.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110 & 279C.115, OL 2011, ch 458

48-0210 Intermediate Selection Procedure

(1) Metro may use the Intermediate Selection Procedure described in this Rule to obtain a Contract if the Estimated Fee is expected not to exceed \$250,000.

(2) When using the Intermediate Selection Procedure on the basis of qualifications alone or, for Related Services, on the basis of price and qualifications Metro shall:

(a) Create a written Intermediate Request for Proposals that includes at a minimum the following:

A. A description of the Project for which a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services are needed and a description of the Architectural, Engineering, Photogrammetric Mapping, Transportation

Planning, or Land Surveying Services or Related Services that will be required under the resulting Contract;

- B. The anticipated Contract performance schedule;
- C. Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;
- D. The date and time Intermediate Proposals are due and other directions for submitting Intermediate Proposals;
- E. Criteria upon which the most qualified Consultant will be selected. Selection criteria may include, but are not limited to, the following:

- (i) The amount and type of resources and number of experienced staff the Consultant has committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services;

- (ii) Proposed management techniques for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals;

- (iii) A Consultant's capability, experience and past performance history and record in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services, including but not limited to quality of work, ability to meet schedules, cost control methods and Contract administration practices;

- (iv) A Consultant's approach to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals and design philosophy, if applicable;

- (v) A Consultant's geographic proximity to and familiarity with the physical location of the Project;

- (vi) Volume of work, if any, previously awarded to a Consultant, with the objective of effecting equitable distribution of Contracts among qualified Consultants, provided such distribution does not violate the principle of selecting the most qualified Consultant for the type of professional services required;

- (vii) A Consultant's ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses; and

- (viii) If Metro is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead.

- F. A Statement that Proposers responding to the Intermediate Request for Proposals do so solely at their expense, and Metro is not responsible for any Proposer expenses associated with the Intermediate Request for Proposals;

- (b) Provide the Intermediate Request for Proposals to a minimum of three (3) prospective Consultants. In accordance with Metro's Equity in Contracting Administrative Rules, Departments must

also complete a COBID search and, if available, one Minority-owned business, one Women-owned business, one Emerging Small Business and one Service-disabled Veteran business must be solicited.

(c) Review and rank all Intermediate Proposals received according to the criteria set forth in the Intermediate Request for Proposals.

(3) When using the Intermediate Selection Procedure for Related Services on the basis of price Proposals and other pricing information Metro will also include pricing criteria upon which the highest ranked Consultant will be selected. Pricing criteria may include, but are not limited to, the total price for the Related Services described in the Intermediate Request for Proposals, Consultant pricing policies and other pricing information such as the Consultant's estimated number of staff hours needed to perform the Related Services described in the Intermediate Request for Proposals, expenses, hourly rates and overhead.

(4) If Metro does not cancel the Intermediate Request for Proposals after it reviews the Intermediate Proposals and ranks each Intermediate Proposal, Metro will begin negotiating a Contract with the highest ranked Consultant. Metro will direct Contract negotiations toward obtaining written agreement on the following:

(a) The Consultant's performance obligations and performance schedule; Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to Metro as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services; and any other provisions Metro believes to be in Metro's best interest to negotiate.

(5) Metro shall, either orally or in Writing, formally terminate negotiations with the highest ranked Intermediate Proposer, if Metro and the proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. Metro may thereafter negotiate with the second ranked Intermediate Proposer, and if necessary, with the third ranked proposer, until negotiations result in a Contract. If negotiations with any of the top three (3) Intermediate Proposers do not result in a Contract within a reasonable amount of time, Metro may end the particular intermediate Solicitation and thereafter may proceed with a new intermediate Solicitation under this Rule or proceed with a formal Solicitation under Administrative Rule 48-0220 (Formal Selection Procedure).

(6) Metro must terminate the Intermediate Selection Procedure and proceed with the formal selection procedure under Administrative Rule 48-0220 if the scope of the anticipated Contract is revised during negotiations so that the Estimated Fee will exceed \$250,000.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110, OL 2011, ch 458

48-0220 Formal Selection Procedure

(1) **General.** Metro shall use the formal selection procedure described in this Rule to select a Consultant if the Consultant cannot be selected under either 48-0200 (Direct Appointment Procedure) or under 48-0210 (Intermediate Selection Procedure). The formal selection procedure described in this Rule may otherwise be used at Metro's discretion.

(2) **Advertisement.** When using the formal selection procedure Metro shall obtain Contracts through public advertisement of RFPs, or Requests for Qualifications followed by RFPs. Advertisement of each RFP and RFQu must be in accordance with the requirements of Rule 47-0300.

(a) Metro shall publish the advertisement within a reasonable time before the deadline for the Proposal submission or response to the RFQu or RFP, but in no event fewer than fourteen (14) Days before the Closing date set forth in the RFQu or RFP.

(b) Metro shall include a brief description of the following items in the advertisement.

- A. The Project;
- B. A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Metro seeks;
- C. How and where Consultants may obtain a copy of the RFQu or RFP; and
- D. The deadline for submitting a Proposal or response to the RFQu or RFP.

(3) **Request for Qualifications Procedure.** Metro may use the Request for Qualifications procedure to evaluate potential Consultants and establish a short list of qualified Consultants to whom Metro may issue an RFP for some or all of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFQu.

(c) Metro shall include the following, at a minimum, in each RFQu:

- A. A brief description of the Project for which Metro is seeking a Consultant;
- B. A description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Metro seeks for the Project;
- C. Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including but not limited to construction services;
- D. The deadline for submitting a response to the RFQu;
- E. A description of required Consultant qualifications for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Metro seeks;
- F. The RFQu evaluation criteria, including weights, points or other classifications applicable to each criterion;
- G. A statement whether or not Metro will hold a pre-qualification meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFQu and if a pre-qualification meeting will be held, the location of the meeting and whether or not attendance is mandatory; and
- H. A statement that Consultants responding to the RFQu do so solely at their expense, and that Metro is not responsible for any Consultant expenses associated with the RFQu.

(d) Metro may include a request for any or all of the following in each RFQu:

- A. A statement describing Consultants' general qualifications and related performance information;

B. A description of Consultants' specific qualifications to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services described in the RFQu including Consultants' committed resources and recent, current and projected workloads;

C. A list of similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services and references concerning past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration;

D. A copy of all records, if any, of Consultants' performance under Contracts with any other Contracting Agency;

E. The number of Consultants' experienced staff available to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFQu, including such personnel's specific qualifications and experience and an estimate of the proportion of time that such personnel would spend on those services;

F. Consultants' approaches to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFQu and design philosophy, if applicable;

G. Consultants' geographic proximity to and familiarity with the physical location of the Project;

H. Consultants' Ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses;

I. If Metro is selecting a Consultant to provide Related Services, Consultants' pricing policies and pricing proposals or other pricing information, including the number of hours estimated for the services required, expenses, hourly rates and overhead;

J. Consultants' ability to assist Metro in complying with the energy technology requirements of ORS 279C.527 and 279C.528; and

K. Any other information Metro deems reasonably necessary to evaluate Consultants' qualifications.

(e) RFQu Evaluation Committee. Metro shall establish an RFQu evaluation committee of at least three (3) individuals to review, score and rank the responding Consultants according to the Solicitation criteria. Metro may appoint to the evaluation committee Metro employees or employees of other public entities with experience in Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services, Related Services, construction services or public contracting. Metro may include on the evaluation committee private practitioners of architecture, engineering, photogrammetry, transportation planning, land surveying or related professions. Metro may designate one member of the evaluation committee as the evaluation committee chairperson.

(f) Metro may use any reasonable screening or evaluation method to establish a short list of qualified Consultants, including but not limited to, the following:

- A. Requiring Consultants responding to an RFQu to achieve a threshold score before qualifying for placement on the short list;
- B. Placing a pre-determined number of the highest scoring Consultants on a short list;
- C. Placing on a short list only those Consultants with certain essential qualifications or experience, whose practice is limited to a particular subject area, or who practice in a particular geographic locale or region, provided that such factors are material, would not unduly restrict competition, and were announced as dispositive in the RFQu.

(g) After the evaluation committee reviews, scores and ranks the responding Consultants, Metro shall establish a short list of at least three (3) qualified Consultants, if feasible; provided however, if four (4) or fewer Consultants responded to the RFQu or if fewer than three (3) Consultants fail to meet Metro's minimum requirements, then:

- A. Metro may establish a short list of fewer than three (3) qualified Consultants; or
- B. Metro may cancel the RFQu and issue an RFP.

(h) No Consultant will be eligible for placement on Metro's short list established under subsection (3)(d) of this Rule if Consultant or any of Consultant's principals, partners or associates are members of Metro's RFQu evaluation committee.

(i) Except when the RFQu is cancelled, Metro shall provide a copy of the subsequent RFP to each Consultant on the short list.

(4) **Formal Selection of Consultants through Request for Proposals.** Metro shall use the procedure described below when issuing an RFP for a Contract described in section (1) of this Rule.

(j) **RFP Required Contents.** When using the formal selection procedure Metro shall include at least the following in each RFP, whether or not the RFP is preceded by an RFQu:

A. General background information, including a description of the Project and the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services sought for the Project, the estimated time period during which the Project is to be completed, and the estimated time period in which the specific Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services sought will be performed;

B. The RFP evaluation process and criteria which will be used to select the most qualified Proposer, including the weights, number of points or other classifications applicable to each criterion. If Metro does not indicate the applicable number of points, weights or other classifications, then each criterion is of equal value. Evaluation criteria may include, but are not limited to, the following:

(i) Proposers' availability and capability to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP;

(ii) Experience of Proposers' key staff persons in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services on comparable projects;

(iii) The amount and type of resources, and number of experienced staff persons Proposers have available to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP;

(iv) The recent, current and projected workloads of the staff and resources referenced in this Section;

(v) The proportion of time Proposers estimate that the staff referenced in this Section would spend on the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP;

(vi) Proposers' demonstrated ability to successfully complete similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services on time and within budget, including whether or not there is a record of satisfactory performance under Rule 48-0120 (List of Interested Consultants; Performance Record);

(vii) References and recommendations from past clients;

(viii) Proposers' performance history in meeting deadlines, submitting accurate estimates, producing high quality work, meeting financial obligations, price and cost data from previous projects, cost controls and contract administration;

(ix) Status and quality of any required license or certification;

(x) Proposers' knowledge and understanding of the Project and Architectural, Engineering and Land Surveying Services or Related Services described in the RFP as shown in Proposers' approaches to staffing and scheduling needs for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services and proposed solutions to any perceived design and constructability issues;

(xi) Results from interviews, if conducted;

(xii) Design philosophy, if applicable, and approach to the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP;

(xiii) If Metro is selecting a Consultant to provide Related Services, pricing policies and pricing Proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead; and

(xiv) Any other criteria that Metro deems relevant to the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP, including, where the nature and budget of the Project so warrant, a design competition between competing Proposers. Provided, however, these additional criteria cannot include pricing policies, pricing Proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead, when the sole purpose or predominant purpose of the RFP is to obtain Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services.

C. The RFP shall include at a minimum the following provisions:

(i) The date and time Proposals are due, and the delivery location for Proposals;

(ii) Reservation of the right to seek clarifications of each Proposal;

(iii) Reservation of the right to negotiate a final Contract that is in the best interest of Metro;

(iv) Reservation of the right to reject any or all Proposals and reservation of the right to cancel the RFP at any time if doing either would be in the public interest as determined by Metro;

(v) A statement that Proposers responding to the RFP do so solely at their expense, and Metro is not responsible for any Proposer expenses associated with the RFP;

(vi) A statement directing Proposers to the protest procedures set forth in these Division 48 Rules;

(vii) Special Contract requirements, including but not limited to MBE, WBE, ESB and SDV participation goals or good faith efforts with respect to MBE, WBE, ESB and SDV participation, and federal requirements when federal funds are involved;

(viii) A statement whether or not Metro will hold a pre-Proposal meeting for all interested Consultants to discuss the Project and the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP and if a pre-Proposal meeting will be held, the location of the meeting and whether or not attendance is mandatory;

(ix) A request for any other information Metro deems reasonably necessary to permit Metro to evaluate, rank and select the most qualified Proposer to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP; and

(x) A sample form of Contract.

(k) **RFP Contents for Related Services Selections Based on Price.** When using the formal selection procedure Metro may also include evaluation price criteria including, but not limited to, the total price for the Related Services described in the RFP, Consultant pricing policies, and other pricing information such as the Consultant's estimated number of staff hours needed to perform the Related Services described in the RFP, expenses, hourly rates and overhead.

(5) **RFP Evaluation Committee.** Metro shall establish a committee of at least three (3) individuals to review, score and rank Proposals according to the evaluation criteria set forth in the RFP. If the RFP has followed an RFQu, Metro may include the same members who served on the RFQu evaluation committee. Metro may appoint to the evaluation committee Metro employees or employees of other public agencies with experience in Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying, Related Services, construction services or Public Contracting. At least one (1) member of the evaluation committee must be Metro employee. Metro may include on the evaluation committee private practitioners of architecture, engineering, land surveying or related professions. Metro shall designate one (1) of its employees who also is a member of the evaluation committee as the evaluation committee chairperson. No Proposer will be eligible for award of the Contract under the RFP if Proposer or any of Proposer's principals, partners or associates are members of Metro's RFP evaluation committee for the Contract. If the RFP provides for the possibility of Proposer interviews, the evaluation committee may elect to interview Proposers if the evaluation committee considers it necessary or desirable. If the evaluation committee conducts interviews, it shall award weights, points or other classifications indicated in the RFP for the anticipated interview. The evaluation committee shall provide to Metro the results of the scoring and ranking for each Proposer.

(6) **Initial Negotiations.** If Metro does not cancel the RFP after it receives the results of the scoring and ranking for each Proposer, Metro will begin negotiating a Contract with the highest ranked Proposer. Metro shall direct negotiations toward obtaining written agreement on:

(a) The Consultant's performance obligations and performance schedule;

(b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to Metro as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services;

(c) Any other provisions Metro believes to be in Metro's best interest to negotiate:

(7) **Subsequent Negotiations.** Metro shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if Metro and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. Metro may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, and so on, in accordance with section (6) of this Rule, until negotiations result in a Contract. If negotiations with any Proposer do not result in a Contract within a reasonable amount of time, Metro may end the particular formal Solicitation. Nothing in this Rule precludes Metro from proceeding with a new formal Solicitation for the same Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the RFP that failed to result in a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.110, 279C.527, OL 2015, ch 565 (HB 3303)

48-0230 Ties Among Proposers

(1) If Metro is selecting a Consultant on the basis of qualifications alone and determines after the ranking of proposals that two or more Consultants are equally qualified, Metro may select a candidate through any process that Metro believes will result in the best value for Metro taking into account the scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services. Provided, however, the tie breaking process established by Metro under this section (1) cannot be based on the Consultant's pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead. The process must be designed to instill public confidence through ethical and fair dealing, honesty and good faith on the part of Metro and Proposers and shall protect the integrity of the Public Contracting process. Once a tie is broken, Metro and the selected Consultant shall proceed with negotiations under Administrative Rule 48-0210(3) or 48-0220(4)(c), as applicable.

(2) If Metro is selecting a Consultant on the basis of price alone, or on the basis of price and qualifications, and determines after the ranking of proposers that two or more Consultants are identical in terms of price or are identical in terms of price and qualifications, then Metro shall follow the procedure set forth in Administrative Rule 46-0300 (Preferences for Oregon Goods and Services), to select the Consultant.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110, OL 2011, ch 458

48-0240 Protest Procedures

(1) **Solicitation Protest and Request for Change.** Consultants may submit a written protest of anything contained in an Solicitation Document and may request a change to any provision, specification or Contract term contained therein, no later than seven (7) Days prior to the date Offers are due, unless a different deadline is indicated in the Solicitation Document. Each protest and request for change must include the reasons for the protest or request, and any proposed changes to the Solicitation Document provisions, specifications or Contract terms. Metro will not consider any protest or request for change that is submitted after the submission deadline.

(2) **Protest of Consultant Selection.** For formal Requests for Proposals, Metro shall provide to all Proposers a notice of intent to award the Contract to the highest ranked Proposer. A Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to Metro no later than seven (7) Days after the date of the selection notice unless a different deadline is indicated in the RFP. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Consultants failed to meet the requirements of the RFP. Metro may not consider any protest that is submitted after the submission deadline.

(3) **Decision.** Metro shall resolve all timely submitted protests within a reasonable time following Metro's receipt of the protest and once resolved, shall promptly issue a Written decision on the protest to the Proposer who submitted the protest.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065 & 279C.110, OL 2011, ch 458

48-0250 Solicitation Cancellation, Delay or Suspension; Rejection of All Proposals or Responses; Consultant Responsibility For Costs

Metro may cancel, delay or suspend a Solicitation, RFQu or other preliminary Procurement document, whether related to a Direct Appointment Procedure (Administrative Rule 48-0200), the Intermediate Selection Procedure (Administrative Rule 48-0210), and the Formal Selection Procedure (Administrative Rule 48-0220), or reject all Proposals, responses to RFQs, responses to other preliminary Procurement documents, or any combination of the foregoing, if Metro believes it is in the public interest to do so. In the event of any such cancellation, delay, suspension or rejection, Metro is not liable to any Proposer for any loss or expense caused by or resulting from any such cancellation, delay, suspension or rejection. Consultants responding to either Solicitations, RFQs or other preliminary Procurement documents are responsible for all costs they may incur in connection with submitting Proposals, responses to RFQs or responses to other preliminary Procurement documents.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, 279C.110

48-0270 Price Agreements

(1) Metro may establish Price Agreements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services, when Metro cannot determine the precise quantities of those Services that Metro will require over a specified time period.

(2) When establishing Price Agreements under this Rule, Metro shall select no fewer than three (3) Consultants, when feasible. The selection procedures for establishing Price Agreements shall be in accordance with Administrative Rule 48-0130(1) or 48-0130(2), as applicable. Metro may select a single Consultant, when a Price Agreement is awarded to obtain services for a specific Project or a closely-related group of Projects.

(3) In addition to any other applicable Solicitation requirements set forth in these Division 48 Rules, Solicitation materials and the terms and conditions for a Price Agreement for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services must:

(a) Include a scope of services, menu of services, a specification for services or a similar description of the nature, general scope, complexity and purpose of the Procurement that will reasonably enable a prospective Proposer to decide whether to submit a Proposal;

(b) Specify whether Metro intends to award a Price Agreement to one (1) Consultant or to multiple Consultants. If Metro will award a Price Agreement to more than one (1) Consultant, the Solicitation document and Price Agreement shall describe the criteria and procedures Metro will use to select a Consultant for each individual work order or task order. Subject to the requirements of ORS 279C.110, the criteria and procedures to assign work orders or task orders that only involve or predominantly involve Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying services are at Metro's sole discretion; provided, however, in circumstances where a direct contract is not permitted under Administrative Rule 48-0200, the selection criteria cannot be based on pricing policies, pricing proposals or other pricing information, including the number of hours proposed for the Services required, expenses, hourly rates and overhead. In accordance with Administrative Rule 48-0130(2) applicable to Related Services procurements, the selection criteria and procedures may be based solely on the qualifications of the Consultants, solely on pricing information, or a combination of both qualifications and pricing information. Pricing information may include the number of hours proposed for the Related Services required, expenses, hourly rates, overhead and other price factors. Work order or task order assignment procedures under Price Agreements may include direct appointments, subject to the requirements of Administrative Rule 48-0200; and

(c) Specify the maximum 5-year term for assigning Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services under the Price Agreement.

(4) All Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services assigned under a Price Agreement require a written work order or task order issued by Metro. Any work orders or task orders assigned under a Price Agreement must include, at a minimum, the following:

(a) The Consultant's performance obligations and performance schedule;

(b) The payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the work order or task order that is fair and reasonable to Metro, as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services;

(c) Language that incorporates all applicable terms and conditions of the Price Agreement into the work order or task order; and

- (d) Any other provisions Metro believes to be in Metro's best interest.

Stat. Auth.: ORS 279A.065 & OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.110, 279C.120 & OL 2011, ch 458

Post-Selection Considerations

48-0300 Prohibited Payment Methodology; Purchase Restrictions

(1) Except as otherwise allowed by law, a Contracting Agency shall not enter into any Contract which includes compensation provisions that expressly provide for payment of:

- (a) Consultant's costs under the Contract plus a percentage of those costs; or
- (b) A percentage of the Project construction costs or total Project costs.

(2) Except as otherwise allowed by law, a Contracting Agency shall not enter into any Contract in which:

(a) The compensation paid under the Contract is solely based on or limited to the Consultant's hourly rates for the Consultant's personnel working on the Project and reimbursable expenses incurred during the performance of work on the Project (sometimes referred to as a "time and materials" Contract); and

(b) The Contract does not include a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services required under the Contract.

(3) Except in cases of Emergency or in the particular instances noted in the subsections below, Metro shall not purchase any building materials, supplies or equipment for any building, structure or facility constructed by or for Metro from any Consultant under a Contract with Metro to perform Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services, for the building, structure or facility. This prohibition does not apply if either of the following circumstances exists:

(a) The Consultant is providing Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services under a Contract with Metro to perform Design-Build services or Energy Savings Performance Contract services (see Administrative Rule 49-0670 and 49-0680); or

(b) That portion of the Contract relating to the acquisition of building materials, supplies or equipment was awarded to the Consultant pursuant to applicable law governing the award of such a Contract.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, OL 2011, ch 458

48-0310 Expired or Terminated Contracts; Reinstatement

(1) If Metro enters into a Contract for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services and that Contract subsequently

expires or is terminated, Metro may proceed as follows, subject to the requirements of subsection (2) of this Rule:

(a) **Expired Contracts.** If the Contract has expired as the result of Project delay caused by Metro or caused by any other occurrence outside the reasonable control of Metro or the Consultant, and if no more than one (1) year has passed since the Contract expiration date, Metro may amend the Contract to extend the Contract expiration date, revise the description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract to reflect any material alteration of the Project made as a result of the delay, and revise the applicable performance schedule. Beginning on the effective date of the amendment, Metro and the Consultant shall continue performance under the Contract as amended; or

(b) **Terminated Contracts.** If Metro or both parties to the Contract have terminated the Contract for any reason and if no more than one (1) year has passed since the Contract termination date, then Metro may enter into a new Contract with the same Consultant to perform the remaining Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services not completed under the original Contract, or to perform any remaining Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services not completed under the Contract as adjusted to reflect a material alteration of the Project.

(2) Metro may proceed under either subsection (1)(a) or subsection (1)(a) of this Rule only after making written findings that amending the existing Contract or entering into a new Contract with the Consultant will:

(a) Promote efficient use of public funds and resources and result in substantial cost savings to Metro;

(b) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement process by not encouraging favoritism or substantially diminishing competition in the award of Contracts; and

(c) Result in a Contract that is still within the scope of the original Procurement document.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065 & 279C.110, OL 2011, ch 458

48-0320 Contract Amendments

(1) Metro may amend any Contract if Metro, in its sole discretion, determines that the amendment is within the scope services contemplated under the Solicitation and that the amendment would not materially impact the field of competition for the services described in the Solicitation. In making this determination, Metro shall consider potential alternative methods of procuring the services contemplated under the proposed amendment. An amendment would not materially impact the field of competition for the services described in the Solicitation Document, if Metro reasonably believes that the number of Proposers would not significantly increase if the Solicitation were re-issued to include the additional services.

(2) Amendments are required to document price and schedule changes agreed upon between the parties.

(3) Metro may amend any Contract if the additional services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, which affect performance of the original Contract.

(4) All amendments to Contracts must be in Writing, must be Signed by an authorized representative of the Consultant and Metro.

(5) For a Contract under \$25,000 awarded under Rule 48-0200(1)(b) (Direct Appointment Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed \$25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as Unauthorized Purchase in accordance with Rule 46-0200.

(6) For a Contract directly awarded to a pre-qualified Consultant under Rule 48-0200(1)(c) (Direct Appointment Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed \$100,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(7) For a Contract awarded under Rule 48-0210 (Intermediate Selection Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed \$250,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(8) For a Contract awarded under Rules 48-0220 (Formal Selection Procedure) Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed one hundred twenty-five percent (125%) of the original Contract Price. Increases in excess of the 125% limit shall be (a) submitted to the Chief Operating Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.110, OL 2011, ch 458

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

**DIVISION 49 - GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTS
FOR CONSTRUCTION SERVICES**

49-0100 Application

These Division 49 Rules address matters covered in ORS Chapter 279C and apply to Public Improvement Contracts as well as, where identified, Public Contracts for ordinary construction that are not Public Improvements. Contracts for minor alteration, ordinary repair or maintenance of Public Improvements or Price Agreements, as well as other Contracts for construction services that are not defined as a Public Improvement under Division 10 of these Rules, are to be awarded and executed pursuant to Division 47 of these Rules and ORS 279B and not this Division 49.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065

49-0110 Policies

In addition to the general State Code policies set forth in ORS 279A.015, the ORS 279C.300 policy on competition and the ORS 279C.305 policy on least-cost for Public Improvements apply to these Division 49 Rules.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.300 & 279C.305

49-0130 Competitive Bidding Requirement

Metro shall solicit Bids for Public Improvement Contracts by Invitation to Bid ("ITB"), except as otherwise allowed or required pursuant to ORS 279C.335 on Competitive Bidding exceptions and exemptions, ORS 279A.030 on federal law overrides, or ORS 279A.100 on affirmative action. See Rules 49-0600 to 49-0690 regarding the use of Alternative Contracting Methods and the process for obtaining an exemption from Competitive Bidding requirements.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.335

49-0140 Contracts for Construction Other Than Public Improvements

(1) **Procurement Under ORS Chapter 279B.** Pursuant to ORS 279C.320, Public Contracts for construction services that are not Public Improvement Contracts may be procured and amended as general trade Services under the provisions of ORS Chapter 279B rather than under the provisions of ORS Chapter 279C and these Division 49 Rules. In accordance with ORS 279A.010, Contracts for emergency work, minor alternation, ordinary repair or maintenance necessary to preserve a Public Improvements are not Public Improvement Contracts.

(2) **Application of ORS Chapter 279C.** Notwithstanding the forgoing, Public Contracts for construction services that are not Public Improvement Contracts, and are therefore procured under ORS 279B are nonetheless subject to the non-procurement provisions of ORS Chapter 279C and these Division 49 Rules may still be applicable. See, for example, particular statutes on Disqualification (ORS 279C.440, 445, 450); Legal Actions (ORS 279C.460 and 465); Required Contract Conditions (ORS 279C.505, 515, 520, 530); Hours of Labor (ORS 279C.540, 545); Retainage (ORS 279C.550, 560 and 565); Subcontracts (ORS 279C.580); Action on Payment Bonds (ORS 279C.600, 605, 610, 615, 620, 625); Termination (ORS 279C.650, 660, 670); and all of the Prevailing Wage Rates requirements (ORS 279C.800 through 870) for Public Works Contracts.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.320

49-0150 Emergency Contracts; Bidding and Bonding Exemptions

(1) **Emergency Declaration.** Metro may declare that Emergency circumstances exist that require prompt execution of a Public Contract for Emergency construction or repair work pursuant to the procedures in Rules 47-0280 and 47-0800(4).

(2) **Excusing Bonds.** If the circumstances in ORS 279C.380(4) are met, the Emergency declaration may also state that Metro waives the requirement of furnishing a performance bond and payment bond for the Emergency Contract. After making such an Emergency declaration, those bonding requirements are excused for the procurement. However, an Emergency declaration does not affect the separate Public Works bond requirement for the benefit of the Bureau of Labor and Industries (BOLI) in enforcing prevailing wage rate and overtime payment requirements. In addition, nothing herein prevents Metro from subsequently requesting such bonds from the Contractor after work begins.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.080, 279C.320, 279C.380

49-0160 Intermediate Procurements; Competitive Quotes and Amendments

(1) **General.** As provided for under ORS 279C.412 and 279C.414, Public Improvement Contracts estimated by Metro not to exceed \$100,000 may be awarded in accordance with intermediate level procurement procedures for Competitive Quotes established by this Rule. A Procurement may not be artificially divided or fragmented so as to constitute an Intermediate Procurement under this Rule in order to circumvent Competitive Bidding requirements.

(2) **Written Competitive Quotes.** Requests for Competitive Quotes for a Public Improvement project anticipated to exceed \$25,000 must be in Writing. Metro must seek at least three (3) Competitive Quotes and otherwise comply with Metro's Equity in Contracting Administrative Rules. The Request for Competitive Quotes must include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. The criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, Contractor capacity, Responsibility and similar factors. Written requests must include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage, if the estimated cost exceeds \$50,000. Written Request for Competitive Quotes must also include the following:

- (a) A complete description of the proposed work.

- (b) Location and deadline for submittal of Competitive Quotes.
 - (c) The prevailing wage provisions of ORS 279C.800 to 279C.870, when applicable.
 - (d) The performance bond, payment bond and BOLI Public Works bond requirements of ORS 279C.380 and 279C.830, when applicable.
 - (e) The Contractor registration requirements of ORS 701.
 - (f) Any other law applicable to such a Contract.
- (3) **Award.** Metro shall award the Contract to the prospective Contractor whose Competitive Quote will best serve the interests of Metro, taking into account the announced selection criteria. If award is not made to the Contractor offering the lowest price, Metro shall make a Written record of the basis for award.
- (4) **BOLI Notification.** Metro shall provide notification of award to BOLI as required by ORS 279C.835.
- (5) **Price Increases and Amendments.** Intermediate level Public Improvement Contracts obtained by Competitive Quotes may be increased in accordance with Administrative Rule 49-0910, provided that the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of \$100,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater.

Stat. Auth.: ORS 279A.065
 Stats. Implemented: ORS 279C.412 and ORS 279C.414.

Formal Procurement Rules

49-0200 Solicitation Documents; Required provisions; Assignment or Transfer

- (1) **Solicitation Document.** Pursuant to ORS 279C.365 and this Rule, the Solicitation Document must include the following:
- (a) General Information:
 - A. Identification of the Public Improvement project, including the character of the work, and applicable plans, Specifications and other Contract documents;
 - B. Notice of any pre-Offer conference as follows:
 - (i) The time, date and location of any pre-Offer conference;
 - (ii) Whether attendance at the conference will be mandatory or voluntary; and
 - (iii) That statements made by Metro's representatives at the conference are not binding upon Metro unless confirmed by Written Addenda.
 - C. The deadline for submitting mandatory prequalification applications and the class or classes of work for which Offerors must be prequalified if prequalification is a requirement;
 - D. The name and title of the authorized Metro representative designated for receipt of Offers and contract representative (if different);
 - E. Instructions and information concerning the form and submission of Offers, including the address of the office to which Offers must be delivered, any Bid or Proposal security requirements, and

any other required information or special information, e.g., whether Offers may be submitted by Electronic means (See Rule 49-0310 regarding Electronic Procurement);

F. The time and date of Closing after which Metro will not accept Offers, which time cannot be less than five (5) Days after the date of the last publication of the advertisement. Although a minimum of five (5) Days is prescribed, Metro will elect to use at least a fourteen (14) Day Solicitation period when feasible. If Metro is issuing an ITB that may result in a Public Improvement Contract with a value in excess of \$100,000, the time of Closing must be consistent with the first-tier subcontractor disclosure requirements of ORS 279C.370(1)(b) and Rule 49-0360;

G. The time, date and place of Opening;

H. The office where the Specifications for the work may be reviewed;

I. A statement that each Bidder to an ITB must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120;

J. If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 to 3148), a statement that no Offer will be received or considered by Metro unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."

K. A statement that Metro will not receive or consider an Offer for a Public Improvement Contract unless the Offeror is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board, as specified in Rule 49-0230;

L. Whether a Contractor or a Subcontractor under the Contract must be licensed under ORS 468A.720 regarding asbestos abatement projects;

M. Contractor's certification of nondiscrimination in obtaining required Subcontractors in accordance with ORS 279A.110(4). (See Rule 49-0440(3));

N. How Metro will notify Offerors of Addenda and how Metro will make Addenda available (See Rule 49-0250); and

O. When applicable, instructions and forms regarding First-Tier Subcontractor Disclosure requirements, as set forth in Rule 49-0360.

(b) The Solicitation Document must also contain the following information about the evaluation process:

A. A statement that Metro may reject any Offer not in compliance with all prescribed Public Contracting procedures and requirements, including the requirement to demonstrate the Bidder's responsibility under ORS 279C.375(3)(b), and may reject for good cause all Offers after finding that doing so is in the public interest;

B. The anticipated Solicitation schedule, deadlines, protest process and evaluation process, if any;

C. Evaluation criteria, including the relative value applicable to each criterion, that Metro will use to determine the Responsible Bidder with the lowest Responsive Bid (where award is based solely on price) or the Responsible Proposer or Proposers with the best Responsive Proposal or Proposals (where use of competitive Proposals is authorized under ORS 279C.335 and Rule 49-0620), along with the process Metro will use to determine acceptability of the work;

(i) If the Solicitation Document is an Invitation to Bid, Metro shall set forth any special price evaluation factors in the Solicitation Document. Examples of such factors include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, and ownership or life-cycle cost formulas. Price evaluation factors need not be precise predictors of actual future costs; but, to the extent possible, such evaluation factors must be objective, reasonable estimates based upon information Metro has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposals, Metro shall refer to the additional requirements of Rule 49-0650; and

(c) **Contract provisions.** The Solicitation Document must include all Contract terms and conditions, including warranties, insurance and bonding requirements, that Metro considers appropriate for the Public Improvement project. The Solicitation Document must also include all applicable Contract provisions required by Oregon law, including :

A. Prompt payment to all Persons supplying labor or material; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279C.505(1));

B. A demonstration that an employee drug testing program is in place (ORS 279C.505(2));

C. If the Contract calls for demolition work described in ORS 279C.510(1), a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

D. If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510(2));

E. Payment of claims by public officers (ORS 279C.515(1));

F. Contractor and first-tier Subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2), including the rate of interest;

G. A Person's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515(3));

H. Hours of labor in compliance with ORS 279C.520;

I. Environmental and natural resources regulations (ORS 279C.525);

J. Payment for medical care and attention to employees (ORS 279C.530(1));

K. A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530(2));

L. Maximum hours, holidays and overtime (ORS 279C.540);

M. Time limitation on claims for overtime (ORS 279C.545);

N. Prevailing wage rates (ORS 279C.800 to 279C.870);

O. Fee paid to BOLI (ORS 279C.830);

P. BOLI Public Works bond (ORS 279C.830(2));

- Q. Retainage (ORS 279C.550 to 279C.570);
- R. Prompt payment policy, progress payments, rate of interest (ORS 279C.570);
- S. Contractor's relations with Subcontractors (ORS 279C.580);
- T. Notice of claim (ORS 279C.605);
- U. Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385; and

V. Contractor's certification that all Subcontractors performing work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS Chapter 701 or 671, respectively before the Subcontractors commence work under the Contract.

(2) **Assignment or Transfer Restricted.** Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, or delegate duties under the Contract, either in whole or in part, without Metro's prior Written consent. Unless otherwise agreed by Metro in Writing, such consent does not relieve the Contractor of any obligations under the Contract. Any assignee or transferee is considered the agent of the Contractor and is bound to abide by all provisions of the Contract. If Metro consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, remain liable to Metro for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless Metro otherwise agrees in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.110, 279A.120, 279C.365, 279C.370, 279C.390, 279C.505 - 580, 279C.605, 305.385, 468A.720, 701.005 & 701.055

49-0210 Solicitation notice and Advertising Requirements; Posting

(1) **Notice and Distribution Fee.** Metro shall furnish "notice" as set forth below in subsections (a) through (c), to a number of Persons sufficient for the purpose of fostering and promoting competition. The notice must indicate where, when, how and for how long the Solicitation Document may be obtained and generally describe the Public Improvement project or work. The notice may contain any other appropriate information. Metro may charge a fee or require a deposit for the Solicitation Document. Metro may furnish notice using any method determined to foster and promote competition, including, without limitation:

- (a) Placing notice on an Electronic Procurement System; or
- (b) Mailing notice of the availability of Solicitation Documents to Persons that have expressed an interest in Metro's Procurements; or
- (c) Placing notice on Metro's Internet Web site.

(2) **Advertising.** Pursuant to ORS 279C.360 and this Rule, Metro shall advertise every Solicitation for Bids or Proposals for a Public Improvement Contract, unless the Local Contract Review Board has exempted the Solicitation from the advertisement requirement as part of a Competitive Bidding exemption under ORS 279C.335.

- (a) Unless Metro publishes by Electronic Advertisement as permitted by Section 2(b) below, Metro shall publish the advertisement for Offers at least once in at least one newspaper of general

circulation in the area where the Contract is to be performed and in as many additional issues and publications as Metro may determine to be necessary or desirable to foster and promote competition.

(b) Metro finds it cost effective to Electronically post notice of Solicitations. Metro may therefore publish advertisements for formal Offers on its Electronic Procurement System.

(c) In addition to Metro's publications under subsection (a) and (b) above, Metro shall also publish an advertisement for Bids or Proposals in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000.

(d) All advertisements for Bids or Proposals must set forth:

- A. The Public Improvement project;
- B. The office where Contract terms, conditions and Specifications may be reviewed;
- C. The date that Persons must file applications for prequalification under ORS 279C.340, if prequalification is a requirement, and the class or classes of work for which Persons must be prequalified;
- D. The date of mandatory pre-offer meeting, if applicable;
- E. The scheduled Closing, which must not be less than five (5) Days after the date of the last publication of the advertisement;
- F. The name, title and address of Metro representative authorized to receive Offers;
- G. The scheduled Opening; and
- H. If applicable, that the Contract is for a Public Works subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 to 3148).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360 & 200.035

49-0220 Prequalification of Offerors

(1) **Mandatory Prequalification.** Pursuant to ORS 279C.430 and this Rule, Metro may require mandatory prequalification of Offerors for Contracts to construct Public Improvements or to perform Public Works. Metro must indicate in the Solicitation Document if it will require mandatory prequalification. Mandatory prequalification is when Metro conditions a Person's submission of an Offer upon the Person's prequalification. Metro may not consider an Offer from a Person that is not prequalified if Metro required prequalification. Applications for Prequalification must be submitted to Metro in accordance with the deadlines provided in the Solicitation Document.

(2) **Prequalification Presumed.** If a an Offeror is currently Prequalified by either the Oregon Department of Transportation or the Oregon Department of Administrative Services to perform Contracts, the Bidder is rebuttably presumed qualified to perform the same work for Metro upon submission of proof of such Prequalification. If a Bidder submits proof of Prequalification, then the Bidder is rebuttably presumed qualified under ORS 279C.435. Nothing contained in this section waives Metro's requirements for Prequalification, Metro's authority to require additional information or detail, or prior approval as otherwise set forth in this Rule.

(3) **Standards for Prequalification.** To qualify, a Bidder must demonstrate to Metro's satisfaction, that they are a Responsible Bidder based on criteria set forth in ORS 279C.375 (3)(b) and Rule 49-0390. If

Metro determines the Bidder is qualified, notification shall be sent stating the Bidder's qualified Bidding limits, classes of work and the validity period of the Bidder's prequalification.

(4) **Notice of Denial; Appeal.** If a Person fails to prequalify for a mandatory prequalification, Metro shall notify the Person, specify the reasons for denying prequalification, and inform the Person of the Person's right to a hearing under ORS 279C.445 and 279C.450. The Procurement Officer shall conduct the hearing and has the authority of the Local Contract Review Board as provided in ORS 279C.450. The Procurement Officer may adopt rules of procedure for the hearing. The appeal shall be conducted and decided within thirty (30) Days of Metro's issuance of the non-qualification notice or a date mutually agreed upon by both parties.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.430 & 279C.435

49-0230 Eligibility to Bid or Propose; Registration or License

(1) **Construction Contracts.** Metro shall not consider a Person's Offer to do work as a Contractor, as defined in ORS 701.005(2), unless the Person has a current, valid certificate of registration issued by the Construction Contractors Board at the time the Offer is made.

(2) **Landscape Contracts.** Metro shall not consider a Person's Offer to do work as a landscape Contractor as defined in ORS 671.520(2), unless the Person has a current, valid landscape Contractors license issued pursuant to ORS 671.560 by the State Landscape Contractors Board at the time the offer is made.

(3) **Noncomplying Entities.** Metro deems an Offer received from a Person that fails to comply with this Rule nonresponsive and shall reject the Offer as stated in ORS 279C.365(1)(k), unless contrary to federal law or subject to different timing requirements set by federal funding agencies.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 671.530 & 701.055

49-0240 Pre-Offer Conferences

(1) **Purpose.** Metro may hold pre-Offer conferences with prospective Offerors prior to Closing to explain the Procurement requirements, obtain information, or to conduct site inspections.

(2) **Required attendance.** Metro may require attendance at the pre-Offer conference as a condition for making an Offer. Unless otherwise specified in the Solicitation Document, a mandatory attendance requirement is considered met if, at any time during the mandatory meeting, a representative of an offering firm is present.

(3) **Scheduled time.** If Metro holds a pre-Offer conference, it will be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by Metro's representative at the pre-Offer conference do not change the Solicitation Document unless Metro confirms such statements with a Written Addenda to the Solicitation Document.

(5) **Announcement.** Metro must set forth notice of any pre-Offer conference in the Solicitation Document in accordance with Rule 49-0200(1)(a)(B).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & 279C.370

49-0250 Addenda to Solicitation Documents

(1) **Issuance; Receipt.** Metro may change a Solicitation Document for Bids or Proposals only by Written Addenda. An Offeror shall provide Written acknowledgement of receipt of all issued Addendas with its Offer, unless Metro otherwise specifies in the Addenda or in the Solicitation Document.

(2) **Notice and Distribution.** Metro shall notify prospective Offerors of Addendas consistent with the standards of notice set forth in Rule 49-0210(1). The Solicitation Document must specify how Metro will provide notice of Addendas and how Metro will make the Addendas available (see, Rule 49-0200(1)(a)(N)).

(3) **Timelines; Extensions.** Metro shall issue Addendas within a reasonable time to allow prospective Offerors to consider the Addendas in preparing their Offers. Metro may extend the Closing if Metro determines prospective Offerors need additional time to review and respond to an Addenda. Except to the extent required by public interest, Metro will not issue an Addenda to an Invitation to Bid or Request for Proposal less than 72 hours before the Closing unless such Addenda also extends the Closing.

(4) **Request for Change or Protest to Addenda.** Unless a different deadline is set forth in the Addenda, an Offeror may submit a Written request for change or protest to an Addenda by the close of Metro's next business day after issuance of the Addenda, or up to the last Day allowed to submit a request for change or protest under Rule 49-0260, whichever date is later. Metro shall consider only an Offeror's request for change or protest to the Addenda. Metro shall not consider a request for change or protest to matters not added or modified by the Addenda.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395 & 279A.065

49-0260 Request for Clarification or Change; Solicitation Protests

(1) **Clarification.** Prior to the deadline for submitting a Written request for change or protest, an Offeror may request that Metro clarify any provision of the Solicitation Document, including any attached form of Contract. Metro's clarification to an Offeror, whether orally or in Writing, does not change the Solicitation Document and is not binding on Metro unless Metro amends the Solicitation Document by Addenda.

(2) **Request for Change to Specifications or Contract Terms.**

(a) **Delivery.** An Offeror may request in Writing a change to the Specifications or Contract terms and conditions. Unless otherwise specified in the Solicitation Document, an Offeror must deliver the Written request for change to Metro not less than ten (10) Days prior to Closing;

(b) Content of Request for Change.

A. An Offeror's Written request for change must include a statement of the requested change(s) to the Contract terms and conditions or Specifications, together with the reason for the requested change.

B. An Offeror shall mark its request for change as follows:

- (i) "Request for Change to Specifications or Contract Terms"; and
- (ii) Solicitation Document number.

(3) Protest and Judicial Review of Solicitation Documents and Solicitation Processes.

(a) **Purpose.** A prospective Offeror may protest the Solicitation process or the Solicitation Document for a Contract solicited pursuant to competitive sealed ITB process or through an alternative contracting process.

(b) **Delivery.** Written protest regarding a Solicitation Document or the Public Improvement procurement process must be provided to the Procurement Officer within seven (7) Days after a Solicitation Document is advertised, unless the Solicitation Document requires a shorter period of time. Metro shall not consider a protest submitted after the timeline established for submitting such protest under this Rule.

(c) **Content of Protest.** The Written protest must include:

- A. Sufficient information to identify the portion or portions of the Solicitation Document that are being protested or the Solicitation process or processes that are the subject of the protest;
- B. A detailed statement of the legal and factual grounds for the protest;
- C. Evidence or supporting documentation that supports the grounds on which the protest is based;
- D. A description of the resulting harm to the Affected Person; and
- E. The relief requested or a statement of the desired changes to the Contract terms and conditions, including any Specifications.

(d) **Required Metro Response.**

- A. Metro shall inform the Affected Person in Writing if the protest was not timely filed;
- B. Metro shall inform the Affected Person if it failed to meet the requirements set forth above in subsection (c) of this Rule and the reasons for that failure;
- C. If the protest was timely filed and provides the information required by subsection (c), Metro shall issue a decision in Writing and provide that decision to the Affected Person no less than three days before Offers are due, unless a Written determination is made by Metro that circumstances exist that require a shorter time limit.
- D. If Metro denies the protest, it shall inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contract Review Board.

(e) **Optional Metro Response.** In addition to the requirements of subsection (d), Metro may do any or all of the following:

- A. Agree with the protest and make any necessary corrections to the Solicitation Document or Procurement process;

- B. Issue a Written response to the protest and provide that decision to the Affected Person;
- C. Refer the protest and any response to the Local Contract Review Board; or
- D. Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest, including without limitation, (i) extending Closing if Metro determines an extension is necessary to consider the protest and to issue an Addenda to the Solicitation Document or (ii) canceling the Solicitation under Rule 49-0270.

(f) **Judicial Review.** An Affected Person may not seek judicial review of Metro’s final decision regarding its protest of the contents of a Solicitation Document or the Solicitation process unless it has timely and fully complied with the Protest requirements of this Rule and has exhausted all avenues of appeal provided by Metro. Judicial review is not available if Metro withdraws the Solicitation Document that was the subject of the protest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345 & 279C.365

49-0270 Cancellation, Delay or Suspension of Solicitation Document

(1) **Cancellation in the Public Interest.** At any time prior to executing a Contract, Metro may cancel a Solicitation for good cause if Metro finds that cancellation is in the public interest. Metro's reasons for cancellation shall be made part of the Solicitation file.

(2) **Delay or Suspension.** Any Solicitation may be delayed or suspended in whole, or in part, when the delay or suspension is in the best interest of Metro as determined by Metro.

(3) **Costs.** Metro is not liable to any Offeror for costs, expenses or losses caused by the cancellation, delay, or suspension of a Solicitation.

(4) **Notice of Cancellation.** If Metro cancels a Solicitation prior to Opening, Metro shall provide notice of cancellation in accordance with Rule 49-0210(1). Such notice of cancellation must:

- (a) Identify the Solicitation;
- (b) Briefly explain the reason for cancellation; and
- (c) If appropriate, explain that an opportunity will be given to compete on any resolicitation.

(5) **Disposition of Offers.**

(a) **Prior to Offer Opening.** If Metro cancels a Solicitation prior to Offer Opening, Metro shall return all Offers it received to Offerors unopened, provided the Offeror submitted its Offer in a hard copy format with a clearly visible return address. If there is no return address on the envelope, Metro may open the Offer to determine the source and then return it to the Offeror.

(b) **After Offer Opening.** If Metro cancels a Solicitation after Offer Opening or if Metro rejects all Offers, Metro will retain all such Offers as part of Metro’s Solicitation file. If a Request for Proposals is cancelled after Proposals are received, Metro may return a Proposal to the Proposer that submitted it. Metro shall keep a list of returned Proposals in the Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.395

49-0280 Bid and Proposal Offer Submissions

- (1) **Offer and Acceptance.** The Bid or Proposal is the Bidder's or Proposer's Offer to enter into a Contract. In competitive Bidding and competitive Proposals, the Offer is always a "Firm Offer," i.e., the Offer is held open by the Offeror for Metro's acceptance for the period specified in Rule 49-0410, unless otherwise specified in the Solicitation Document. Metro may elect to accept the Offer at any time during the specified period, and Metro's award of the Contract to a Bidder constitutes acceptance of the Offer.
- (2) **Negotiation.** A competitive Proposal is a "Firm Offer" for the specified period referenced above in Section (1), but Metro may nonetheless elect to discuss or negotiate certain contractual provisions, as identified in these Rules or in the Solicitation Document with the Proposer. Where negotiation is permitted by the Rules or the Solicitation Document, Proposers are bound to negotiate in good faith and only on those terms and the Rules or the Solicitation Document has reserved for negotiation.
- (3) **Responsive Offer.** Metro may award a Contract only to a Responsible Offeror with a Responsive Offer.
- (4) **Contingent Offers.** Except to the extent that an Offeror is authorized to propose certain terms and conditions pursuant to Rule 49-0650, an Offeror cannot make an Offer contingent upon Metro's acceptance of any terms or conditions (including Specifications) other than those contained in the Solicitation Document.
- (5) **Offeror's Acknowledgement.** By signing and returning the Offer, the Offeror acknowledges it has read and understands the terms and conditions contained in the Solicitation Document and that it accepts and agrees to be bound by the terms and conditions of the Solicitation Document. If the Request for Proposals permits the proposal of alternative terms under Rule 49-0650, the Offeror's Offer includes the nonnegotiable terms and conditions and any proposed terms and conditions offered for negotiation upon and to the extent accepted by Metro in Writing.
- (6) **Instructions.** An Offeror shall submit and Sign its Offer in accordance with the Solicitation Document. An Offeror shall initial and submit any correction or erasure to its Offer prior to the Opening in accordance with the requirements for submitting an Offer under the Solicitation Document.
- (7) **Forms.** An Offeror shall submit its Offer on the form(s) provided in the Solicitation Document, unless an Offeror is otherwise instructed in the Solicitation Document.
- (8) **Documents.** An Offeror shall provide Metro with all documents and Descriptive Literature required under the Solicitation Document.
- (9) **Electronic Submissions.** If Metro permits Electronic Offers in the Solicitation Document, the Offeror may submit Electronic Offers in accordance with the Solicitation Document. Metro may not consider Electronic Offers unless authorized by the Solicitation Document.
- (10) **Product Samples and Descriptive Literature.** Metro may require Product Samples or Descriptive Literature if it is necessary or desirable to evaluate the quality, features, or characteristics of the offered items. Metro will dispose of Product Samples or return or make available for return Product Samples to the Offeror in accordance with the Solicitation Document.
- (11) **Identification of Offers.** To ensure proper identification and handling, Offers must be submitted in a sealed envelope appropriately marked or in the envelope provided by Metro, whichever is applicable. Metro is not responsible for Offers submitted in any manner, format or to any delivery point other than as required in the Solicitation Document.

(12) **Receipt of Offers.** The Offeror is responsible for ensuring that Metro receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & 279C.375

49-0290 Bid or Proposal Security

(1) **Security Amount.** If Metro requires Bid or Proposal security, it may not be more than ten percent (10%) or less than five percent (5%) of the Offeror's Bid or Proposal, consisting of the base Bid or Proposal together with all additive alternates. Metro may not use Bid or Proposal security to discourage competition. Metro must clearly state any Bid or Proposal security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal security after award if the Offeror fails to execute the Contract or otherwise fails to promptly return the Contract with any required performance bond, payment bond, BOLI Public Works bond, or any required proof of insurance. See ORS 279C.365(5), ORS 279C.385, and ORS 279C.830.

(2) **Requirement for Bid Security (Optional for Proposals).** Unless Metro has otherwise exempted a Solicitation or class of Solicitations from Bid security pursuant to ORS 279C.390, Metro must require Bid security for its Solicitation of Bids for Public Improvements. This requirement applies only to Public Improvement Contracts with a value, estimated by Metro, of more than \$100,000. Metro may require Bid security even if it has exempted a class of Solicitations from Bid security. Metro may also require Proposal security in RFPs. See ORS 279C.400(5).

(3) **Form of Bid or Proposal Security.** Metro may accept only the following forms of Bid or Proposal security:

(a) A surety bond, Signed by the surety's authorized Attorney in Fact, from a company authorized to do business in the State of Oregon and that is duly listed in the United States Treasury list as published in the Federal Register, or which is otherwise approved by the Metro Attorney. The A Power of Attorney for the Attorney in Fact shall be submitted; or

(b) A Signed irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or

(c) A cashier's check or Offeror's certified check.

(4) **Return of Security.** Metro shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been fully executed and all required bonds and insurance have been provided, or after all Offers have been rejected. Metro may return the Bid or Proposal security of unsuccessful Offerors prior to award if the return does not prejudice Contract award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.385 & 279C.390

49-0310 Electronic Procurement

- (1) **General.** Metro may utilize Electronic Advertisement of Public Improvement Contracts in accordance with ORS 279C.360(1) and Rule 49-0210, provided that advertisement of such Contracts with an estimated Contract Price in excess of \$125,000 must also be published in a trade newspaper of general statewide circulation. Metro may post notices of intent to award Electronically as provided by ORS 279C.410(7).
- (2) **Alternative Procedures.** In the event that Metro desires to direct or permit the submission and receipt of Offers for a Public Improvement Contract by Electronic means, as allowed under ORS 279C.365(1)(d), it shall first adopt supporting procedures substantially in conformance with Rule 47-0330 (Electronic Procurement under ORS Chapter 279B), taking into account ORS Chapter 279C requirements for Written Bids, Opening Bids publicly, Bid security, first-tier Subcontractor disclosure and inclusion of prevailing wage rates.
- (3) **Interpretation.** Nothing in this Rule shall be construed as prohibiting Metro from making procurement documents for Public Improvement Contracts available in Electronic format as well as in hard copy when Bids are to be submitted only in hard copy. See ORS 279C.365(2).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365

49-0320 Pre-Closing Modification or Withdrawal of Offers

- (1) **Modifications.** Once submitted, Bids or Proposals may only be modified in Writing prior to the time and date set for Bid or Proposal Closing. An Offeror shall prepare and submit any modification to its Offer to Metro in accordance with Rule 49-0280, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:
 - (a) Bid (or Proposal) Modification; and
 - (b) Solicitation number.
- (2) **Withdrawals.**
 - (a) An Offeror may withdraw its Offer by Written notice, Signed by an authorized representative of the Offeror, delivered to the location specified in the Solicitation Document (or the place of Closing if no location is specified), and received by Metro prior to the Closing. The Offeror or authorized representative of the Offeror may also withdraw its Offer in Person prior to the Closing, upon presentation of appropriate identification and satisfactory evidence of authority.
 - (b) Metro may release an unopened Offer withdrawn under subsection (2)(a) to the Offeror or its authorized representative, after voiding any date and time stamp mark.
 - (c) The Offeror shall mark the Written request to withdraw an Offer as follows:
 - A. Bid (or Proposal) Withdrawal; and
 - B. Solicitation number.
- (3) **Documentation.** Metro shall include all documents relating to the modification or withdrawal of Offers in the appropriate Solicitation file.

(4) **Late Requests for Modification or Withdrawal.** Any request for modification or withdrawal of a Bid or Proposal made after the time for Bid or Proposal Closing is late as provided by Rule 49-0340. Any late submission will be returned to the Bidder or Proposer unopened. If any late submission is opened inadvertently, the procedure provided by Rule 49-0330 applies, except the submission will be returned to the sender.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360, 279C.365, 279C.375 & 279C.395

49-0330 Receipt, Opening and Recording of Offers; Confidentiality of Offers

(1) **Receipt.** Metro shall Electronically or mechanically time-stamp or hand-mark each Offer and any modification upon receipt. Metro shall not open a Bid or Proposal or modification thereto upon receipt, but shall maintain it as confidential and secure until Opening. If Metro inadvertently opens an Offer or a modification prior to the Opening, Metro shall return the Offer or modification to its secure and confidential state until Opening. Metro shall document the resealing for the Procurement file (e.g. "Metro inadvertently opened the Offer due to improper identification of the Offer").

(2) **Opening and Recording.** Metro shall publicly open Bids, including any modifications made to the Bid, pursuant to Rule 49-0320 and to the extent practicable, Metro shall read aloud the name of each Bidder, the Bid price(s), and such other information as Metro considers appropriate. In the case of voluminous Bids, Metro may elect not to read the Bids aloud.

(3) **Availability.** After Opening, Metro shall make Bids available for public inspection, but pursuant to ORS 279C.410 Proposals are not required to be available for public inspection until after notice of intent to award is issued. In any event Metro may withhold from disclosure those portions of an Offer that the Offeror designates as trade secrets or as confidential proprietary data in accordance with the Oregon Public Records Law, ORS 192.410 et seq. To facilitate public inspection of the non-confidential portion of the Bid or Proposal, an Offeror must designate and separate from the remainder of the Offer, as confidential, any material it deems confidential. Application of the Oregon Public Records Law ORS 192.410 et seq. determines if the information designated as confidential and claimed to be exempt is in fact exempt from disclosure. To the extent Metro determines such designation is not in accordance with applicable law, Metro will make those portions available for public inspection. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of an Offeror's designation to the contrary. Copies of public records will be made available upon payment of Metro's charges.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.375 & 279C.395

49-0340 Late Bids, Late Withdrawals and Late Modifications

(1) Any Bid or Proposal received after Closing is late. An Offeror's request for withdrawal or modification of a Bid or Proposal received after Closing is late. Metro shall not consider late Bids or Proposals, withdrawals or modifications except as permitted in Rule 49-0350 or 49-0390. Failure by Metro to properly return or dispose of a late submission does not mean an Offer or submission arrived on time.

(2) For manual submissions of Offers, Metro's time clock shall be the clock of record and the date and time imprint of that clock on an Offer shall determine the timeliness of the submission. Late manual submissions will be returned to the Offeror unopened with a copy of the envelope containing Metro's time stamp on the Offer retained for the Solicitation file.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.375 & 279C.395

49-0350 Mistakes

(1) **Generally.** To protect the integrity of the competitive Procurement process and to assure fair treatment of Offerors, Metro will carefully consider whether to permit waiver, correction or withdrawal of Offers for certain mistakes.

(2) **Treatment of Mistakes.** Metro will not allow a Bidder or Proposer to correct or withdraw an Offer for an error in judgment. Mistakes that constitute a minor informality may be waived or corrected. Mistakes that constitute clerical errors may be corrected or withdrawn in Metro's discretion pursuant to this Rule.

(3) **Notification and Verification.** If Metro believes the Offer contains a mistake, Metro shall notify the Offeror, identify the apparent mistake, and request that the Offeror verify the Offer in Writing, or by Electronic transmission within one business day after notification.

(a) If the Offeror fails to respond within one business day after notification of the apparent mistake, Metro shall consider the Offer as submitted unless the amount of the Offer is so far out of line with the amounts of other Bids received, or with the amount estimated by Metro, or there are other indications of error so clear, as to reasonably justify the conclusion or that acceptance of the Offer would be unfair to the Offeror or to other bona fide Offerors, in which case Metro is entitled to reject the Offer. Metro may extend the time for response for good cause shown.

(b) If the Offeror verifies its Offer, Metro must consider the Offer as originally submitted. However, in fairness to other Offerors, verification does not preclude Metro from rejecting the Offer if it is clear that a mistake has been made and Metro determines the intended Offer is not evident.

(4) **Minor Informality.** Metro may waive, or permit a Bidder or Proposer to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Offer, or an insignificant mistake that can be waived or corrected without prejudice to other Offerors. Examples of minor informalities include an Offeror's failure to:

(a) Return the correct number of Signed Offers or the correct number of other documents required by the Solicitation Document;

(b) Sign the Offer in the designated block, provided a Signature appears elsewhere in the Offer, evidencing an intent to be bound; and

(c) Acknowledge receipt of an Addenda to the Solicitation Document, provided that it is clear on the face of the Offer that the Offeror received the Addenda and intended to be bound by its terms; or the Addenda involved did not affect price, quality or delivery.

(5) **Clerical Errors.** Metro may correct a clerical error if the error is evident on the face of the Offer or other documents submitted with the Offer, and the Offeror confirms Metro's correction in Writing. A clerical error is an Offeror's error in transcribing its Offer. Examples include typographical mistakes,

errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Offer). Unit prices prevail over extended prices in the event of a discrepancy between extended prices and unit prices.

(a) Metro may permit a Bidder or Proposer to withdraw an Offer based on one or more clerical errors in the Offer only if the Offeror shows with objective proof and by clear and convincing evidence:

- A. The nature of the error;
- B. That the error is not a minor informality under this subsection or an error in judgment;
- C. That the Offeror acted in good faith in submitting an Offer that contained the claimed error and in claiming that the alleged error in the Offer exists;
- D. That the Offeror acted without gross negligence in submitting an Offer that contained a claimed error;
- E. That the Offeror will suffer substantial detriment if Metro does not grant the Offeror permission to withdraw the Offer;
- F. That Metro's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on Metro or the public it represents; and
- G. That the Offeror promptly gave notice of the claimed error to Metro.

(b) The criteria in Section (5)(a) of this Rule is relevant in determining whether Metro will permit an Bidder or Proposer to withdraw its Offer after Closing. These criteria also shall apply to the question of whether Metro will permit an Offeror to withdraw its Offer without forfeiture of its Bid bond (or other Bid or Proposal security), or without liability to Metro based on the difference between the amount of the Offeror's Offer and the amount of the Contract actually awarded by Metro, whether by award to the next lowest Responsive and Responsible Bidder or the best Responsive and Responsible Proposer, or by resort to a new Solicitation.

(6) **Rejection for Mistakes.** Metro will reject any Offer in which a mistake is evident on the face of the Offer and the intended correct Offer is not evident or cannot be substantiated from documents submitted with the Offer.

(7) **Identification of Mistakes after award.** The procedures and criteria set forth above are Offeror's only opportunity to correct mistakes or withdraw Offers because of a mistake. Following award, an Offeror is bound by its Offer, and may withdraw its Offer or rescind a Contract entered into pursuant to this Division 49 only to the extent permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375 & 279C.395

49-0360 First-Tier Subcontractors; Disclosure and Substitution

(1) **Required Disclosure.** Within two working hours after the Bid Closing on an ITB for a Public Improvement having a Contract Price anticipated by Metro to exceed \$100,000, all Bidders shall submit to Metro a disclosure form as described by ORS 279C.370(2), identifying any first-tier subcontractors (those Entities that would be contracting directly with the prime contractor) that will be furnishing labor

or labor and materials on the Contract, and if awarded, whose subcontract value would be equal to or greater than:

- (a) Five percent (5%) of the total Contract Price, but at least \$15,000; or
- (b) \$350,000, regardless of the percentage of the total Contract Price.

(2) **Bid Closing, Disclosure Deadline and Bid Opening.** For each ITB to which this Rule applies, Metro shall:

- (a) Set the Bid Closing on a Tuesday, Wednesday or Thursday, and at a time between 2 p.m. and 5 p.m., and provided that the two-hour disclosure deadline described by this Rule would not then fall on a legal holiday;
- (b) Open Bids publicly immediately after the Bid Closing; and
- (c) Consider for Contract award only those Bids for which the required disclosure has been submitted by the announced deadline on forms prescribed in the Solicitation Document.

(3) **Bidder Instructions and Disclosure Form.** For the purposes of this Rule, Metro in its Solicitation shall:

- (a) Prescribe the disclosure form that must be utilized, substantially in the form set forth in ORS 279C.370(2); and
- (b) Provide instructions in a notice substantially similar to the following:

“Instructions for First-Tier Subcontractor Disclosure

Bidders are required to disclose information about certain first-tier subcontractors when the Contract value for a Public Improvement is greater than \$100,000 (see ORS 279C.370). Specifically, when the Contract amount of a first-tier subcontractor furnishing labor or labor and materials would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000; or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract either in its Bid submission, or within two hours after Bid Closing:

- 1. The subcontractor's name;
- 2. The category of work that the subcontractor would be performing; and
- 3. The dollar value of the subcontract.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the accompanying form.

METRO MUST REJECT A BID AS NONRESPONSIVE IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE (see Rule 49-0360)."

(4) **Submission.** A Bidder shall submit the disclosure form required by this Rule either in its Bid submission, or within two working hours after Bid Closing in the manner specified by the ITB.

(5) **Responsiveness.** Compliance with the disclosure and submittal requirements of ORS 279C.370 and this Rule is a matter of Responsiveness. Bids that are submitted by Bid Closing, but for which the

disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for Contract award.

(6) **Metro Role.** Metro shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370 and this Rule. Metro shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. Metro is not required to determine the accuracy or completeness of the information provided on disclosure forms.

(7) **Substitution.** Substitution of affected first-tier subcontractors may be made only in accordance with ORS 279C.585, the Solicitation Document, and the Contract. Metro will accept Written submissions filed under that statute as public records. Aside from issues involving inadvertent clerical error under ORS 279C.585, Metro does not have a statutory role or duty to review, approve or resolve disputes concerning such substitutions. See ORS 279C.590 regarding complaints to the Construction Contractors Board on improper substitution.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.370, 279C.585, 279C.590 & 279C.835

49-0370 Disqualification of Persons

(1) **Authority.** Metro may disqualify a Person from consideration of award of Metro's Contracts after providing the Person with notice and a reasonable opportunity to be heard in accordance with this Rule.

(2) **Standards for Conduct Disqualification.** As provided in ORS 279C.440, Metro may disqualify a Person for:

(a) Conviction for the commission of a criminal offense as an incident in obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty that currently, seriously and directly affects the Person's responsibility as a contractor.

(c) Conviction under state or federal antitrust statutes.

(d) Violation of a contract provision that is regarded by Metro to be so serious as to justify Conduct Disqualification. A violation under this subsection (d) may include but is not limited to material failure to perform the terms of a contract or an unsatisfactory performance in accordance with the terms of the contract. However, a Person's failure to perform or unsatisfactory performance caused by acts beyond the Person's control is not a basis for Disqualification.

(e) Failure to carry workers' compensation or unemployment insurance as required by statute.

(f) Violation of ORS 279A.110 (discrimination in subcontracting) or violation of ORS 200.065 or ORS 200.075 (fraudulent and prohibited conduct related to COBID certification).

(3) **Notice of Intent to Disqualify.** Metro shall notify the Person in Writing of a proposed Disqualification personally or by certified mail, return receipt requested. This notice shall:

(a) State that Metro intends to disqualify the Person;

(b) Set forth the reasons for the Disqualification;

(c) Include a statement of the Person's right to a hearing if requested in Writing within the time stated in the notice and that if Metro does not receive the Person's Written request for a hearing within the time stated, the Person shall have waived its right to a hearing;

(d) Include a statement of the authority under which the hearing will be held;

(e) Include a reference to the particular sections of the statutes and rules involved;

(f) State the proposed Disqualification period; and

(g) State that the Person may be represented by legal counsel.

(4) **Hearing.** Metro shall schedule a hearing upon Metro's receipt of the Person's timely hearing request. Within a reasonable time prior to the hearing, Metro shall notify the Person of the time and place of the hearing and provide information on the procedures, right of representation and other rights related to the conduct of the hearing.

(5) **Notice of Disqualification.** Metro will notify the Person in Writing of its Disqualification, personally or by certified mail, return receipt requested. The notice shall contain:

(a) The effective date and period of Disqualification;

(b) The grounds for Disqualification; and

(c) A statement of the Person's appeal rights and applicable appeal deadlines. For a Conduct Disqualification or a Disqualification under ORS 279A.110, the disqualified Person must notify Metro in Writing within three (3) business Days after receipt of Metro's notice of Disqualification if the Person intends to appeal Metro's decision.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 200.065, 200.075, 279A.110, 279C.440, 279C.445, 279C.450, OL 2015, ch 565 (HB 3303)

49-0380 Bid or Proposal Evaluation Criteria

(1) **General.** A Public Improvement Contract, if awarded, must be awarded to the Responsible Bidder submitting the lowest Responsive Bid, or to the Responsible Proposer submitting the best Responsive Proposal. (See Rule 49-0390, and Rules for Alternative Contracting Methods at 49-0600 to 49-0690.)

(2) **Bid Evaluation Criteria.** Invitations to Bid may solicit lump-sum Offers, with or without alternates, unit-price Offers, or any combination.

(a) **Lump Sum.** If the ITB requires a lump-sum Bid without additive or deductive alternates, Bids must be compared on the basis of lump-sum base Bid prices. If the ITB calls for a lump-sum base Bid plus additive or deductive alternates, the total Bid price must be calculated and compared by adding to or deducting from the base Bid those alternates selected by Metro, which selection is at Metro's sole discretion.

(b) **Unit Price.** If the Bid includes unit pricing for estimated quantities, without additive or deductive alternates, the total Bid price must be calculated and compared by multiplying the estimated quantities by the unit prices submitted by the Bidder. If the Bid includes unit pricing for estimated quantities, plus additive or deductive alternates, the total Bid price must be calculated and compared by multiplying the estimated quantities by the unit prices submitted by the Bidder, and adjusting for any additive or deductive alternates selected by Metro, which selection is at Metro's sole discretion. Metro shall specify within the Solicitation Document the estimated quantity of the Procurement to be used for

determination of the low Bidder. In the event of mathematical discrepancies between unit price and any extended price calculations submitted by the Bidder, the unit price governs. (See Rule 49-0350(2)(b).)

(3) **Proposal Evaluation Criteria.** If the Local Contract Review Board has exempted a Public Improvement from the Competitive Bidding requirements of ORS 279C.335(1), and has directed the use of an Alternative Contracting Method under ORS 279C.335(3) and ORS 279C.337, evaluation criteria shall be set forth in the Solicitation Documents. (See Rule 49-0640, ORS 279C.335 and 279C.405.)

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.335, OL 2011, ch 458

49-0390 Offer Evaluation and award; Determination of Responsibility

(1) **General.** If awarded, Metro shall award the Contract to the Responsible Bidder submitting the lowest, Responsive Bid or the Responsible Proposer submitting the best, Responsive Proposal, provided that such Person is not listed by the Construction Contractors Board as disqualified to hold a Public Improvement Contract (ORS 279C.375(3)(a)) or is ineligible for award as a nonresident education service district (ORS 279C.325). Metro may award by item, groups of items or the entire Offer provided such award is consistent with the Solicitation Document and in the public interest. Where award is based on competitive Bids, ORS 279C.375(5) permits multiple Contract awards when specified in the ITB.

(2) **Determination of Responsibility.** Offerors are required to demonstrate their ability to perform satisfactorily under a Contract. Before awarding a Contract, Metro must have information that indicates that the Offeror meets the standards of responsibility set forth in ORS 279C.375(3)(b). To be a Responsible Offeror, Metro must determine that the Offeror:

(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities;

(b) Has completed previous Contracts of a similar nature with a satisfactory record of performance. A satisfactory record of performance means that to the extent the costs associated with and time available to perform a previous Contract were within the Offeror's control, the Offeror stayed within the time and budget allotted for the procurement and otherwise performed the Contract in a satisfactory manner. An Offeror's record of Contract performance should be carefully scrutinized if the Offeror is or recently has been materially deficient in Contract performance. In reviewing the Offeror's performance, Metro should determine whether the Offeror's deficient performance was expressly excused under the terms of the Contract, or whether the Offeror took appropriate corrective action. Metro may review the Offeror's performance on both private and public contracts in determining the Offeror's record of contract performance. Metro shall make its basis for determining an Offeror not Responsible under this subsection part of the Solicitation file;

(c) Has a satisfactory record of integrity. An Offeror may lack integrity if Metro determines the Offeror demonstrates a lack of business ethics such as violating state environmental laws or making false certifications to Metro. Metro may find an Offeror is not Responsible based on the lack of integrity of any Person having influence or control over the Offeror (such as a key employee of the Offeror that has the authority to significantly influence the Offeror's performance of the Contract or a parent company, predecessor or successor Person). The standards for Conduct Disqualification under Rule 49-0370 may be used to determine an Offeror's integrity. Metro may find an Offeror is not Responsible based on previous convictions of offenses related to obtaining or attempting to obtain a contract or

subcontract or in connection with the Offeror's performance of a contract or subcontract. Metro shall make its basis for determining that an Offeror is not Responsible under this subsection part of the Procurement file;

(d) Is legally qualified to contract with Metro;

(e) Has supplied all necessary information in connection with the inquiry concerning responsibility. If the Offeror fails to promptly supply information requested by Metro concerning responsibility, Metro shall base the determination of responsibility on any available information, or may find the Offeror not Responsible.

(3) **Documenting Agency Determinations.** Metro shall document its compliance with ORS 279C.375(3) and the above sections of this Rule on a Responsibility Determination Form substantially as set forth in ORS 279.375(3)(c), and file that form with the Construction Contractors Board within thirty (30) Days after Contract award.

(4) **Metro Evaluation.** Metro shall evaluate an Offer only as set forth in the Solicitation Document and in accordance with applicable law..

(5) **Offeror Submissions.**

(a) Metro may require an Offeror to submit Product Samples, Descriptive Literature, technical data, or other material and may also require any of the following prior to award:

- A. Demonstration, inspection or testing of a product prior to award for characteristics such as compatibility, quality or workmanship;
- B. Examination of such elements as appearance or finish; or
- C. Other examinations to determine whether the product conforms to Specifications.

(b) Metro shall evaluate product acceptability only in accordance with the criteria disclosed in the Solicitation Document to determine that a product is acceptable. Metro shall reject an Offer providing any product that does not meet the Solicitation Document requirements. Metro's rejection of an Offer because it offers nonconforming work or materials is not Disqualification and is not appealable under ORS 279C.445.

(6) **Evaluation of Bids.** Metro shall use only objective criteria to evaluate Bids as set forth in the ITB. Metro shall evaluate Bids to determine which Responsible Offeror offers the lowest Responsive Bid.

(c) **Nonresident Bidders.** In determining the lowest Responsive Bid, Metro shall, in accordance with Rule 46-0310, add a percentage increase to the Bid of a nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides.

(d) **Clarifications.** In evaluating Bids, Metro may seek information from a Bidder only to clarify the Bidder's Bid. Such clarification shall not vary, contradict or supplement the Bid. A Bidder must submit Written clarifications and such clarifications shall become part of the Bidder's Bid.

(7) **Evaluation of Proposals.** See Rule 49-0650 regarding rules applicable to Requests for Proposals.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335, 279C.365, 279C.375, 279C.395, OL 2015, ch 454 (SB 491)

49-0395 Notice of Intent to award

(1) **Notice.** At least seven (7) Days before the award of a Public Improvement Contract, Metro shall issue to each Bidder (pursuant to ORS 279C.375(2)) and each Proposer (pursuant to ORS 279C.410(7)), or post Electronically or otherwise, a notice of Metro's intent to award the Contract. This notice requirement does not apply to contracts excepted or exempted from Competitive Bidding under ORS 279C.335(1)(c) or (d), including, without limitation, an award of a small Public Improvement Contract (under \$25,000) or an award of an intermediate Public Improvement Contract based off of Competitive Quotes.

(2) **Form and Manner of Posting.** The form and manner of posting notice shall conform to customary practices within Metro's procurement system, and may be made Electronically.

(3) **Finalizing award.** Metro's award shall not be final until the later of the following three (3) dates:

(a) Seven (7) Days after the date of notice of intent to award, unless the Solicitation Document provided a different period for protest of Contract award. For purposes of this subsection, the Day on which the notice is posted from which the seven (7) Days or other time period begins to run is not included, but the last Day of the period is included; or

(b) The Day Metro provides a Written response to all timely-filed protests that denies the protest and affirms the award; or

(c) Upon concluding any administrative appeal pursuant to Rule 49-0450 if the Procurement Officer decides to permit an appeal.

(4) **Prior notice Impractical.** Posting of notice of intent to award is not required when Metro determines that it is impractical due to unusual time constraints in making prompt award for its immediate procurement needs, documents the Procurement file as to the reasons for that determination, and posts notice of that action as soon as reasonably practical.

Stat. Auth,: ORS 279A.065

Stats. Implemented: ORS 279C.375

49-0400 Documentation of Award; Availability of Award Decisions

(1) **Basis of Award.** After award, Metro must make a record showing the basis for determining the successful Offeror part of Metro's Solicitation file.

(2) **Contents of Award Record for Bids.** Metro's record must include:

(a) All submitted Bids;

(b) Completed Bid tabulation sheet; and

(c) Written justification for any rejection of lower Bids.

(3) **Contents of Award Record for Proposals.** Where the use of Requests for Proposals is authorized as set forth in Rule 49-0650, Metro's record must include:

(a) All submitted Proposals;

(b) The completed evaluation of the Proposals;

(c) Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and

(d) If Metro permitted negotiations in accordance with Rule 49-0650, Metro's completed evaluation of the initial Proposals and Metro's completed evaluation of final Proposals.

(4) **Contract Document.** Metro shall deliver a fully executed copy of the final Contract to the successful Offeror.

(5) **Bid Tabulations and award Summaries.** Upon request of any Person, Metro shall provide tabulations of awarded Bids or evaluation summaries of Proposals. Metro may charge a nominal charge which may be payable in advance. Requests must contain the Solicitation Document number and, if requested, be accompanied by a self-addressed, stamped envelope. Metro may also provide tabulations of Bids and Proposals awarded on Metro's Website or on Metro's Electronic Procurement System.

(6) **Availability of Solicitation Files.** Metro shall make completed Solicitation files available for public review at Metro.

(7) **Copies from Solicitation Files.** Any Person may obtain copies of material from Solicitation files upon payment of a reasonable copying charge.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & 279C.375

49-0410 Time for Acceptance; Extension

(1) **Time for Offer Acceptance.** An Offeror's Bid, or Proposal submitted as a Firm Offer (see Rule 49-0280), is irrevocable, valid and binding on the Offeror for not less than thirty (30) Days from Closing unless otherwise specified in the Solicitation Document.

(2) **Extension of Acceptance Time.** Metro may request, orally or in Writing, that Offerors extend, in Writing, the time during which Metro may consider and accept their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a Firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period. The extension agreement may occur after the 30-Day time period referenced above in section (1) of this Rule.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375

49-0420 Negotiation With Bidders Prohibited

(1) **Bids.** Except as permitted by ORS 279C.340 and Rule 49-0430, Metro shall not negotiate with any Bidder prior to Contract award. After award of the Contract, Metro and Contractor may modify the resulting Contract only by change order or amendment to the Contract in accordance with 49-0910.

(2) **Requests for Proposals.** Metro may conduct discussions or negotiations with Proposers only in accordance with the requirements of Rule 49-0650.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.340 & 279C.375

49-0430 Negotiation When Bids Exceed Cost Estimate

(1) **Generally.** In accordance with ORS 279C.340, if all Responsive Bids from Responsible Bidders on a competitively Bid project exceed Metro's Cost Estimate, prior to Contract award Metro may negotiate Value Engineering and Other Options with the Responsible Bidder submitting the lowest, Responsive Bid in an attempt to bring the Project within Metro's Cost Estimate. The subcontractor disclosure and substitution requirements of Rule 49-0360 do not apply to negotiations under this Rule.

(2) **Definitions.** The following definitions apply to this Rule:

(a) "Cost Estimate" means Metro's most recent pre-Bid, good faith assessment of anticipated Contract costs, consisting either of an estimate of an architect, engineer or other qualified professional, or confidential cost calculation work sheets, where available, and otherwise consisting of formal planning or budgetary documents.

(b) "Other Options" means those items generally considered appropriate for negotiation in the RFP process, relating to the details of Contract performance as specified in Rule 49-0650, but excluding any material requirements previously announced in the Solicitation process that would likely affect the field of competition.

(c) "Project" means a Public Improvement.

(d) "Value Engineering" means the identification of alternative methods, materials or systems which provide for comparable function at reduced initial or life-time cost. It includes proposed changes to the plans, Specifications, or other Contract requirements which may be made, consistent with industry practice, under the original Contract by mutual agreement in order to take advantage of potential cost savings without impairing the essential functions or characteristics of the Public Improvement. Cost savings include those resulting from life cycle costing, which may either increase or decrease absolute costs over varying time periods.

(3) **Rejection of Bids.** In determining whether all Responsive Bids from Responsible Bidders exceed the Cost Estimate, only those Bids that have been formally rejected, or Bids from Bidders who have been formally disqualified by Metro, will be excluded from consideration.

(4) **Scope of Negotiations.** Metro shall not proceed with Contract award if the scope of the Project is significantly changed from the original ITB. The scope is considered to have been significantly changed if the pool of competition would likely have been affected by the change; that is, if other Bidders would have been expected by Metro to participate in the Bidding process had the change been made during the Solicitation process rather than during negotiation. This Rule shall not be construed to prohibit resolicitation of trade subcontracts.

(5) **Discontinuing Negotiations.** Metro may discontinue negotiations at any time, and shall do so if it appears to Metro that the apparent low Bidder is not negotiating in good faith or fails to share cost and pricing information upon request. Failure to rebid any portion of the project, or to obtain subcontractor pricing information upon request, is considered a lack of good faith.

(6) **Limitation.** Negotiations may be undertaken only with the lowest Responsive, Responsible Bidder pursuant to ORS 279C.340. That statute does not provide any additional authority to further negotiate with Bidders next in line for Contract award.

(7) **Public Records.** To the extent that a Bidder's records used in Contract negotiations are public records, they are exempt from disclosure until after the negotiated Contract has been awarded or the

negotiation process has been terminated, at which time they are subject to disclosure pursuant to the provisions of the Oregon Public Records Law, ORS 192.410 to 192.505.

Stat. Auth.: ORS 279C.340 & 279A.065

Stats. Implemented: ORS 279C.340

49-0440 Rejection of Offers

(1) Rejection of an Offer.

(a) Metro may reject any Offer upon finding that accepting the Offer may impair the integrity of the Procurement process or that rejecting the Offer is in the public interest. An example of rejection in the public interest is Metro's determination that any of the unit Bid prices are significantly unbalanced to Metro's potential detriment.

(b) Metro may reject an Offer upon Metro's finding that the Offer:

A. Is contingent on Metro's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

B. Takes exception to terms and conditions (including Specifications);

C. Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;

D. Offers work that fails to meet the Specifications of the Solicitation Document;

E. Is late;

F. Is not in substantial compliance with the Solicitation Documents;

G. Is not in substantial compliance with all prescribed public Solicitation procedures;

H. Omits, or is unclear as to, the price;

I. Requires a delivery date different from that required by the Solicitation Document;

(c) Metro shall reject an Offer upon Metro's finding that the Offeror:

A. Has not been prequalified under ORS 279C.430 and Metro required mandatory prequalification;

B. Has been Disqualified;

C. Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries and the Contract is for a Public Work;

D. Is listed as not qualified by the Construction Contractors Board, if the Contract is for a Public Improvement;

E. Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;

- F. Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;
- G. Has failed to provide the certification required under section (3) of this Rule;
- H. Has failed to substantially comply with Subcontractor Equity Program requirements (See Metro's Equity in Contracting Administrative Rules);
- I. Is not Responsible. See Rule 49-0390(2) regarding Metro determination that the Offeror has met statutory standards of responsibility.

(2) **Form of Business.** For purposes of this Rule, Metro may investigate any Person submitting an Offer. The investigation may include that Person's officers, Directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this Rule or to apply the Disqualification provisions of ORS 279C.440 to 279C.450 and Rule 49-0370.

(3) **Certification of Non-Discrimination.** The Offeror shall certify and deliver to Metro Written certification, as part of the Offer, that the Offeror has not discriminated and will not discriminate against any disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or business that a service-disabled veteran owns, in obtaining any required subcontracts. Failure to do so shall be grounds for Disqualification.

(4) **Rejection of all Offers.** Metro may reject all Offers for good cause upon Metro's Written finding it is in the public interest to do so. Metro shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.

(5) **Criteria for Rejection of All Offers.** Metro may reject all Offers upon a Written finding that:

- (a) The content of or an error in the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;
- (b) The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;
- (c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;
- (d) Causes other than legitimate market forces threaten the integrity of the competitive Procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct and inadvertent or intentional errors in the Solicitation Document;
- (e) Metro cancels the Solicitation in accordance with Rule 49-0270; or
- (f) Any other circumstance indicating that awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.105, 279A.110, 279C.375, 279C.380, 279C.395, OL 2015, ch 325 (HB 2716), OL 2015, ch 565 (HB 3303)

49-0450 Protest of Contractor Selection

(1) **Right to Protest award.** An adversely aggrieved or Affected Offeror (or a trade association acting on his behalf as permitted under ORS 279C.460) may protest the award or the notice of intent to award a Contract, whichever occurs first, resulting from a competitive Bid or competitive Proposal if:

(a) The adversely aggrieved or Affected Offeror is eligible (i.e. next in line) for award of the Contract if the protest is successful; and

(b) The reason for the protest is that:

A. All other Offers are nonresponsive;

B. Metro failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the Solicitation Document;

C. Metro abused its discretion in rejecting the adversely aggrieved or Affected Offeror's Bid or Proposal as nonresponsive; or

D. Metro's evaluation of Offers or Metro's subsequent determination of award is otherwise in violation of these Rules, ORS Chapter 279C or ORS Chapter 279A.

(2) **Method of Protest.**

(a) **Time.** A Written protest of the notice of intent to award or award itself must be provided to Metro within seven (7) Days after Metro posts a notice that it will make a Contract award, or the Contract is awarded, whichever occurs first, unless the Solicitation Document specified a shorter period of time. Metro shall not consider a protest submitted after the timeline established for submitting such protest under this Rule or such different time period as may be provided in the Solicitation Document

(b) **Contents.** The protest must include the following information.

A. Sufficient information to identify the Contract or notice of intent to award that is the subject of the protest;

B. A detailed statement of all the legal and factual grounds for the protest;

C. Evidence or supporting documentation that supports the grounds on which the protest is based;

D. A description of the resulting harm to the Offeror submitting the protest; and

E. The relief requested.

(3) **Required Metro Response.** Metro shall take the following actions, as appropriate:

(a) Metro shall inform protesting Offeror in Writing if the protest was not timely filed.

(b) Metro shall inform protesting Offeror if it failed to meet the requirements of section (2)(b) of this Rule, and the reasons for that failure.

(c) If the protest was timely filed and provides the required information, Metro shall issue a decision in Writing and provide that decision to the protesting Offeror within a reasonable time of the receipt of the protest.

(d) If Metro denies the protest, it shall inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Contract Review Board.

(4) **Optional Metro Response.** In addition to the requirements set forth above in section (3), Metro may do any of the following:

- (a) Agree with the protest and issue a revised notice of intent to award or take any other corrective action that may be necessary to ensure that the Contract is awarded to the appropriate Offeror;
- (b) Issue a Written response to the protest and provide that decision to the protesting Offeror.
- (c) Refer the protest and any response from the Procurement Officer to the Local Contract Review Board for decision;
- (d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(5) **Judicial Review.** A protesting Offeror may not seek judicial review of the Procurement Officer's final decision (or if referred to the Local Contract Review Board by the Procurement Officer, the Board's final decision) unless it timely and fully has complied with the protest requirements of this Rule and has exhausted all administrative avenues of appeal provided by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380, 279C.385 & 279C.460

49-0455 Protests of Other Violations

(1) **Right to Protest.** Protests of any violation of ORS Chapter 279C, for which no administrative remedy is otherwise provided by these Rules, are subject to this Rule 49-0455. An Affected Person can file a protest under this Rule only if a Contract is about to be awarded or has been awarded and:

- (a) An alleged violation of ORS 279C has occurred in the Solicitation process and the violation has resulted or will result in the unlawful award of a Contract or the unlawful failure to award the Contract;
- (b) The alleged violation deprived the Affected Person of the award of the Contract or the opportunity to compete for the award of the Contract;
- (c) The Affected Person would have been a Responsible Bidder, Proposer or Offeror qualified to receive the award of the Contract; and
- (d) The Affected Person gave Written notice to Metro describing the alleged violation no later than seven (7) Days after the date on which the alleged violation occurred and in no event more than seven (7) Days after the date of the execution of the Contract.

(2) **Method of Protest.**

(a) **Time.** The Procurement Officer shall not consider a protest submitted after the timeline established for submitting such protest under this Rule and shall not consider a protest under this section if a right to protest is elsewhere provided by these Rules.

(b) **Contents.** The protest must include the following information:

- A. Sufficient information to identify the Solicitation that is the subject of the protest;
- B. A detailed statement of the alleged violation and all the legal and factual grounds for the protest;
- C. Evidence or supporting documentation that supports the grounds on which the protest is based;
- D. A description of the resulting harm to the Affected Person; and
- E. The relief requested.

(3) **Required Metro Response.** Metro shall take the following actions, as appropriate:

- (a) Metro shall inform the Affected Person in Writing if the protest was not timely filed;
- (b) Metro shall inform the Affected Person if it failed to meet the requirements of Section 2(b) above and the reasons for that failure;

(c) If the protest was timely filed and provides the information required by Section 2(b) above, Metro shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest.

(d) If Metro denies the protest, it shall inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Council Review Board.

(4) **Optional Metro Response.** In addition to the requirements of section (3) above, Metro may take any or all of the following actions:

- (a) Agree with the protest and take any corrective action necessary;
- (b) Issue a Written response to the protest and provide that decision to the Affected Person;
- (c) Refer the protest and any response by the Procurement Officer to the Local Contract Review Board for decision; or

(d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(5) **Judicial Review.** An Affected Person may not seek judicial review of the Procurement Officer's final decision (or if referred to the Local Contract Review Board by the Procurement Officer, the Board's final decision) unless it has timely and fully complied with the protest requirements of this Rule and has exhausted all administrative avenues of appeal provided by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380, 279C.385 & 279C.460

49-0460 Performance and Payment Security; Waiver

(1) **Public Improvement Contracts.** Unless the required performance bond is waived under ORS 279C.380(1)(a), excused in cases of Emergency under ORS 279C.380(4), or unless Metro's Local Contract Review Board exempts a Contract or classes of contracts from the required performance bond and payment bond pursuant to ORS 279C.390, the Contractor shall execute and deliver to Metro a performance bond and a payment bond each in a sum equal to the Contract Price for all Public Improvement Contracts. This requirement applies only to Public Improvement Contracts with a value, estimated by Metro, of more than \$100,000. See ORS 279C.380(5). The requirement for the BOLI Public

Works payment bond under ORS 279C.830 may only be waived as provided in ORS 279C.836 (4), (7) and (8). See Rule 49-0815 regarding the separate requirement for a Public Works bond.

(2) **Other Construction Contracts.** Metro may require performance security for other construction Contracts that are not Public Improvement Contracts. Such requirements must be expressly set forth in the Solicitation Document.

(3) **Requirement for Surety Bond.** Metro will accept only a performance bond and payment bond furnished by a surety company authorized to do business in Oregon and who is duly listed in the United States Treasury List as published in the Federal Register or is otherwise approved by the Metro Attorney each in the amount of 100 percent (100%) of the Contract Price unless otherwise specified in the Solicitation Document or such substitute security as approved by the Metro Attorney's office. The surety bond must be Signed by the surety's Attorney in Fact, and have attached the Power of Attorney for the Attorney in Fact.

(4) **Time for Submission.** The apparent successful Offeror must promptly furnish the required performance and payment security within ten (10) Days after notification by Metro. If the Offeror fails to furnish all security bonds as requested, Metro may reject the Offer and award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at Metro's discretion, the Offeror shall forfeit its Bid or Proposal security.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380 & 279C.390

49-0470 Substitute Contractor

If the Contractor provided a performance bond, Metro may afford the Contractor's surety the opportunity to provide a substitute contractor to complete performance of the Contract. A substitute contractor shall perform all remaining Contract work and comply with all terms and conditions of the Contract, including the provisions of the performance bond and the payment bond. Such substitute performance does not involve the award of a new Contract and is not subject to the competitive Procurement provisions of ORS Chapter 279C.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.370, 279C.375, 279C.380 & 279C.390

49-0490 Foreign Contractor

If the Contract Price exceeds \$10,000 and the Contractor is a Foreign Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration, and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to Metro. Metro shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.120

Alternative Contracting Methods

49-0600 Purpose

Rules 49-0600 to 49-0690 are intended to provide guidance regarding the use of Alternative Contracting Methods for Public Improvement Contracts, as may be directed by the Local Contract Review Board under ORS 279C.335. Those methods include, but are not limited to: Design-Build, Energy Savings Performance Contract (ESPC) and the Construction Manager/General Contractor(CM/GC) forms of contracting. As to ESPC contracting, Rules 49-0600 to 49-0690 implement the requirements of ORS 279C.335 pertaining to the adoption of rules governing the procedures for entering into ESPCs. As to contracting for CM/CG Services requiring an exemption from Competitive Bidding under ORS 279C.335(2), Rules 49-0600 to 49-0690 include mandatory and optional procurement provisions pursuant to the requirements of ORS 279C.337.

Stat. Auth.: ORS 279C.335, 279A.065 & 351.086

Stats. Implemented: ORS 279C.335, 279C.337, 279A.065 & 351.086

49-0610 Definitions for Alternative Contracting Methods

The following definitions apply to Rules 49-0600 to 49-0690, unless the context requires otherwise:

- (1) "Affiliate" has the meaning set forth in ORS 279C.332(1).
- (2) "Alternative Contracting Methods" means innovative techniques for procuring or performing Public Improvement Contracts, utilizing processes other than the traditional Design-Bid-Build method (with award based solely on price, in which a final design is issued with formal Bid documents, construction work is obtained by sealed Bid awarded to the lowest Responsive, Responsible Bidder, and the project is built in accordance with those documents). In industry practice, such methods commonly include variations of Design-Build contracting, CM/GC forms of contracting and ESPCs, which are specifically addressed in Rules 49-0600 to 49-0690, as well as other developing techniques such as general "performance contracting" and "cost plus time" contracting, for which procedural requirements are identified under Rules 49-0600 to 49-0690.
- (3) "Construction Manager/General Contractor" or "CM/GC" has the meaning set forth in ORS 279C.332(2).
- (4) "Construction Manager/General Contractor Method" or "CM/GC Method" means the Alternative Contracting Method which involves Metro's selection of a CM/GC to perform CM/GC Services for a project or projects. The CM/GC Method generally involves a form of Procurement that results in a Public Improvement Contract for a Construction Manager/General Contractor to undertake project team involvement with design development; constructability reviews; value engineering, scheduling, estimating and subcontracting services; establish a Guaranteed Maximum Price to complete the Contract work; act as General Contractor; hold all subcontracts, self-perform portions of the work as may be allowed by Metro under the CM/GC Contract; coordinate and manage the building process; provide general Contractor expertise; and act as a member of the project team along with Metro department staff, architects, engineers and other consultants. CM/GC also refers to a Contractor under this form of Contract, sometimes known as the "Construction Manager at Risk."
- (5) "Construction Manager/General Contractor Services" or "CM/GC Services" has the meaning set forth in ORS 279C.332(3).

(6) "Design-Build" means a form of Procurement that results in a Public Improvement Contract in which the construction Contractor also provides or obtains specified design services, participates on the project team with Metro, and manages both design and construction. In this form of Contract, a single Person provides Metro with all of the Personal Services and construction work necessary to both design and construct the project.

(7) "Early Work" means construction services, construction materials and other work authorized by the parties to be performed under the CM/GC Contract in advance of the establishment of the GMP, fixed price or other maximum, not-to-exceed price for the project. Permissible Early Work shall be limited to early procurement of materials and supplies, early release of bid or proposal packages for site development and related activities, and any other advance work related to important components of the project for which performance prior to establishment of the GMP will materially and positively affect the development or completion of the project.

(8) "Energy Conservation Measures" or "ECMs" (also known as "energy efficiency measures") means, as used in ESPC Procurement, any equipment, fixture or furnishing to be added to or used in an existing building or structure, and any repair, alteration or improvement to an existing building or structure that is designed to reduce energy consumption and related costs, including those costs related to electrical energy, thermal energy, water consumption, waste disposal, and future contract-labor costs and materials costs associated with maintenance of the building or structure. For purposes of Rules 49-0600 to 49-0690, use of either or both of the terms "building" or "structure" shall be deemed to include existing energy, water and waste disposal systems connected or related to or otherwise used for the building or structure when such system(s) are included in the project, either as part of the project together with the building or structure, or when such system(s) are the focus of the project. Maintenance services are not Energy Conservation Measures, for purposes of Rules 49-0600 to 49-0690.

(9) "Energy Savings Guarantee" means the energy savings and performance guarantee provided by the ESCO under an ESPC Procurement, which guarantees to Metro that certain energy savings and performance will be achieved for the project covered by the RFP, through the installation and implementation of the agreed-upon ECMs for the project. The Energy Savings Guarantee shall include, but shall not be limited to, the specific energy savings and performance levels and amounts that will be guaranteed, provisions related to the financial remedies available to Metro in the event the guaranteed savings and performance are not achieved, the specific conditions under which the ESCO will guarantee energy savings and performance (including the specific responsibilities of Metro after final completion of the design and construction phase), and the term of the energy savings and performance guarantee.

(10) "Energy Savings Performance Contract" or "ESPC" means a Public Improvement Contract between Metro and a Qualified Energy Service Company for the identification, evaluation, recommendation, design and construction of Energy Conservation Measures, including a Design-Build Contract, that guarantee energy savings or performance.

(11) "General Conditions work" or "GC work" means a general grouping of project work required to support construction operations on the project that is not included within the Contractor's overhead or fee.

(12) "Guaranteed Maximum Price" or "GMP" has the meaning set forth in ORS 279C.332(4), pertaining to procurements for CM/GC Services. For Alternative Contracting Methods other than the CM/GC Method, "Guaranteed Maximum Price" or "GMP" means the total maximum price provided to Metro by the Contractor and accepted by Metro that includes all reimbursable costs and fees for completion of the Contract work and any particularly identified contingency amounts, as defined by the Public Improvement Contract.

(13) "Measurement and Verification" or "M & V" means, as used in ESPC Procurement, the examination of installed ECMs using the International Performance Measurement and Verification Protocol ("IPMVP"), or any other comparable protocol or process, to monitor and verify the operation of energy-using systems pre-installation and post-installation.

(14) "Project Development Plan" means a secondary phase of Personal Services and work performed by an ESCO in an ESPC Procurement when the ESCO performs more extensive design of the agreed-upon ECMs for the project, provides the detailed provisions of the ESCO's Energy Savings Guarantee that the fully installed and commissioned ECMs will achieve a particular energy savings level for the building or structure, and prepares an overall report or plan summarizing the ESCO's work during this secondary phase of the work and otherwise explaining how the agreed-upon ECMs will be implemented during the design and construction phase of the work. The term "Project Development Plan" can also refer to the report or plan provided by the ESCO at the conclusion of this phase of the work.

(15) "Qualified Energy Service Company" or "ESCO" means, as used in ESPC Procurement, a company, firm or other legal Person with the following characteristics: demonstrated technical, operational, financial and managerial capabilities to design, install, construct, commission, manage, measure and verify, and otherwise implement Energy Conservation Measures and other work on building systems or building components that are directly related to the ECMs in existing buildings and structures; a prior record of successfully performing ESPCs on projects involving existing buildings and structures that are comparable to the project under consideration by Metro; and the financial strength to effectively guarantee energy savings and performance under the ESPC for the project in question, or the ability to secure necessary financial measures to effectively guarantee energy savings under an ESPC for that project.

(16) "Savings" has the meaning set forth in ORS 279C.337(4), pertaining to CM/GC Services Procurements. For other Alternative Contracting Methods, "Savings" means a positive difference between a Guaranteed Maximum Price or other maximum not-to-exceed price set forth in a Public Improvement Contract and the actual cost of the Contractor's performance of the Contract work payable by Metro under the terms of the Contract, including costs for which Metro reimburses a Contractor and fees, profits or other payments the Contractor earns.

(17) "Technical Energy Audit" means, as used in ESPC Procurement, the initial phase of Personal Services to be performed by an ESCO that includes a detailed evaluation of an existing building or structure, an evaluation of the potential ECMs that could be effectively utilized at the facility, and preparation of a report to Metro of the ESCO's findings during this initial phase of the work. The term "Technical Energy Audit" can also refer to the report provided by the ESCO at the conclusion of this phase of the work.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.332, 279C.335 & 279A.065

49-0620 Use of Alternative Contracting Methods

(1) **Competitive Bidding Exemptions.** ORS Chapter 279C requires a Competitive Bidding process for Public Improvement Contracts unless a statutory exception applies, a class of Contracts has been exempted from the Competitive Bidding process, or an individual Contract has been exempted from the Competitive Bidding process in accordance with ORS 279C.335 and any applicable Metro Rules. Use of Alternative Contracting Methods may be directed by the Local Contract Review Board as an exception to the prescribed public contracting practices in Oregon, and their use shall be justified in accordance with

the State Code and Rules 49-0600 to 49-0690. See Rule 49-0630 regarding required findings and restrictions on exemptions from the Competitive Bidding requirement under ORS 279C.335.

(2) **Energy Savings Performance Contracts.** Unlike other Alternative Contracting Methods covered by Rules 49-0600 to 49-0690, ESPCs are exempted from the Competitive Bidding requirements for Public Improvement Contracts pursuant to ORS 279C.335(1)(f) upon compliance with the procedures set forth in Rule 49-0600 to 49-0690 related to the solicitation, negotiation, and contracting for ESPC work. If those procedures are not followed, an ESPC procurement may still be exempted from Competitive Bidding requirements by following the general exemption procedures within ORS 279C.335 and Rules 49-0620 (1) and 49-0630.

(3) **Post-Project Evaluation.** ORS 279C.355 requires that Metro prepare a formal post-project evaluation of Public Improvement projects in excess of \$100,000 when Metro does not use Competitive Bidding. The purpose of this evaluation is to determine whether it was actually in Metro's best interest to use an Alternative Contracting Method instead of Competitive Bidding. The evaluation must be delivered to Metro's Local Contract Review Board within thirty (30) Days of the date Metro "accepts" the Public Improvement project, which event is typically defined in the Contract. In the absence of a Contract definition, acceptance of the Project occurs on the later of the date of final payment or the date of final completion of the Contract work. ORS 279C.355 describes the timing and content of this evaluation, with three required elements:

- (a) Financial information, consisting of cost estimates, any Guaranteed Maximum Price, changes and actual costs;
- (b) A narrative description of successes and failures during design, engineering and construction; and
- (c) An objective assessment of the use of the Alternative Contracting Method as compared to the exemption findings.

Stat. Auth.: ORS 279C.335 & 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.355 & 351.086

49-0630 Findings, Notice and Hearing

(1) **Cost Savings Factors.** When findings are required under ORS 279C.335 to exempt a Contract or class of Contracts from Competitive Bidding requirements, the "substantial cost savings" criterion at ORS 279C.335(2)(b) requires consideration of the type, cost, amount of the Contract, number of Entities available to Bid, and "such other factors as may be deemed appropriate." If a particular factor has no application whatsoever to the particular Public Improvement Contract or class of Public Improvement Contracts then such factor need not be addressed other than to state that the factor has no application.

(2) **Required Information.** The statutory definition of "findings" at ORS 279C.330(2), which applies to exemptions from Competitive Bidding under ORS 279C.335, means the justification for Metro's conclusion regarding the factors listed in both ORS 279C.335(2)(a) and 279C.335(2)(b) or, in the alternative, both ORS 279C.335(2)(a) and 279C.335(2)(c).

(3) **Addressing Cost Savings.** Accordingly, when the Contract or class of Contracts under consideration for an exemption contemplates the use of Alternative Contracting Methods, the "substantial cost savings and other substantial benefits" requirement of ORS 279C.335(2)(b) may be addressed by a combination of:

(a) Specified findings that address the factors and other information specifically identified by statute, including, but not limited to, an analysis or reasonable forecast of present and future cost savings and other substantial benefits; and

(b) Additional findings that address industry practices, surveys, trends, past experiences, evaluations of completed projects required by ORS 279C.355 and related information regarding the expected benefits and drawbacks of particular Alternative Contracting Methods. To the extent practicable, such findings shall relate back to the specific characteristics of the project or projects at issue in the exemption request.

(c) As an alternative to the "substantial cost savings and other substantial benefits" requirement where an Alternative Contracting Method has not been previously used, Metro may make a finding that identifies the project as a "pilot project" under ORS 279C.335(2)(c). Nevertheless, Metro must still make the findings required in ORS 279C.335(2)(a).

(4) **Favoritism and Competition.** The criteria at ORS 279C.335(2)(a) that the exemption "is unlikely to encourage favoritism" or "substantially diminish competition" may be addressed in contemplating the use of Alternative Contracting Methods by specifying the manner in which an RFP process will be utilized, that the Procurement will be formally advertised with public notice and disclosure of the planned Alternative Contracting Method, competition will be encouraged, award made based upon identified selection criteria, and an opportunity to protest that award.

(5) **Description.** Findings supporting a Competitive Bidding exemption must describe with specificity the Alternative Contracting Method to be used in lieu of Competitive Bidding, including (but not limited to) whether a one-step (Request for Proposals) or two-step (beginning with a Request for Qualifications, followed by a request for Proposals) solicitation process will be utilized. The findings may also describe anticipated characteristics or features of the resulting Public Improvement Contract. However, such description in the findings is not binding upon Metro. The parameters of the Public Improvement Contract are those characteristics or specifics that are announced in the Solicitation Document.

(6) **Class Exemptions.** In making the findings supporting a class exemption, Metro shall clearly identify the "class" with respect to its defining characteristics, pursuant to the requirements of ORS 279C.335(3), as indicated below:

(a) The class cannot be based on a single characteristic or factor, so that Metro directly or indirectly creates a class (e.g., using the CM/GC Method for all Metro construction projects, unidentified future construction projects of a particular work category, or all construction projects from a particular funding source such as the sale of bonds); and

(b) The class must include a combination of factors to be defined by Metro through characteristics that reasonably relate to the exemption criteria, and must reflect a detailed evaluation of those characteristics so that the class is defined in a limited way that effectively meets Metro's objectives while allowing for impartial and open competition and protecting the integrity of the exemption process (i.e., a series of renovation projects that involve renovations for a common purpose, require completion on a related schedule to avoid unnecessary disruption of operations, share common characteristics such as historic building considerations, presence of asbestos or other hazardous substances, or the presence of staff during construction, or otherwise possess characteristics that meet the requirements).

(7) **Public Hearing.** Before final adoption of findings exempting a Public Improvement Contract or class of Contracts from the requirement of Competitive Bidding, notice must be given and a public hearing held by the Local Contract Review Board as follows:

(a) Notification of the public hearing must be published in at least one trade newspaper of general statewide circulation a minimum of fourteen (14) Days before the hearing.

(b) The notice must state that the public hearing is for the purpose of taking comments on Metro's draft findings for an Exemption from the Competitive Bidding requirement. The notice must state that at the hearing, after an opportunity for receipt of comments, the Board will consider adoption of the draft findings and approval of the proposed Alternative Contracting Method. At the time of the notice, copies of the draft findings must be made available to the public.

(c) At the public hearing, the Board shall offer an opportunity for any interested party to appear and present comment before considering and adopting the findings.

(d) If Metro is required to act promptly due to circumstances beyond Metro's control that do not constitute an Emergency, notification of the public hearing may be published simultaneously with Metro's Solicitation of contractors for the alternative public contracting method, as long as responses to the Solicitation are due at least five (5) Days after the hearing and approval of the findings.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335 & 279A.065

49-0640 Competitive Proposals; Procedure

Metro may utilize the following RFP process for Public Improvement Contracts, allowing flexibility in both Proposal evaluation and Contract negotiation, only in accordance with ORS 279C.330 to 279C.337, ORS 279C.400 to 279C.410 and Rule 49-0600 to 49-0690, unless other applicable statutes control Metro's use of competitive Proposals for Public Improvement Contracts. Also see the subdivision of these Rules entitled "Formal Procurement Rules," 49-0200 to 49-0480. For ESPCs, the following RFP process as further specified in 49-0645, 49-0650, 49-0660 and 49-0680 must be utilized if Metro desires the Procurement process to be exempt from the Competitive Bidding requirements of ORS 279C.335. The RFP process for the Alternative Contracting Methods identified in Rule 49-0600 to 49-0690 includes the following steps:

(1) **Proposal Evaluation.** Factors in addition to price may be considered in the selection process, but only as set forth in the RFP. For ESPC Proposal evaluations, Metro may provide in the RFP that qualifications-based evaluation factors will outweigh Metro's consideration of price-related factors, due to the fact that prices for the major components of the work to be performed during the ESPC process contemplated by the RFP will likely not be determinable at the time of Proposal evaluation. Evaluation factors need not be precise predictors of future costs and performance, but to the extent possible such evaluation factors should:

(a) Be reasonable estimates based on information available to Metro;

(b) Treat all Proposals equitably; and

(c) Recognize that public policy requires that Public Improvements be constructed at the least overall cost to Metro. See ORS 279C.305.

(2) **Evaluation Factors.**

(a) In basic negotiated construction contracting, where the only reason for an RFP is to consider factors other than price, those factors may consist of firm and personnel experience on similar projects, adequacy of equipment and physical plant, sources of supply, availability of key personnel, financial

capacity, past performance, safety records, project understanding, proposed methods of construction, proposed milestone dates, references, service, sustainability, its efforts to promote diversity in the construction trades in order to reach all of Metro's residents, and other related matters that could affect the cost or quality of the work.

(b) In CM/GC contracting, in addition to (a) above, those factors may also include the ability to respond to the technical complexity or unique character of the project, analyze and propose solutions or approaches to complex project problems, analyze and propose value engineering options, analyze and propose energy efficiency measures or alternative energy options, coordinate multiple disciplines on the project, effectively utilize the time available to commence and complete the improvement, and related matters that could affect the cost or quality.

(c) In Design-Build contracting, in addition to (a) and (b) above, those factors may also include design professional qualifications, specialized experience, preliminary design submittals, technical merit, design-builder team experience and related matters that could affect the cost or quality.

(d) In ESPC contracting, in addition to the factors set forth in subsections (a), (b) and (c) above, those factors may also include sample Technical Energy Audits from similar projects, sample M & V reports, financial statements and related information of the ESCO for a time period established in the RFP, financial statements and related information of joint venturers comprising the ESCO, the ESCO's capabilities and experience in performing energy baseline studies for facilities (independently or in cooperation with an independent third-party energy baseline consultant), past performance of the ESCO in meeting energy guarantee Contract levels, the specific Person that will provide the Energy Savings Guarantee to be offered by the ESCO, the ESCO's management plan for the project, information on the specific methods, techniques and equipment that the ESCO will use in the performance of the work under the ESPC, the ESCO's team members and consultants to be assigned to the project, the ESCO's experience in the Energy Savings Performance Contracting field, the ESCO's experience acting as the prime contractor on previous ESPC projects (as opposed to a subcontractor or consultant to a prime ESCO), the ESCO's vendor and product neutrality related to the development of ECMs, the ESCO's project history related to removal from an ESPC project or the inability or unwillingness of the ESCO to complete an ESPC project, the ESCO's M & V capabilities and experience (independently or in cooperation with an independent third-party M & V consultant), the ESCO's ability to explain the unique risks associated with ESPC projects and the assignment of risk in the particular project between Metro and the ESCO, the ESCO's equipment performance guarantee policies and procedures, the ESCO's energy savings and cost savings guarantee policies and procedures, the ESCO's project cost guarantee policies and procedures, the ESCO's pricing methodologies, the price that the ESCO will charge for the Technical Energy Audit phase of the work and the ESCO's fee structure for all phases of the ESPC.

(3) Contract Negotiations.

(a) Contract terms may be negotiated to the extent allowed by the RFP and Rule 49-0600 to 49-0690, provided that the general work scope remains the same and that the field of competition does not change as a result of material changes to the requirements stated in the Solicitation Document. See Rule 49-0650. Terms that may be negotiated consist of details of Contract performance, methods of construction, timing, assignment of risk in specified areas, fee, and other matters that could affect the cost or quality of the work.

(b) For the CM/GC Method, terms that may be negotiated also include the specific scope of pre-construction services, the GC work, any Early Work and other construction work to be performed by the CM/GC, and any other terms that Metro has identified as being subject to negotiation, consistent with the requirements of Rule 49-0690. In ESPC contracting, terms that may be negotiated also include the

scope of preliminary design of ECMs to be evaluated by the parties during the Technical Energy Audit phase of the work, the scope of Personal Services and work to be performed by the ESCO during the Project Development Plan phase of the work, the detailed provisions of the Energy Savings Guarantee to be provided by the ESCO and scope of work, methodologies and compensation terms and conditions during the design and construction phase and M & V phase of the work, consistent with the requirements of Rule 49-0680.

Stat. Auth.: ORS 279C.335 & 279A.065

Stats. Implemented: ORS 279C.335, 279A.065 & 351.086

49-0645 Requests for Qualifications (RFQ)

As provided by ORS 279C.405(1), Metro may utilize Requests for Qualifications to obtain information useful in the preparation or distribution of a Request for Proposals. When using an RFQ as the first step in a two-step solicitation process, in which distribution of an RFP will be limited to the firms identified as most qualified through their submitted statements of qualification, Metro shall first advertise and provide notice of the RFQ in the same manner in which RFPs are advertised, specifically stating that RFPs will be distributed only to the firms selected in the RFQ process. Metro shall also provide within the RFQ a protest provision substantially the same as that described in Rule 49-0450(5) regarding protests of the Competitive Range. After the RFQ process is completed, Metro may distribute RFPs to the selected firms without further advertisement of the solicitation.

Stat. Auth.: ORS 279C.405, 279A.065

Stats. Implemented: ORS 279C.405

49-0650 Requests for Proposals ("RFP")

(1) **Generally.** When authorized or required by an Exemption granted under Rules 49-0620 and 49-0630, Metro may award a Public Improvement Contract by competitive Proposals. A Contract awarded under this section may be amended only in accordance with Rule 49-0910. Metro may issue a request for information, a request for interest, a Request for Qualifications or other preliminary documents to obtain information useful in the preparation or distribution of a Request for Proposals. If a Contract is awarded, Metro shall award it to the Responsible Proposer whose Proposal is determined in Writing to be the most Advantageous to Metro based on the evaluation factors set forth in the Request for Proposals and, when applicable, the outcome of any negotiations authorized by the Request for Proposals.

(2) Competitive Proposals are subject to the following requirements of Competitive Bidding (for the purposes of applying the requirements listed below to competitive Proposals, when used in the sections listed "Bids" includes Proposals, and "Bid documents" and "Invitation to Bid" include Requests for Proposals):

- (a) Advertisement under Rule 49-0210;
- (b) Requirements for Solicitation Documents under Rule 49-0200;
- (c) Disqualification due to a Construction Contractors Board listing under Rule 49-0370;
- (d) Contract execution and bonding requirements under Rules 49-0390 and 49-0460;

- (e) Determination of responsibility under Rule 49-0390;
 - (f) Rejection of Bids under Rule 49-0440; and
 - (g) Disqualification and prequalification under Rules 49-0370 and 49-0220.
- (3) Competitive Proposals are not subject to the following requirements of Competitive Bidding:
- (a) First-tier subcontractor disclosure under Rule 49-0360; and
 - (b) Reciprocal preference under Rule 46-0310.
- (4) When award of a Public Improvement Contract advertised by the issuance of a Request for Proposals may be made without negotiation, Metro may require Proposal security that serves the same function with respect to Proposals as Bid security serves with respect to Bids as follows:
- (a) Proposal security may be required in a form and amount as may be determined to be reasonably necessary or prudent to protect the interests of Metro.
 - (b) Proposal security will be retained if a Proposer who is awarded a Contract fails to promptly and properly execute the Contract and provide any required bonds or insurance.
 - (c) Proposal security will be returned to all Proposers upon the execution of the Contract, or earlier in the selection process.
- (5) **Receipt of Proposals.** For each Request for Proposals, Metro shall prepare a list of Proposals submitted. Notwithstanding the public records law, ORS 192.410 to 192.505, Proposals may be opened so as to avoid disclosure of contents to competing Proposers during, when applicable, the process of negotiation. Proposals are not required to be open for public inspection until after the notice of intent to award a Contract is issued. Notwithstanding any requirement to make Proposals open to public inspection after issuance of the notice of intent to award a Contract, Metro may withhold from disclosure to the public trade secrets, as defined in ORS 192.345, and information submitted to a public body in confidence, as described in ORS 192.502, that are contained in a Proposal.
- (6) **Solicitation Documents.** In addition to the Solicitation Document requirements of Rule 49-0200, this Rule applies to the requirements for RFPs. RFP Solicitation Documents must conform to the following standards:
- (a) Selection criteria must be set forth in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references, warranty provisions, sustainability, its efforts to diversify its workforce in order to reach all of Metro's citizens, and other related matters that could affect the cost or quality of the work. See Rule 49-0640. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors must be reasonable estimates based on information available to Metro. Subject to ORS 279C.410(4), the Solicitation Document may provide for discussions with Proposers to be conducted for the purpose of Proposal evaluation prior to award or prior to establishing any Competitive Range;
 - (b) When Metro is willing to negotiate terms and conditions of the Contract or allow submission of revised Proposals following discussions, Metro shall identify the specific terms and conditions in or provisions of the Solicitation Document that are subject to negotiation or discussion and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions Metro

has identified as authorized for negotiation. Metro shall describe the evaluation, discussion and negotiation processes, including how Metro will establish the Competitive Range, if any;

(c) The anticipated size of any Competitive Range must be stated in the Solicitation Document, but may be decreased if the number of Proposers that submit Responsive Proposals is less than the specified number, or may be increased as provided in Rule 49-0650 (8)(a)(B);

(d) When Metro intends to award Contracts to more than one Proposer, Metro shall identify in the Solicitation Document the manner in which it will determine the number of Contracts it will award. Metro shall also include the criteria it will use to determine how Metro will endeavor to achieve optimal value, utility and substantial fairness when selecting a particular Contractor to provide Personal Services or work from those Contractors awarded Contracts.

(7) Evaluation of Proposals.

(a) **Evaluation.** Metro shall evaluate Proposals only in accordance with criteria set forth in the RFP and applicable law. Metro shall evaluate Proposals to determine the Responsible Proposer or Proposers submitting the best Responsive Proposal or Proposals.

A. **Clarifications.** In evaluating Proposals, Metro may seek information from a Proposer to clarify the Proposer's Proposal. A Proposer shall submit Written clarifications and such clarifications shall become part of the Proposer's Proposal.

B. **Limited Negotiation.** If Metro did not permit negotiation in its RFP, Metro may, nonetheless, negotiate with the highest-ranked Proposer, but may then only negotiate the:

(i) Statement of work; and

(ii) Contract Price as it is affected by negotiating the statement of work. The process for discussions or negotiations that is outlined and explained in subsections (9)(b) and (10) of this Rule does not apply to this limited negotiation.

(b) **Discussions; Negotiations.** If Metro permitted discussions or negotiations in the RFP, Metro shall evaluate Proposals and establish the Competitive Range, and may then conduct discussions and negotiations in accordance with this Rule.

A. If the Solicitation Document provided that discussions or negotiations may occur at Metro's discretion, Metro may forego discussions and negotiations and evaluate all Proposals in accordance with this Rule.

B. If Metro proceeds with discussions or negotiations, Metro shall establish a negotiation team tailored for the acquisition. Metro's team may include legal, technical, auditing and negotiating personnel.

(c) **Cancellation.** Nothing in this Rule restricts or prohibits Metro from canceling the Solicitation at any time.

(8) Competitive Range; Protest; award.

(a) Determining Competitive Range.

A. After Opening the Proposals Metro will evaluate the Proposals in accordance with the evaluation criteria set forth in the RFP. After evaluation of all Proposals in accordance with the criteria set forth in the RFP, Metro will rank the Proposers based on Metro's scoring and determine the Competitive Range.

B. Metro may increase the number of Proposers in the Competitive Range if Metro's evaluation of Proposals establishes a natural break in the scores of Proposers indicating a number of Proposers greater than the initial Competitive Range are closely competitive, or have a reasonable chance of being determined the best Proposer after Metro's evaluation of revised Proposals submitted in accordance with the process described in this Rule.

(b) **Protesting Competitive Range.** Metro shall provide Written notice to all Proposers identifying Proposers in the Competitive Range. A Proposer that is not within the Competitive Range may protest Metro's evaluation and determination of the Competitive Range in accordance with Rule 49-0450.

(c) **Intent to award; Discuss or Negotiate.** After the protest period provided in accordance with these Rules expires, or after Metro has provided a final response to any protest, whichever date is later, Metro may either:

A. Provide Written notice to all Proposers in the Competitive Range of its intent to award the Contract to the highest-ranked Proposer in the Competitive Range.

(i) An unsuccessful Proposer may protest Metro's intent to award in accordance with Rule 49-0450.

(ii) After the protest period provided in accordance with Rule 49-0450 expires, or after Metro has provided a final response to any protest, whichever date is later, Metro shall commence final Contract negotiations with the highest-ranked Proposer in the Competitive Range; or

A. Engage in discussions with Proposers in the Competitive Range and accept revised Proposals from them, and, following such discussions and receipt and evaluation of revised Proposals, conduct negotiations with the Proposers in the Competitive Range.

(9) **Discussions; Revised Proposals.** If Metro chooses to enter into discussions with and receive revised Proposals from the Proposers in the Competitive Range, Metro shall proceed as follows:

(a) **Initiating Discussions.** Metro shall initiate oral or Written discussions with all of the Proposers in the Competitive Range regarding their Proposals with respect to the provisions of the RFP that Metro identified in the RFP as the subject of discussions. Metro may conduct discussions for the following purposes:

A. Informing Proposers of deficiencies in their initial Proposals;

B. Notifying Proposers of parts of their Proposals for which Metro would like additional information; and

C. Otherwise allowing Proposers to develop revised Proposals that will allow Metro to obtain the best Proposal based on the requirements and evaluation criteria set forth in the RFP.

(b) **Conducting Discussions.** Metro may conduct discussions with each Proposer in the Competitive Range necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions with each Proposer. Metro may terminate discussions with any Proposer in the Competitive Range at any time. However, Metro shall offer all Proposers in the Competitive Range the opportunity to discuss their Proposals with Metro before Metro notifies Proposers of the date and time pursuant to this section that revised Proposals will be due.

A. In conducting discussions, Metro:

(i) Shall treat all Proposers fairly and shall not favor any Proposer over another;

- (ii) Shall not discuss other Proposers' Proposals;
- (iii) Shall not suggest specific revisions that a Proposer should make to its Proposal, and shall not otherwise direct the Proposer to make any specific revisions to its Proposal.

B. At any time during the time allowed for discussions, Metro may:

- (i) Continue discussions with a particular Proposer;
- (ii) Terminate discussions with a particular Proposer and continue discussions with other Proposers in the Competitive Range; or
- (iii) Conclude discussions with all remaining Proposers in the Competitive Range and provide notice to the Proposers in the Competitive Range to submit revised Proposals.

(c) **Revised Proposals.** If Metro does not cancel the Solicitation at the conclusion of Metro's discussions with all remaining Proposers in the Competitive Range, Metro shall give all remaining Proposers in the Competitive Range notice of the date and time by which they must submit revised Proposals. This notice constitutes Metro's termination of discussions, and Proposers must submit revised Proposals by the date and time set forth in Metro's notice.

A. Upon receipt of the revised Proposals, Metro shall evaluate the revised Proposals based upon the evaluation criteria set forth in the RFP, and rank the revised Proposals based on Metro's scoring.

B. Metro may conduct discussions with and accept only one revised Proposal from each Proposer in the Competitive Range unless otherwise set forth in the RFP.

(d) **Intent to award; Protest.** Metro shall provide Written notice to all Proposers in the Competitive Range of Metro's intent to award the Contract. An unsuccessful Proposer may protest Metro's intent to award in accordance with Rule 49-0450. After the protest period provided in accordance with that Rule expires, or after Metro has provided a final response to any protest, whichever date is later, Metro shall commence final Contract negotiations.

(10) **Negotiations.**

(a) **Initiating Negotiations.** Metro may commence negotiations with the highest-ranked Proposer in the Competitive Range following the:

- A. Initial determination of the Competitive Range; or
- B. Conclusion of discussions with all Proposers in the Competitive Range and evaluation of revised Proposals.

(b) **Conducting Negotiations.** Metro may negotiate:

- A. The statement of work;
- B. The Contract Price as it is affected by negotiating the statement of work; and
- C. Any other terms and conditions reasonably related to those expressly authorized for negotiation in the RFP. Accordingly, Proposers shall not submit, and Metro shall not accept, for negotiation any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the RFP.

(c) **Continuing Negotiations.** If Metro terminates negotiations with a Proposer, Metro may then commence negotiations with the next highest scoring Proposer in the Competitive Range, and continue the process described in this Rule until Metro has:

A. Determined to award the Contract to the Proposer with whom it is currently negotiating;
or

B. Completed one round of negotiations with all Proposers in the Competitive Range, unless Metro provided for more than one round of discussions or negotiations in the RFP, in which case Metro may proceed with any authorized further rounds of discussions or negotiations.

(d) **Terminating Discussions or Negotiations.** At any time during discussions or negotiations conducted in accordance with this Rule, Metro may terminate discussions or negotiations with the Proposer with whom it is currently conducting discussions or negotiations if Metro reasonably believes that:

A. The Proposer is not discussing or negotiating in good faith; or

B. Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.400 - 279C.410

49-0660 RFP Pricing Mechanisms

(1) An RFP may result in a Contract with a lump-sum Contract Price or a fixed Contract Price, as in the case of Competitive Bidding. Alternatively, a cost reimbursement Contract may be negotiated.

(2) Economic incentives or disincentives may be included to reflect stated Metro purposes related to time of completion, safety or other Public Contracting objectives, including but not limited to total least cost mechanisms such as life cycle costing.

(3) A Guaranteed Maximum Price may be used as the pricing mechanism for CM/GC Services Contracts (or other Alternative Contracting Methods) where a total Contract Price is provided in the design phase in order to assist Metro in determining whether the project scope is within Metro's budget, and allowing for design changes during preliminary design rather than after final design services have been completed.

(a) If this collaborative process is successful, the Contractor shall propose a final GMP, which may be accepted by Metro and included within the Contract.

(b) If this collaborative process is not successful, and no mutually agreeable resolution on the GMP can be achieved with the Contractor, then Metro shall terminate the Contract. Metro may then proceed to negotiate a new Contract (and GMP) with the firm that was next ranked in the original selection process, or employ other means for continuing the project under ORS Chapter 279C.

(4) When cost reimbursement Contracts are utilized, regardless of whether a GMP is included, Metro shall provide for audit controls that will effectively verify rates and ensure that costs are reasonable, allowable and properly allocated.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335

49-0670 Design-Build Contracts

(1) **General.** The Design-Build form of contracting, as defined in Rule 49-0610(3), has technical complexities that are not readily apparent. Metro may use this contracting method only with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to use the Design-Build process, Metro must be able to reasonably anticipate the following types of benefits:

(a) Obtaining, through a Design-Build team, engineering design, plan preparation, value engineering, construction engineering, construction, quality control and required documentation as a fully integrated function with a single point of responsibility;

(b) Integrating value engineering suggestions into the design phase, as the construction Contractor joins the project team early with design responsibilities under a team approach, with the potential of reducing Contract changes;

(c) Reducing the risk of design flaws, misunderstandings and conflicts inherent in construction Contractors building from designs in which they have had no opportunity for input, with the potential of reducing Contract claims;

(d) Shortening project time as construction activity (early submittals, mobilization, subcontracting and advance work) commences prior to completion of a "Biddable" design, or where a design solution is still required (as in complex or phased projects); or

(e) Obtaining innovative design solutions through the collaboration of the Contractor and design team, which would not otherwise be possible if the Contractor had not yet been selected.

(2) **Authority.** Metro may utilize the Design-Build form of contracting only in accordance with the requirements of these Rules 49-0600 to 49-0690. See particularly 49-0620 on "Use of Alternative Contracting Methods" and 49-0680 pertaining to ESPCs.

(3) **Selection.** Design-Build selection criteria may include those factors set forth above in Rule 49-0640(2)(a), (b) and (c).

(4) **QBS Inapplicable.** Because the value of construction work predominates the Design-Build form of contracting, the qualifications based selection (QBS) process required by ORS 279C.110 is not applicable.

(5) **Licensing.** If a Design-Build Contractor is not an Oregon licensed design professional, Metro shall require that the Design-Build Contractor disclose in its Written Offer that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(2)(g) regarding the offer of architectural services, and 672.060(11) regarding the offer of engineering services that are appurtenant to construction work.

(6) **Performance Security.** ORS 279C.380(1)(a) provides that for Design-Build Contracts the surety's obligation on performance bonds, or the Bidder's obligation on cashier's or certified checks accepted in lieu thereof, includes the preparation and completion of design and related Personal Services specified in the Contract. This additional obligation, beyond performance of construction work, extends only to the provision of Personal Services and related design revisions, corrective work and associated costs prior to final completion of the Contract (or for such longer time as may be defined in the Contract). The obligation is not intended to be a substitute for professional liability insurance, and does not include errors and omissions or latent defects coverage.

(7) **Contract Requirements.** Metro shall conform its Design-Build contracting practices to the following requirements:

(a) **Design Services.** The level or type of design services required must be clearly defined within the Procurement documents and Contract, along with a description of the level or type of design services previously performed for the project. The Personal Services and work to be performed must be clearly delineated as either design Specifications or performance standards, and performance measurements must be identified.

(b) **Professional Liability.** The Contract must clearly identify the liability of design professionals with respect to the Design-Build Contractor and Metro, as well as requirements for professional liability insurance.

(c) **Risk Allocation.** The Contract must clearly identify the extent to which Metro requires an express indemnification from the Design-Build Contractor for any failure to perform, including professional errors and omissions, design warranties, construction operations and faulty work claims.

(d) **Warranties.** The Contract must clearly identify any express warranties made to Metro regarding characteristics or capabilities of the completed project (regardless of whether errors occur as the result of improper design, construction, or both), including any warranty that a design will be produced that meets the stated project performance and budget guidelines.

(e) **Incentives.** The Contract must clearly identify any economic incentives and disincentives, the specific criteria that apply and their relationship to other financial elements of the Contract.

(f) **Honoraria.** If allowed by the RFP, honoraria or stipends may be provided for early design submittals from qualified finalists during the solicitation process on the basis that Metro is benefited from such deliverables.

Stat. Auth.: ORS 279C.335 & 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.110 & 351.086

49-0680 Energy Savings Performance Contracts (ESPC)

(1) **Generally.** Rules 49-0600 to 49-0690 include a limited, efficient method for Metro to enter into ESPCs outside the Competitive Bidding requirements of ORS 279C.335 for existing buildings or structures, but not for new construction. See ORS 279C.335(1)(f). If Metro chooses not to utilize the ESPC Procurement method provided for by Rules 49-0600 to 49-0690, Metro may still enter into an ESPC by complying with the Competitive Bidding exemption process set forth in ORS 279C.335, or by otherwise complying with the Procurement requirements of these Rules.

(2) **ESPC Contracting Method.** The ESPC form of contracting, as defined in Rule 49-0610(6), has unique technical complexities associated with the determination of what ECMs are feasible for Metro, as well as the additional technical complexities associated with a Design-Build Contract. Metro may only utilize the ESPC contracting method with the assistance of knowledgeable staff or consultants who are experienced in its use. In order to utilize the ESPC contracting process, Metro must be able to reasonably anticipate one or more of the following types of benefits:

(a) Obtaining, through an ESCO, the following types of integrated Personal Services and work: facility profiling, energy baseline studies, ECMs, Technical Energy Audits, project development planning, engineering design, plan preparation, cost estimating, life cycle costing, construction administration, project management, construction, quality control, operations and maintenance staff training, commissioning services, M & V services and required documentation as a fully integrated function with a single point of responsibility;

- (b) Obtaining, through an ESCO, an Energy Savings Guarantee;
 - (c) Integrating the Technical Energy Audit phase and the Project Development Plan phase into the design and construction phase of work on the project;
 - (d) Reducing the risk of design flaws, misunderstandings and conflicts inherent in the construction process, through the integration of ESPC Personal Services and work;
 - (e) Obtaining innovative design solutions through the collaboration of the members of the ESCO integrated ESPC team;
 - (f) Integrating cost-effective ECMs into an existing building or structure, so that the ECMs pay for themselves through savings realized over the useful life of the ECMs;
 - (g) Preliminary design, development, implementation and an Energy Savings Guarantee of ECMs into an existing building or structure through an ESPC, as a distinct part of a major remodel of that building or structure that is being performed under a separate remodeling Contract; and
 - (h) Satisfying local energy efficiency design criteria or requirements.
- (3) **Authority.** Should Metro desire to pursue an exemption from the Competitive Bidding requirements of ORS 279C.335 (and, if applicable, ORS 351.086), it shall utilize the ESPC form of contracting only in accordance with the requirements of Rules 49-0600 to 49-0690.
- (4) **No Findings Required.** No findings are required for an ESPC to be exempt from the Competitive Bidding process for Public Improvement Contracts pursuant to 279C.335, unless Metro chooses not to comply with the ESPC contracting procedures set forth in Rules 49-0600 to 49-0690.
- (5) **Selection.** ESPC selection criteria may include those factors set forth above in Rule 49-0640(2)(a), (b), (c) and (d). Since the Energy Savings Guarantee is such a fundamental component in the ESPC contracting process, Proposers must disclose in their Proposals the identity of any Person providing (directly or indirectly) any Energy Savings Guarantee that may be offered by the successful ESCO during the course of the performance of the ESPC, along with any financial statements and related information pertaining to any such Person.
- (6) **QBS Inapplicable.** Because the value of construction work predominates in the ESPC method of contracting, the qualifications based selection (QBS) process required by ORS 279C.110 is not applicable.
- (7) **Licensing.** If the ESCO is not an Oregon licensed design professional, Metro shall require that the ESCO disclose in the ESPC that it is not an Oregon licensed design professional, and identify the Oregon licensed design professional(s) who will provide design services. See ORS 671.030(5) regarding the offer of architectural services, and ORS 672.060(11) regarding the offer of engineering services that are appurtenant to construction work.
- (8) **Performance Security.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, the ESCO must provide a performance bond and a payment bond, each for 100% of the full Contract Price, including the construction work and design and related Personal Services specified in the ESPC Design-Build Contract, pursuant to ORS 279C.380(1)(a). For ESPC Design-Build Contracts, these "design and related services" include conventional design services, commissioning services, training services for Metro's operations and maintenance staff, and any similar Personal Services provided by the ESCO under the ESPC Design-Build Contract prior to final completion of construction. M & V services, and any Personal Services or work associated with the ESCO's Energy Savings Guarantee are not included in these "design and related services." Nevertheless, Metro may

require that the ESCO provide performance security for M & V services and any Personal Services or work associated with the ESCO's Energy Savings Guarantee, if Metro so provides in the RFP.

(9) **Contracting Requirements.** Metro shall conform its ESPC contracting practices to the following requirements:

(a) **General ESPC Contracting Practices.** An ESPC involves a multi-phase project, which includes the following contractual elements:

A. A contractual structure which includes general Contract terms describing the relationship of the parties, the various phases of the work, the contractual terms governing the Technical Energy Audit for the project, the contractual terms governing the Project Development Plan for the project, the contractual terms governing the final design and construction of the project, the contractual terms governing the performance of the M & V services for the project, and the detailed provisions of the ESCO's Energy Savings Guarantee for the project.

B. The various phases of the ESCO's work will include the following:

(i) The Technical Energy Audit phase of the work;

(ii) The Project Development Plan phase of the work;

(iii) A third phase of the work that constitutes a Design-Build Contract, during which the ESCO completes any plans and Specifications required to implement the ECMs that have been agreed to by the parties to the ESPC, and the ESCO performs all construction, commissioning, construction administration and related Personal Services or work to actually construct the project; and

(iv) A final phase of the work, whereby the ESCO, independently or in cooperation with an independent consultant hired by Metro, performs M & V services to ensure that the Energy Savings Guarantee identified by the ESCO in the earlier phases of the work and agreed to by the parties has actually been achieved.

(b) **Design-Build Contracting Requirements in ESPCs.** At the point in the ESPC when the parties enter into a binding Contract that constitutes a Design-Build Contract, Metro shall conform its Design-Build contracting practices to the Design-Build contracting requirements set forth in Rule 040-0560(7) above.

(c) **Pricing Alternatives.** Metro may utilize one of the following pricing alternatives in an ESPC:

A. A fixed price for each phase of the Personal Services and work to be provided by the ESCO;

B. A cost reimbursement pricing mechanism, with a maximum not-to-exceed price or a GMP; or

C. A combination of a fixed fee for certain components of the Personal Services to be performed, a cost reimbursement pricing mechanism for the construction work to be performed with a GMP, a single or annual fixed fee for M & V services to be performed for an identified time period after final completion of the construction work, and a single or annual Energy Savings Guarantee fixed fee payable for an identified time period after final completion of the construction work that is conditioned on certain energy savings being achieved at the facility by the ECMs that have been implemented by the ESCO during the project (in the event an annual M & V services fee and annual Energy Savings Guarantee fee is utilized by the parties, the parties may provide in the Design-Build Contract that, at the sole option of Metro, the ESCO's M & V services may be terminated prior to the completion of the M &

V/Energy Savings Guarantee period and Metro's future obligation to pay the M & V services fee and Energy Savings Guarantee fee will likewise be terminated, under terms agreed to by the parties).

(d) **Permitted ESPC Scope of work.** The scope of work under the ESPC is restricted to implementation and installation of ECMs, as well as other work on building systems or building components that are directly related to the ECMs, and that, as an integrated unit, will pay for themselves over the useful life of the ECMs installed. The permitted scope of work for ESPCs resulting from a Solicitation under these Rules 49-0600 to 49-0690 does not include maintenance services for the project facility.

Stat. Auth.: ORS 279C.335 & 279A.065

Stats. Implemented: ORS 279C.335, 279A.065, 279C.110 & 351.086

49-0690 Construction Manager/General Contractor Services ("CM/GC Services")

(1) **General.** The CM/GC Method is a technically complex project delivery system. Metro may use this contracting method only with the assistance of legal counsel with substantial experience and necessary expertise in using the CM/GC Method, as well as knowledgeable staff, consultants or both staff and consultants who have a demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management. Unlike the Design-Build form of contracting, the CM/GC Method does not contemplate a "single point of responsibility" under which the CM/GC is responsible for successful completion of all work related to a performance Specification. The CM/GC has defined contract obligations, including responsibilities as part of the project team along with Metro and design professional, although with the CM/GC Method there is a separate contract between Metro and design professional. In order to utilize the CM/GC Method, Metro must be able to reasonably anticipate the following types of benefits:

(a) **Time Savings.** With the CM/GC Method, the Public Improvement has significant schedule ramifications, such that concurrent design and construction are necessary in order to meet critical deadlines and shorten the overall duration of construction. Metro may consider operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early completion, as well as less disruption to public facilities as a result of shortened construction periods;

(b) **Cost Savings.** With the CM/GC Method, early CM/GC input during the design process is expected to contribute to significant cost savings. Metro may consider value engineering, building systems analysis, life cycle costing analysis and construction planning that lead to cost savings. Metro shall specify any special factors influencing this analysis, including high rates of inflation, market uncertainty due to material and labor fluctuations or scarcities, and the need for specialized construction expertise due to technical challenges; or

(c) **Technical Complexity.** With the CM/GC Method, the Public Improvement presents significant technical complexities that are best addressed by a collaborative or team effort between Metro, design professionals, any Metro project management or technical consultants and the CM/GC, in which the CM/GC will assist in addressing specific project challenges through pre-construction Personal Services. Metro may consider the need for CM/GC input on issues such as operations of the facility during construction, tenant occupancy, public safety, delivery of an early budget or GMP, financing, historic preservation, difficult remodeling projects, and projects requiring complex phasing or highly coordinated scheduling.

(2) **Authority.** Metro may use the CM/GC form of contracting only in accordance with the requirements of these Division 49 Rules and ORS 279C.337, when a Competitive Bidding exemption is approved. See particularly Rule 49-0600 on "Purpose" and 49-0620 on "Use of Alternative Contracting Methods."

(3) **Selection.** CM/GC selection criteria may include those factors set forth above in Rule 49-0640(2)(b).

(4) **Basis for Payment.** The CM/GC process adds specified construction manager Personal Services to traditional design-bid-build general contractor work, requiring full Contract performance within a negotiated GMP, fixed Contract Price or other maximum Contract Price. For a GMP pricing method, the basis for payment is reimbursable direct costs as defined under the Contract, plus a fee constituting full payment for construction work and Personal Services rendered, which together shall not exceed the GMP. See GMP definition at Rule 49-0610 and Pricing Mechanisms at Rule 49-0660.

(5) **Contract Requirements.** Metro shall conform its CM/GC contracting practices to the following requirements:

(a) **Nature of the Initial CM/GC Services Contract Document.** A Solicitation for CM/GC Services is a Procurement for a Public Improvement, since the scope of the Procurement includes not only pre-construction Personal Services to be performed by the CM/GC, but also construction work that is expected to result in a completed Public Improvement. In the traditional CM/GC Services contracting approach, the text of the resulting CM/GC Services Contract will include comprehensive contract provisions that will not only fully govern the relationship between Metro and the CM/GC for the pre-construction Personal Services, but will also include the general contract provisions that will control the CM/GC's providing of the construction work necessary to complete the project (with any remaining necessary construction-related contract provisions being added through Early Work amendments to the Contract, the GMP amendment to the Contract or, if necessary, a conventional amendment to the Contract). The traditional CM/GC Services contracting approach, however, also contemplates that Metro will only authorize the CM/GC to perform the pre-construction Personal Services when the Contract is first executed unless construction work is specifically included in the initial CM/GC Contract. Under this approach, the construction phase or phases of the CM/GC Services project are not yet authorized and the Contract only becomes a Public Improvement Contract once the parties amend the Contract, through an Early Work or a GMP amendment, to authorize the construction of a portion of the project or the entire project. See also Oregon Administrative Rule 839-025-0020, regarding the Bureau of Labor and Industries' determination of when a Contract for CM/GC Services becomes a "public works" Contract for purposes of paying prevailing wage rates for construction work under the CM/GC Contract.

(b) **Setting the GMP, Fixed Contract Price or Other Maximum Contract Price.** The GMP, fixed Contract Price or other maximum Contract Price must be set at an identified time consistent with industry practice and project conditions and after supporting information reasonably considered necessary to its use has been developed, which will normally take place by the end of the design development phase of the project. The supporting information for the GMP must define with particularity both what Personal Services and construction work are included and excluded from the GMP, fixed Contract Price or other maximum Contract Price. A set of project drawings and Specifications shall be produced establishing the scope of construction work contemplated by the GMP, fixed Contract Price or other maximum Contract Price.

(c) **Adjustments to the GMP, Fixed Contract Price or Other Maximum Contract Price.** The Contract must clearly identify the standards or factors under which changes or additional construction work will be considered outside of the work scope that warrants an increase in the GMP, fixed Contract

Price or other maximum Contract Price, as well as criteria for decreasing the GMP, fixed Contract Price or other maximum Contract Price. The GMP, fixed Contract Price or other maximum Contract Price shall not be increased without a concomitant increase to the scope of the work defined at the establishment of the GMP, fixed Contract Price or other maximum Contract Price or most recent amendment to the GMP, fixed Contract Price or other maximum Contract Price. An increase to the scope of the work may take the form of conventional additions to the project scope, as well as corrections to the Contract terms and conditions, additions to insurance coverage required by Metro and other changes to the work.

(d) **Cost Savings.** The Contract must clearly identify the disposition of any Cost Savings resulting from completion of the work below the GMP, fixed Contract Price or other maximum Contract Price; that is, under what circumstances, if any, the CM/GC might share in those Cost Savings, or whether the Cost Savings accrue only to Metro's benefit. Unless there is a clearly articulated reason for sharing the Cost Savings set forth in the Contract, the Cost Savings must accrue to Metro.

(e) **Cost Reimbursement.** The Contract must clearly identify what items or categories of items are eligible for cost reimbursement within the GMP, fixed Contract Price or other maximum Contract Price, including any category of GC work costs, and may also incorporate a mutually-agreeable cost-reimbursement standard.

(f) **Audit.** Cost reimbursements must be made subject to final audit adjustment, and the Contract must establish an audit process to ensure that Contract costs are allowable, properly allocated and reasonable.

(g) **Fee.** Compensation for the CM/GC's Personal Services and construction work, where the Contract uses a GMP, will include a fee that is inclusive of profit, overhead and all other indirect or non-reimbursable costs. Costs determined to be included within the fee shall be expressly defined in the Contract terms and conditions at the time Metro selects the CM/GC. The fee, which may be expressed as either a fixed dollar amount or as a proposed percentage of all reimbursable costs, must be identified during and become an element of the selection process. It must subsequently be expressed as a fixed amount for particular construction work authorized to be performed, when Early Work is added to the Contract through an amendment and when the GMP is established. The CM/GC fee does not include any fee paid to the CM/GC for performing pre-construction services during a separate pre-construction phase.

(h) **Incentives.** The Contract must clearly identify any economic incentives, the specific criteria that apply and their relationship to other financial elements of the Contract (including the GMP, fixed Contract Price or other maximum Contract Price).

(i) **Controlled Insurance Programs.** For projects where an owner-controlled or contractor-controlled insurance program is permitted under ORS 737.602, the Contract must clearly identify whether an owner-controlled or contractor-controlled insurance program is anticipated or allowable. If so, the Contract must clearly identify (1) anticipated cost savings from reduced premiums, claims reductions and other factors, (2) the allocation of cost savings, and (3) safety responsibilities, incentives or both safety responsibilities and incentives.

(j) **Early Work.** The RFP must clearly identify, whenever feasible, the circumstances under which any Early Work may be authorized and undertaken for compensation prior to establishing the GMP, fixed Contract Price or other maximum Contract Price.

(k) **Subcontractor Selection.** Subcontracts under the Contract are not Public Contracts within the meaning of the State Code. However, the Contract must include provisions that clearly meet the

requirements of ORS 279C.337(3) and other Metro requirements. Within the scope of 279C.337(3), the CM/GC's subcontractor selection process must meet the following parameters:

A. Absent a Written justification prepared by the CM/GC and approved by Metro as more particularly provided for in this section, the CM/GC's Subcontractor selection process must be "competitive," meaning that the process should include publicly-advertised subcontractor solicitations and be based on a low-bid competitive method, a low-quote competitive method for contracts in a specified dollar range agreeable to Metro, or a method whereby both price and qualifications of the subcontractors are evaluated in a competitive environment, consistent with the RFP and Contract requirements;

B. When the Subcontractor selection process for a particular work package will not be "competitive" as provided for in this section, the process must meet the following requirements:

(i) The CM/GC must prepare and submit a Written justification to Metro, explaining the project circumstances that support a non-competitive Subcontractor selection process for a particular work package, including, but not limited to, Emergency circumstances, the CM/GC's need to utilize a key Subcontractor member of the CM/GC's project team consistent with the CM/GC's project Proposal, the need to meet other specified Contract requirements, the continuation or expansion of an existing Subcontractor agreement that was awarded through a "competitive process" along with facts supporting the continuation or expansion of the Subcontractor agreement, or a "sole source" justification;

(ii) For a "sole source" selection of a subcontractor to proceed, Metro must evaluate the Written justification provided by the CM/GC and must find that critical project efficiencies require utilization of labor, services or materials from one subcontractor; that technical compatibility issues on the project require labor, services or materials from one subcontractor; that particular labor, services or materials are needed as part of an experimental or pilot project or as part of an experimental or pilot aspect of the project; or that other project circumstances exist to support the conclusion that the labor, services or materials are available from only one subcontractor;

(iii) The CM/GC must provide an independent cost estimate for the work package that will be subject to the non-competitive process, if required by Metro;

(iv) The CM/GC must fully respond to any questions or comments submitted to the CM/GC by Metro; and

(v) Metro must approve the CM/GC's use of the non-competitive Subcontractor selection process prior to the CM/GC's pursuit of the non-competitive process.

C. A competitive selection process may be preceded by a publicly advertised subcontractor pre-qualification process, with only those subcontractors meeting the pre-qualification requirements being invited to participate in the later competitive process through which the CM/GC will select the subcontractor to perform the construction work described in the selection process;

D. If the CM/GC or an Affiliate or subsidiary of the CM/GC will be included in the subcontractor selection process to perform particular construction work on the project, the CM/GC must disclose that fact in the selection process documents and announcements. The Contract must also identify the conditions, processes and procedures the CM/GC will utilize in that competitive process in order to make the process impartial, competitive and fair, including but not limited to objective, independent review and opening of bids or proposals for the elements of work involved, by a representative of Metro or another independent third party.

(l) **Subcontractor Approvals and Protests.** The Contract must establish whether Metro must approve subcontract awards, and to what extent, if any, Metro will resolve or be involved in the resolution of protests of the CM/GC's selection of subcontractors and suppliers. The procedures and reporting mechanisms related to the resolution of subcontractor and supplier protests must be established in the Contract with certainty, including the CM/GC's roles and responsibilities in this process and whether the CM/GC's subcontracting records are considered to be public records. In any event, Metro must retain the right to monitor the subcontracting process in order to protect Metro's interests and to confirm the CM/GC's compliance with the Contract and with applicable statutes, Rules and other legal requirements.

(m) **CM/GC Self-Performance or Performance by CM/GC Affiliates or Subsidiaries Without Competition.** Consistent with the requirements of ORS 279C.337(3)(c), the Contract must establish the conditions under which the CM/GC or an Affiliate or subsidiary of the CM/GC may perform elements of the construction work without competition from subcontractors, including, for example, job-site GC work. Other than for GC work, in order for the CM/GC or an Affiliate or subsidiary of the CM/GC to perform elements of the construction work without competition from subcontractors, the CM/GC must provide, or must have included in the CM/GC's RFP Proposal to perform CM/GC Services for the project, a detailed proposal for performance of the work by the CM/GC or an Affiliate or subsidiary of the CM/GC. If required by Metro, the CM/GC's proposal to perform the construction work must be supported by at least one independent cost estimate prior to the work being included in the Contract.

(n) **Unsuccessful Subcontractor Briefing.** ORS 279C.337(3)(e) is designed to allow a subcontractor who was not selected by the CM/GC to perform a particular element of the construction work to obtain specific information from the CM/GC, and meet with the CM/GC to discuss the subcontractor qualification and selection process involved and the CM/GC's subcontractor selection decisions, in order to better understand why the subcontractor was not successful in being selected to perform the particular element of the work and to improve the subcontractor's substantive qualifications or the subcontractor's methods in competing for elements of the work for the particular project involved, or for future projects. The briefing meetings may be held with individual subcontractors or, if the subcontractors agree, in groups of subcontractors, with those groups established by bid package or other designation agreed to by Metro and the CM/GC. Nevertheless, the CM/GC is not obligated to provide this briefing opportunity unless the CM/GC receives a Written request from a subcontractor to discuss the subcontractor qualification and selection process involved. Unless Metro and the CM/GC agree on a different schedule, the CM/GC Contract should include provisions:

A. Allowing a subcontractor sixty (60) Days from the CM/GC's notice of award of a subcontract for a particular work package to request, in Writing, a post-selection meeting with the CM/GC under this section; and

B. Requiring the CM/GC to set a meeting with the subcontractor under this section within forty-five (45) Days of the subcontractor's Written request.

(o) **Performance and Payment Bonds.** Provided no construction work is included with the pre-construction services to be performed under the initial form of the CM/GC Contract, no performance bond or payment bond is required to be provided by the CM/GC at the time of Contract signing, consistent with ORS 279C.380. Once construction work is included in the Contract and authorized by Metro to be performed by the CM/GC, however, the CM/GC must provide a performance bond and payment bond each in the full amount of any Early Work to be performed by the CM/GC, or the full amount of the GMP, fixed Contract Price or other maximum Contract Price, as applicable. Furthermore, in the event additional Early Work is added to the CM/GC Contract after the initial Early Work or in the

event an amendment to the CM/GC Contract is made so that the GMP, fixed Contract Price or other maximum Contract Price must be increased, the performance bond and the payment bond must each be increased in an amount equal to the additional Early Work or the increased GMP, fixed Contract Price or other maximum Contract Price.

(p) **Independent Review of CM/GC Performance; Conflicts of Interest.** If Metro requires independent review, monitoring, inspection or other oversight of a CM/GC's performance of pre-construction Personal Services, construction work or both pre-construction Personal Services and construction work, Metro must obtain those independent review services from a Contractor independent of the CM/GC, the CM/GC's Affiliates and the CM/GC's Subcontractors, pursuant to the requirements of ORS 279C.307. However, ORS 279C.307 does not prohibit the following:

A. The CM/GC's performing both pre-construction Personal Services and construction work that are included within the definition of CM/GC Services, consistent with ORS 279C.307(2); or

B. The CM/GC's performing internal quality control services, quality assurance services or other internal peer review of CM/GC work product that is intended to confirm the CM/GC's performance of the CM/GC Contract according to its terms.

(q) **Socio-Economic Programs.** The Contract must clearly identify conditions relating to any required socio-economic programs, including the manner in which such programs affect the CM/GC's subcontracting requirements, the enforcement mechanisms available, and the respective responsibilities of the CM/GC and Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.335, 279C.337 & 279C.380(2)

49-0695 Post Project Evaluation

(1) In accordance with ORS 279C.355 and Rule 49-0620, upon completion of and final payment for any Public Improvement Contract, or class of Public Improvement Contracts in excess of \$100,000 for which Metro did not use the Competitive Bidding process, Metro shall prepare and deliver to the Local Contract Review Board an evaluation of the Public Improvement Contract or the class of Public Improvement Contracts.

(2) The evaluation must include but is not limited to the following matters:

(a) The actual project cost as compared with original project estimates;

(b) The amount of any guaranteed maximum price;

(c) The number of project change orders issued;

(d) A narrative description of successes and failures during the design, engineering and construction of the project;

(e) An objective assessment of the use of the alternative contracting process as compared to the findings prepared to support the use of the alternative contracting process.

Contract provisions

49-0800 Required Contract Clauses

Metro shall include in all Solicitation Documents for Public Improvement Contracts all of the ORS Chapter 279C required Contract clauses, as set forth in the checklist contained in Rule 49-0200(1)(c) regarding Solicitation Documents. The following series of rules provides further guidance regarding particular Public Contract provisions.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 297C.505 - 279C.545 & 279C.800 - 279C.870

49-0810 Waiver of Delay Damages Against Public Policy

No provision may be placed in a Public Improvement Contract purporting to waive, release, or extinguish the rights of a Contractor to damages resulting from Metro's unreasonable delay in performing the Contract. However, Contract provisions requiring notice of delay, providing for alternative dispute resolution such as arbitration (where allowable) or mediation, providing other procedures for settling contract disputes, or providing for reasonable liquidated damages, are permissible.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.315

49-0815 BOLI Public Works Bond

Pursuant to ORS 279C.830(2), the Specifications for every Public Works Contract must contain a provision stating that the Contractor and every subcontractor must have a Public Works bond filed with the Construction Contractors Board before starting work on the project, unless otherwise exempt. This bond is in addition to performance bond and payment bond requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.830

49-0820 Retainage

(1) **Withholding of Retainage.** Metro may not retain an amount in excess of five percent (5%) of the Contract Price for work completed. If the Contractor has performed at least 50 percent (50%) of the Contract work and is progressing satisfactorily, upon the Contractor's submission of Written application containing the surety's Written approval, Metro may, in its discretion, reduce or eliminate retainage on any remaining progress payments. Metro shall respond in Writing to all such applications within a reasonable time. When the Contract work is 97 ½ percent (97.5%) completed, Metro may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent (100%) of the value of the remaining unperformed Contract work. If retainage has been reduced or eliminated, Metro reserves the right in protecting its interests to reinstate at any time retainage from further progress payments. Retainage will be included in the final payment of the Contract Price.

(2) **Form of Retainage.** Unless Metro finds in Writing that accepting a bond or instrument described in subsection (a) or (b) below poses an extraordinary risk that is not typically associated with the bond or instrument, Metro, in lieu of withholding moneys from payment, may accept from the Contractor:

(a) Bonds, securities or other instruments that are deposited and accepted as provided in Section (4)(a) of this Rule; or

(b) A surety bond deposited as provided in Section (4)(b) of this Rule.

(3) **Deposit in interest-bearing accounts.** Upon request of the Contractor, Metro shall deposit cash retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association, for the benefit of Metro. Earnings on such account accrue to the Contractor. Metro may determine the account into which the retainage is placed.

(4) **Alternatives to cash retainage.** In lieu of cash retainage to be held by Metro, the Contractor may substitute one of the following:

(a) Deposit of bonds, securities or other instruments:

A. The Contractor may deposit bonds, securities or other instruments with Metro or in any bank or trust company to be held for the benefit of Metro. If Metro accepts the deposit, Metro shall reduce the cash retainage by an amount equal to the value of the bonds and securities. This reduction in retainage will be made in the progress payments made subsequent to the time the Contractor deposits the bonds and securities;

B. Bonds, securities or other instruments deposited or acquired in lieu of cash retainage must be of a character approved by the Metro Chief Financial Officer, which may include, without limitation:

(i) Bills, certificates, notes or bonds of the United States.

(ii) Other obligations of the United States or agencies of the United States.

(iii) Obligations of a corporation wholly owned by the Federal Government.

(iv) Indebtedness of the Federal National Mortgage Association.

(v) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.

(vi) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

C. Upon Metro's determination that all requirements for the protection of Metro's interests have been fulfilled, it shall release to the Contractor all bonds and securities deposited in lieu of retainage.

(b) **Deposit of surety bond.** Metro, at its discretion, may allow the Contractor to deposit a surety bond in a form acceptable to Metro in lieu of all or a portion of funds retained or to be retained. A Contractor depositing such a bond shall accept surety bonds from its subcontractors and suppliers in lieu of retainage. In such cases, retainage will be reduced by an amount equal to the value of the bond, and the excess shall be reimbursed.

(5) **Recovery of Costs.** If Metro incurs additional costs as a result of the exercise of any of the options for retainage, Metro may recover such costs from the Contractor by reduction of the final payment. As work on the Contract progresses, Metro shall, upon request, inform the Contractor of all accrued costs.

(6) **Additional Retainage When Certified Payroll Statements Not Filed.** Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, Metro shall retain 25 percent (25%) of any amount earned by the Contractor on a Public Works Contract until the Contractor has filed such statements with Metro. Metro shall pay the Contractor the amount retained under this section within fourteen (14) Days after the Contractor files the certified statements, regardless of whether a subcontractor has filed such statements.

Stat. Auth.: ORS 279A.065 & 279C.845

Stats. Implemented: ORS 279C.560, 279C.570 & 701.420

49-0860 Public Works Contracts

(1) **Generally.** ORS 279C.800 to 279C.870 regulates Public Works Contracts, as defined in ORS 279C.800(6), and requirements for payment of prevailing wage rates. Also see Rules of the Bureau of Labor and Industries (BOLI) at OAR Chapter 839.

(2) **BOLI Notification.** Metro shall provide notification of award to BOLI as required by ORS 279C.835.

(3) **Required Contract Conditions.** As detailed in the above statutes and rules, every Public Works Contract must contain the following provisions:

(a) Metro authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515(1).

(b) Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).

(c) Employer notice to employees of hours and days that employees may be required to work, as set forth in ORS 279C.520(2).

(d) Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.

(e) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

(f) A requirement for payment of the prevailing wage rate, as set forth in ORS 279C.830.

A. If no federal funds are being used to fund the work, the wage rates established under ORS 279C.815(2)(a) must be paid.

B. If federal funds are being used to fund the work, the wage rates established under ORS 279C.815(2)(b) must be paid if both state and federal prevailing rates of wage apply, and the Contract and every Subcontract must provide that all workers must be paid the higher of the applicable state or federal prevailing rate of wage.

C. The rates may be incorporated into the Specifications by reference, in compliance with OAR 839-025-0020; or, when the rates are available electronically or by Internet access, the rates may be incorporated into the Specifications by referring to the rates and providing adequate information on how to access them in compliance with OAR 839-025-0020 and OAR 839-025-0035.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.800 - 279C.870, OL 2011, ch 458

49-0870 Specifications; Brand Name Products

- (1) Specification content is in the sole discretion of Metro, subject to statutory restrictions on the use of brand names.
- (2) Metro may consult with technical experts, suppliers, prospective contractors and representative of the industries with which Metro will Contract. Metro will take reasonable measure to ensure that no Person who prepares or assists in the preparation of Solicitation Documents, Specifications, plans or scope of work (collectively, “documents”), and that no business with which the Person is associated realizes a material competitive advantage that arises from Metro’s use of those documents.
- (3) A “brand name or equal” Specification may be used when it is Advantageous to Metro, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by Metro. Metro’s determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean “brand name or equal.”
- (4) A “brand name” Specification may be used requiring a Contractor to provide a specific brand when the Procurement Officer, or designee, makes the following findings:
 - (a) The use of a brand name Specification is unlikely to encourage favoritism in the awarding of a Contract or substantially diminish competition for Contracts: or
 - (b) The use of a brand name Specification would result in a substantial cost savings to Metro; or
 - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
 - (d) Efficient utilization of existing equipment, or supplies requires the acquisition of compatible equipment or supplies.
- (5) Metro's use of a brand name specification is subject to protest and review only as provided in Rule 49-0260(3).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345

49-0880 Records Maintenance; Right to Audit Records

- (1) Contractors and Subcontractors shall maintain all fiscal records relating to a Contract executed with Metro in accordance with generally accepted accounting principles. In addition, Contractors and Subcontractors shall maintain any other records necessary to clearly document:
 - (a) Their performance. Performance includes, but is not limited to, compliance with plans and Specifications, compliance with fair contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or Subcontractor under the Contract or subcontract;
 - (b) Any claims arising from or relating to their performance under a Public Contract;
 - (c) Any cost and pricing data; and,
 - (d) Payment to suppliers and Subcontractors.

(2) Such records shall be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer, unless a shorter period of time is authorized in Writing by Metro.

(3) Contractors and Subcontractors shall make all their records available to Metro within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of the Metro region, the Contractor or Subcontractor shall pay all costs for Metro employees, and any necessary consultants hired by Metro, including travel, per diem costs, salary, and any other expenses incurred by Metro in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.

(4) Metro and its Authorized Representatives shall be entitled to inspect, examine, copy and audit the books and records of any Contractor or Subcontractor upon request by Metro for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and financial statements. Metro will keep such documents confidential to the extent permitted by Oregon law, subject to Subsection 5 below.

(5) Contractors and Subcontractors agree to disclose the records requested by Metro and agree to their admission as evidence in any proceeding between the parties, including, but not limited to a court proceeding, arbitration, mediation or other alternative dispute resolution process.

(6) In the event that the records disclose that Metro is owed money or establishes that any portion of any claim made against Metro is not warranted, the Contractor or Subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum due or that becomes due to the Contractor by Metro.

(7) Failure of the Contractor or Subcontractor to keep or disclose records as required may result in a finding that the Contractor or Subcontractor is not a Responsible Bidder or Proposer as provided in Subsection 5.34.610 B.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030, 279C.375, 279C.380 & 279C.440

49-0890 Metro Payment for Unpaid Labor or Supplies

(1) **Contract incomplete.** If the Contract is still in force, Metro may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If Metro chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety are not relieved from liability for unpaid claims.

(2) **Contract completed.** If the Contract has been completed and all funds disbursed to the prime Contractor, all claims must be referred to the Contractor's surety for resolution. Metro shall not make payments to subcontractors or suppliers for work already paid for by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.515

49-0900 Contract Suspension; Termination Procedures

(1) **Suspension of work.** In the event Metro suspends performance of work for any reason considered by Metro to be in the public interest other than a labor dispute, the Contractor is entitled to a reasonable extension of Contract time, and to reasonable compensation for all costs (as defined in the Contract), including a reasonable allowance for related overhead (as defined in the Contract), incurred by the Contractor as a result of the suspension.

(2) **Termination of Contract by mutual agreement for reasons other than default.**

(a) **Reasons for termination.** The parties may agree to terminate the Contract or a divisible portion thereof if:

A. Metro suspends work under the Contract for any reason considered to be in the public interest (other than a labor dispute, or any judicial proceeding relating to the work filed to resolve a labor dispute); and

B. Circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work.

(b) **Payment.** When a Contract, or any divisible portion thereof, is terminated pursuant to this subsection (2), Metro will pay the Contractor a reasonable amount of compensation for preparatory work completed, and for costs and expenses arising out of termination (all as defined in the Contract). Metro will also pay for all work completed, based on the Contract Price. Unless the work completed is subject to unit or itemized pricing under the Contract, payment is calculated based on percent of Contract completed (as may be further defined in the Contract). No claim for loss of anticipated profits is allowed.

(c) **Public Interest Termination.** Metro may include in its Contracts terms detailing the circumstances under which the Contractor is entitled to compensation as a matter of right in the event Metro unilaterally terminates the Contract for any reason considered by Metro to be in the public interest.

(d) **Responsibility for Completed work.** Termination of the Contract or a divisible portion thereof pursuant to this Rule does not relieve either the Contractor or its surety of liability for claims arising out of the work performed.

(e) **Remedies Cumulative.** Metro may, at its discretion, avail itself of any or all rights or remedies set forth in these Rules, in the Contract, or available at law or in equity.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.650, 279C.655, 279C.660, 279C.665 & 279C.670

49-0910 Changes to the work and Contract Amendments

(1) **Definitions for Rule.** As used in this Rule:

(a) "Amendment" means a Written modification to the terms and conditions of a Public Improvement Contract, other than by Change Orders, within the general scope of the original Procurement that requires mutual agreement between Metro and the Contractor.

(b) "Change Order" means a mutually agreed upon change order, or a construction change directive or other Written order issued by Metro or its authorized representatives to the Contractor requiring a change in the work within the general scope of a Public Improvement Contract and issued

under its changes provisions in administering the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.

(2) **Changes Orders Generally.** Changes Orders are anticipated in construction and, accordingly, Metro shall include changes order provisions in all Public Improvement Contracts that detail the scope of the changes clause, provide pricing mechanisms, authorize Metro or its authorized representatives to issue Changes Orders and provide a procedure for addressing Contractor claims for additional time or compensation. When Change Orders are agreed to or issued consistent with the Contract's changes provisions they are not considered to be new Procurements and an exemption from Competitive Bidding is not required for their issuance by Metro.

(3) **Contract Amendments Generally.** Contract Amendments to Public Improvement Contracts are not considered to be new Procurements and an exemption from Competitive Solicitation is not required to add work when:

(a) The work added is within the general scope of the original Contract, or if the work is outside the scope of the original Contract, it can be performed by the Contractor at a cost below what Metro estimates it would cost if a Contract for that work were awarded through Competitive Bidding, Competitive Quotations, or Competitive Proposals. Additional work is "within the general scope of the original Contract" for the purposes of this subsection if the additional work is logically related to the Contract work; prudent Contract management, engineering or construction practices dictate that the additional work ought to be performed in conjunction with the original Contract work; the additional work is located at the same site as the Contract work; and the Contract objectively establishes the prices, or the method of arriving at the price, for the additional work;

(b) The field of competition and Contractor selection would not likely have been affected by the Contract modification. Factors to be considered in making that determination include similarities in work, project site, relative dollar values, differences in risk allocation and whether the original Procurement was accomplished through Competitive Bidding, competitive Proposals, Competitive Quotes, sole source or Emergency Contract;

(c) In the case of a Contract obtained under an Alternative Contracting Method, any additional work was specified or reasonably implied within the findings supporting the Competitive Bidding exemption; and

(d) The Amendment is made consistent with this Rule and other applicable legal requirements.

(4) **Limits on Contract Increases.** Except as otherwise set forth below in subsections (5) and (6), the aggregate increase resulting from all amendments to a Public Improvement Contract shall not exceed twenty-five percent (25%) of the original Contract Price. For Contracts over \$100,000, increases in excess of the 25% limit shall be treated as Unauthorized Purchases in accordance with Rule 46-0200 and submitted to the Procurement Officer to obtain approval by the Chief Operating Officer prior to authorization of performance of the work. Amendments to document the use of additive alternates are not subject to the contract increase limitations set forth in this section, provided the cost for such additive alternates were established through the original solicitation response.

(5) **Small or Intermediate Contracts.** Metro may amend a Public Improvement Contract awarded as a small Procurement Metro in accordance with this Rule, provided that the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of \$25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Metro may amend a Contract awarded as an Intermediate Procurement pursuant Rule 49-0160(5). Any

amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

(6) **Amendment to Settle Bona Fide Dispute.** The limitation set forth above in Section (4) of this Rule is not applicable if the amendment resolves a bona fide dispute with the Contractor and is within the general scope of the original Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, 279C.335 & 279C.400

METRO
PERSONAL SERVICES CONTRACTING RULES
Procurement Administrative Procedures

SUBJECT: Requirements and Procedures for the Procurement of
Personal Services Contracts

PURPOSE: To establish a uniform process for the acquisition of
personal services and rules related to the screening and
selection of persons to perform personal services

DEPARTMENT RESPONSIBLE: Finance Department
PROCUREMENT

**DEPARTMENTS
AFFECTED:** All Metro Departments

**LEGAL CITATION/
REFERENCE:** ORS 279A.055, 279A.065 and 279A.070

DATE: January 1, 2024

I. POLICY STATEMENT

It is the policy of both the State of Oregon and Metro to provide a screening and selection process for the acquisition of personal services that ensures fair and equal opportunity for all contractors interested and qualified to contract with Metro. Full and open competition shall be used to the maximum extent practicable when procuring Personal Service contractors. As required under Metro Code 2.04, Metro Departments are required to adhere to the policies and procedures established in these Administrative Rules.

II. GENERAL GUIDELINES

These Rules identify various contractor screening and selection methods to be used and steps to be followed when procuring personal services.

- A. For procurements over the small purchase threshold and up to \$250,000 in value, an Intermediate procurement method shall be conducted. For procurements over \$250,000 in value, a formal procurement method shall be conducted.
- B. These Rules do not apply to the selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services. See Division 48 of Metro's Local Contract Review Board (LCRB) Rules.
- C. Certain LCRB Rules may pertain to personal services procurements (e.g. Division 46 Rules regarding Solicitation Document Templates; Contract Forms and Contract Templates; Contract Administrator Accountability, Unauthorized Purchases, Discrimination; Disqualification, and Cooperative Procurements).
- D. The maximum contract term of a personal services contract is five (5) years unless otherwise approved by the Procurement Officer or limited by these Rules.
- E. Exceptions to these Rules shall only be allowed as authorized and specified in Section XI, Exemptions from Competitive Procurement Requirements.
- F. There may be more than one method to procure desired personal services, so Metro employees are encouraged to work with Procurement Services, and to the extent necessary the Office of the Metro Attorney, to determine the best method for selecting personal services. The Procurement Officer has the authority to waive minor irregularities and discrepancies, or make situational exceptions that will not affect the overall competitiveness or fairness of the solicitation and selection process, and that will provide significant benefit to Metro.

III. DEFINITIONS AND CONCEPTS

- A. **Competitive Range** – A specified number of proposers, as stated in the solicitation document, with whom Metro will conduct discussions and/or negotiations. This number may be decreased if the number of proposers that submit proposals is less than the specified number, or may be increased by Metro in accordance with LCRB Rule 47-0261.

- B. **Contract** – An agreement between Metro and a contractor describing the work to be performed, the obligations of both parties, etc.
- C. **Department** – A Metro Department, or any unit therein, that has responsibilities for procuring personal services.
- D. **Emergency** – Circumstances that could not have been reasonably foreseen which create a substantial risk of interruption of services or threat to the public health or safety and which require prompt execution of a contract to remedy the situation.
- E. **Exemption** – The process used to allow personal services contract formation outside the formal RFP or Intermediate solicitation procedures.
- F. **Formal** – The procurement process for purchases greater than \$250,000. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “small” and “intermediate”.
- G. **Intermediate** – The procurement process for purchases greater than the small purchase threshold of \$25,000 and less than or equal to \$250,000. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “small” and “formal”.
- H. **Intermediate RFP** – A written solicitation for an intermediate procurement. The intermediate RFP is patterned after the formal RFP process, but with fewer requirements.
- I. **Local Contract Review Board (LCRB)** – The Metro Council acting as the local contract review board pursuant to ORS 279A.060, also known as the Board.
- J. **Multistep RFP** – A formal RFP process that is staged in phases, soliciting technical proposals as a first step, providing the option to conduct interim steps such as Clarification/Discussion phase, followed by a final competitive step.
- K. **Notice** – Announcement and distribution of information regarding a current procurement process by mail, email, or posting to an electronic procurement system.
- L. **Oral Procurement Method** – An alternative Intermediate procurement method for purchases valued at \$250,000 or less that may be conducted orally. The oral procurement method may only be utilized as an exception to the standard, written intermediate process with prior approval of Procurement Services.
- M. **Personal Services** – Services which require specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, services of an accountant, physician, educator, counselors in investment, insurance, advertising, graphics, training, public relations, communications, real estate and property management, information technology or other consultant or artist (including a photographer, filmmaker, painter, weaver, or sculptor) and contracts for human services. Types of services not listed in this definition may also be classified as “personal services.” The Procurement Officer has the final determination on what constitutes “personal services” on a case by case basis.
- N. **Procurement Officer** – The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegate.

- O. **Procurement Services** – Refers to the Procurement section of the Finance and Regulatory Services Department of Metro.
- P. **Proposal** – An offer, binding on the proposer and submitted in response to formal solicitations.
- Q. **Proposer** – A person or entity who submits a response to a solicitation.
- R. **Request for Information (RFI)** – A non-competitive process used to gather information, possible approaches, solutions, and technical capabilities from industry experts and organizations. The RFI is designed to gather information that would be used in a subsequent procurement process. No contract award will result from an RFI.
- S. **Request for Proposals (RFP)** – A formal, competitive procurement process used to solicit offers from contractors. The RFP method involves the evaluation and selection of a contractor based upon various factors including, but not limited to the proposer’s expertise, experience, social equity contracting/corporate responsibility, licenses or certifications, work history, understanding of the scope of work and ability to resolve the issue or problem identified within the RFP document while providing a quantified cost for completing the work. RFPs are expected to result in selection of the contractor whose proposal offers the best value.
- T. **Request for Qualifications (RFQ)** – A procurement method that consists of two phases, which is intended to limit respondents for complex projects to only the most qualified; and/or to lessen the cost impact to respondents. Contract award is dependent on both phases being completed. The issuance of an RFQ is the first phase of the process and is used to short list the most qualified (highest scored) respondents. The first phase does not include cost as an evaluation criterion. The second phase is the issuance of a modified RFP to the short listed respondents and generally results in a contract award.
- U. **Small** – The procurement process for purchases less than or equal to \$25,000. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “intermediate” and “formal”.
- V. **Solicitation Document** – A document issued by Metro to invite offers from prospective contractors.
- W. **Statement of Work** – Written detailed description of agreed upon work, typically including performance measures, deliverables and pricing, found in a contract and derived from the solicitation documents to generally describe the desired work objectives.

IV. AUTHORIZATION FOR PROCUREMENT/UNAUTHORIZED PURCHASES

- A. **Prior Authorization to Conduct Procurement Required**
Procurement authorization is required prior to conducting a procurement. Authorization represents Department management approval to expend funds for the project under the Department’s adopted or proposed (in the case of a pending program offer) budget.
- B. **Unauthorized Purchases**
Unauthorized Purchases are the purchases of goods or services, including personal services, made without following Metro Procurement requirements or without delegated authority.

Processing of payments for Unauthorized Purchases shall be in accordance with LCRB Rule 46-0200.

V. SMALL PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

Personal services purchases less than or equal to the small purchase threshold of \$25,000 may be made without soliciting competitive offers. Purchases may not be artificially divided or fragmented in order to reduce the transaction value below the threshold requiring competition.

VI. INTERMEDIATE PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

A. General Information

1. Metro may utilize an Intermediate procurement process for the selection and award of Personal Service contracts over \$25,000 and up to and including \$250,000 in value.
2. Metro must solicit from a minimum of three vendors (when available) who can reasonably be expected to provide the services. Solicitation shall be through issuance of a written, intermediate RFP, although in some cases an oral procurement method may be approved. See Section VI(C) below for more information regarding the oral procurement method.
3. Metro is required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. See the Metro Equity in Contracting Administrative Rules for more information regarding compliance.
4. Intermediate proposals should be solicited from entities that can reasonably be expected to perform the required services. Metro uses an electronic procurement system as a primary tool for contacting proposers. In the event a potential contractor is not registered on Metro's electronic procurement system, Metro may email or otherwise directly distribute the intermediate RFP to such potential contractor.
5. An intermediate RFP solicitation may be canceled at any point in time prior to contract execution if it is determined to be in the best interest of Metro.
6. There is no protest process for Intermediate procurements.
7. Metro shall retain Intermediate procurement information in accordance with State and Metro record retention requirements, including:
 - a. The date advertised and/or a record of all proposers contacted;
 - b. The original written solicitation document and any addenda. If the Department received prior approval from the Procurement Officer to do an oral procurement method, a summary of the oral information provided by Metro; and
 - c. Scoring summaries, documentation and notice letters.
8. Metro may award contracts to more than one vendor with a single Intermediate procurement process. The total value of all contracts issued under an Intermediate solicitation may not exceed \$250,000.

B. Written Solicitations Required for Intermediate Personal Services Procurements

1. The intermediate RFP is a written solicitation process. The Intermediate solicitation process can be conducted simply or can be structured with multiple steps to address complex requirements.
2. Intermediate RFPs shall be procured using template solicitation documents provided by Procurement Services. The content shall include:
 - a. A clear and concise scope of work identifying deliverables, including what, when, where, and potentially how the personal services will be provided.
 - b. Performance measures, if applicable, to assess receipt of satisfactory services.
 - c. Notice of whether multiple contracts are expected to be awarded.
 - d. The period of time for contract performance.
 - e. A statement that the contract(s) will be awarded to the responsive, responsible proposer(s) with the highest scoring intermediate proposal(s).
 - f. All minimum requirements, such as required contractor licenses, insurance, etc.
 - g. The time and location of a pre-proposal meeting, if applicable.
 - h. The evaluation factors Metro will consider when making the award.
 - i. The questions to which proposers must respond and any additional information or documents that must be submitted.
3. Metro shall respond in writing to questions received, providing any clarifications or changes to all proposers who were sent the intermediate RFP.
4. Any changes or addenda to the intermediate RFP documents must be provided to all proposers who received the original solicitation. Those proposers must be notified in the same manner and method used for the notification of the original solicitation or as otherwise specified in the intermediate RFP.
5. Evaluation and Scoring Intermediate Proposals

Metro must describe the evaluation process that will be utilized to score intermediate proposals in the solicitation document. Metro may choose to establish an evaluation committee with various experts from within and outside Metro, but there is no required minimum number of evaluators for intermediate proposals. To maintain a fair and consistent process, all intermediate proposals should be evaluated by the same evaluators and in the same manner.

C. Process for Using Oral Procurement Method

1. In cases where the Department and Procurement Officer reasonably conclude that a written Intermediate solicitation process will not result in a robust, competitive procurement, an Intermediate procurement may be via an oral procurement method. A previous failed written intermediate RFP is an example of when an oral procurement method may be appropriate, although a previously failed procurement is not a prerequisite for applying the exception.
2. If preapproved by the Procurement Officer, the oral procurement method procurement must be documented in a form provided by Procurement Services. Use of

emails or other written correspondence is also allowable; when used this documentation should be retained in the Procurement File.

3. The Department shall develop a written description of vendor services to be performed and evaluation criteria that will be used to evaluate oral offers.
4. To ensure consistency and fairness, Metro shall present each vendor with the same information. The information provided to vendors may include:
 - a. Description of work
 - b. Estimated cost
 - c. Performance schedules
 - d. Deliverables/outcomes
 - e. Performance requirements
 - f. Minimum contractor qualifications
 - g. Performance measures
 - h. Sustainability considerations
 - i. Equity in contracting considerations

VII. FORMAL PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

A formal procurement process, such as an RFP, must be used to competitively acquire Personal Services contracts over \$250,000. A clear and concise RFP or other appropriate solicitation promotes full and open competition, enables proposers to offer innovative solutions, and allows Metro to determine which proposal offers the best value.

A. Formal Procurement Solicitation Types

The formal procurement methods include, but are not limited to the following types of competitive solicitations:

1. A basic RFP that provides for determination of contractor award(s) based solely on the ranking of proposals.
2. An RFP that results in serial negotiations beginning with the highest ranking proposer or competitive simultaneous negotiations with eligible proposers.
3. A multistep RFP designed to identify, at each level, a class of proposers determined to be within competitive range, or to otherwise eliminate from consideration a class of lower ranked proposers.
4. A multistep or two-step RFP that initially solicits unpriced technical proposals and subsequently invites proposers whose technical proposals are determined to be qualified under the criteria set forth in the RFP to submit price proposals.

B. Solicitation Document Content

The solicitation document must include the following:

1. A statement of work, including a clear description of the services to be provided, standards by which performance of the services will be measured, and conditions affecting delivery of the services.

2. Minimum standards and qualifications required to be met by the proposers to be eligible to provide the services such as licensing, experience, etc. Minimum requirements should be carefully established so that qualified vendors are not inadvertently precluded from proposing. It is not necessary in all cases to establish minimum requirements.
3. Information required to be submitted as part of the proposal to support proposer capability, such as references showing experience providing the same or similar services, copies of license(s), etc.
4. Notice of pre-proposal meeting, if any, including date, time, place and whether the meeting is mandatory or optional.
5. The evaluation process factors Metro will consider when making the award, including (without limitation): (i) a list of all criteria (e.g. cost) to be used to evaluate proposals; (ii) the points assigned to each criterion; and (iii) the minimum total score that must be achieved (if any) to be eligible for contract award.
6. Identification of oral interviews, demonstrations, or other additional procurement process that may be contemplated, along with a description of the purpose of the process, the criteria for selecting proposers to participate, and how the process will affect the scoring.
7. The proposal structure, such as page limitations, content organization, supplemental information, and limitations, etc.
8. A copy of Metro services contract (or other contract if approved by the Office of Metro Attorney) that will be applicable to the resultant contract(s).
9. A description of minimum insurance requirements and, if applicable, a statement that insurance requirements may be increased or decreased depending on the solution proposed.

C. Advertisement, Public Notice, and Solicitation Documentation

Public notice of a formal procurement must be made at the time a solicitation is issued. Metro will post notice of the procurement on its electronic procurement system, where potential proposers can download the solicitation documents. Metro may give additional notice using any method appropriate to foster and promote competition, including:

1. Advertise the procurement in a publication of general circulation and in as many other publications as may be appropriate.
2. Printing copies of the solicitation, upon request, available for pick-up at the Procurement Services office.
3. Mailing or emailing the solicitation document or notice of procurement to the mailing list provided by the Department.
4. Providing copies of the solicitation document to other interested parties, as requested.

D. Addenda

1. All changes to a solicitation must be formalized by the issuance of a written addenda. Except to the extent justified by a countervailing public interest, Metro may not issue addenda less than 72 hours before the closing unless the addenda also extends the closing.

2. Metro may notify prospective proposers of addenda in a manner intended to foster competition and to make prospective proposers aware of the addenda. The original solicitation document must specify how Metro will provide notice of addenda and how Metro will make the addenda available before closing
- E. Proposer Questions, Requests for Clarification/Change, and Protests of Specifications
- The solicitation document shall require proposers to submit in writing to Procurement Services all questions, protests of specifications or requests for clarification or change to the solicitation. Questions may also be presented verbally at a pre-proposal meeting. All questions, requests for change or protests of specifications must be received by Metro by the date and time, and in the manner stated in the solicitation. If a change or substantive clarification is necessary, Metro will issue a written addenda by the date required in the solicitation.
- F. Pre-Proposal Conference
1. A pre-proposal conference allows prospective proposers to meet with Metro after the solicitation is issued in order to discuss the procurement and obtain greater understanding of the requirements.
 2. If held, the pre-proposal conference may be mandatory or optional. If mandatory, only proposers who have a representative attend and sign the attendance roster at the pre-proposal conference may submit a proposal. Mandatory pre-proposal conferences should be required only where there is a compelling reason to have all those who plan to propose be present. Requiring a mandatory conference may result in a qualified proposer being unable to participate if the proposer failed to receive a copy of the solicitation document or inadvertently missed the conference. All information regarding time, location, and whether the pre-proposal conference is optional or mandatory must appear in the solicitation document and in all advertisements.
- G. Rules Governing Receipt of Proposals
1. Proposers are responsible for delivering sealed proposals to the Metro by the date and time specified in the solicitation.
 2. Metro is responsible for receiving, time-stamping, and enforcing the submittal deadline for each proposal.
 3. The Metro time-stamp shall be used to determine the timeliness of a proposal submission.
 4. Metro shall record and make available the identity of all proposers as part of Metro's public records after the proposals are opened. Notwithstanding ORS 192.410 to 192.505, proposals are not required to be open for public inspection until after the notice of intent to award a contract is issued.
 5. If, on the date proposals are due, Metro is officially closed for part or all of the day, preventing delivery of proposals, then the due date will automatically extend to the next business day that Metro is re-opened for business, at the same time as indicated in the solicitation. Closure may be due to inclement weather or other unplanned and unforeseen exigencies.

H. Evaluation Committee

1. Metro shall establish an evaluation committee comprised of at least three (3) members to evaluate proposals.
2. Committee members must not have a conflict of interest with any person or organization responding to the procurement.
3. The Procurement Officer must approve in advance the composition of any evaluation committee that does not comply with the above requirements.

I. Proposal Evaluation and Selection of Contractor(s) for Award

Purpose: A proposal evaluation process is conducted to determine which proposal offers the best overall value in accordance with criteria set forth in the solicitation. The following procedures outline the proposal evaluation process.

1. Evaluation of Proposals:

- a. Proposal evaluators shall evaluate and score proposals using only the evaluation method described in the solicitation. Evaluator comments and scores shall be documented on the evaluation score sheets and forms provided. Evaluators should be cautioned that information contained on the rating sheets will become public information and evaluators should be identified only by alpha designations and not by name or by signature.
- b. Metro may seek clarification of any proposal. Information obtained shall be shared with all evaluators and all such contacts with proposers seeking clarification shall be documented.
- c. The evaluation committee may consult with Metro employees who have technical expertise in a specific area of evaluation such as finance or budget.
- d. If the solicitation requires proposers to provide references and other supporting documentation (such as previous work history, projects that are similar to the one proposed) these references may be checked by the project manager, or a person(s) designated by the project manager and/or evaluation committee. Metro is not restricted to using only those references provided by the proposers, but may also check other references as they become available through the original reference check or as provided by the proposer during the interview phase. Comments and information provided by the reference checks will be documented, shared with the evaluation committee members, and become a part of the permanent procurement file.

2. Conducting Interviews

- a. After deliberation and discussion of the written proposals, the evaluation committee may not be able to determine a single apparent successful proposer and thus may elect to focus on only a limited number of the highest scored proposals by developing a "short list" based on the scores from the written proposals. The number of proposals on the "short list" will depend upon whether the committee believes such proposals have a reasonable chance of receiving the award.
- b. Interviews or presentations will be conducted as indicated in the solicitation document. Each proposer will be allowed an equal amount of time for their

interviews or presentations and will be treated fairly and equitably by Metro. The project manager and the Evaluation Committee will discuss each proposal on the short list and will (i) determine which areas of their proposal may need clarification, (ii) develop interview questions for each proposer, and (iii) provide the agenda and questions far enough in advance of the oral interviews to allow the proposers enough time to adequately prepare and to make reasonable travel arrangements.

- c. The evaluation committee will utilize the scoring method identified within the solicitation document as they proceed to score the interview; interview scores will either stand alone, or the scores for the written proposals will be adjusted according to the procedure stipulated in the solicitation document.

3. Completing the Evaluation

- a. If Metro determines after the scoring of proposals that two or more proposers are equally qualified, Metro may select a candidate through any process that Metro believes will result in the best value for Metro taking into account the scope, complexity, and nature of the personal services. The process shall instill public confidence through ethical and fair dealing, honesty, and good faith on the part of Metro and proposers, and shall protect the integrity of the public contracting process. Once a tie is broken, Metro and the selected proposer shall proceed with negotiations.
- b. If it is recommended that a proposer other than the highest scoring proposer(s) be awarded, the contract award must be approved by the Metro Chief Operating Officer. In such event, the following information shall be submitted to support the recommendation:
 - i. A detailed explanation of the reasons for award recommendation and justification for deviating from required procedures.
 - ii. Findings that the award procedure does not violate any applicable law or regulation.
 - iii. A statement that explains why the proposed award would be in the best interest of the public and Metro.

4. Contract Negotiation and Development

After determining the highest scoring proposer, Metro shall enter into and complete contract negotiations with the selected proposer(s) as provided for in the solicitation document:

5. Contractor Notification and Protest

- a. Following verification of contractor award selection, and only after contract negotiations have concluded, Metro shall provide proposers with notice of intent to award the contract(s). Such notice shall be via the method identified in the Solicitation documents. The notification date will establish the beginning of the protest period. In the event that contract negotiations are prolonged, Procurement Services may informally notify the proposers that a selection has been made before the formal notice of intent to award the contract is distributed.

- b. Protests of contract award shall be received by Procurement Services and reviewed with the Department and the Metro Attorney. The Procurement Officer shall respond in a timely manner to any valid protests received.

6. Special Circumstances

a. Proposal Modification or Withdrawal

A proposer may modify or withdraw its proposal as described herein. A record of withdrawal or modification of a proposal by the proposer shall be kept in the Procurement File.

i. Proposal Modification

- (1) A proposer may modify its proposal by submitting a proposal modification request to Procurement Services in writing prior to the date and time that proposals are due.
- (2) Any modification shall include the proposer's statement that the modification amends and supersedes the prior proposal and must be identified as such including the solicitation number.

ii. Proposal Withdrawal

A proposer may withdraw its proposal by written notice signed by an authorized representative of the proposer and delivered to Procurement Services prior to the date and time that proposals are due.

iii. Late Modification or Withdrawal of a Proposal

A proposer's request for modification of a proposal received after the due date and time stated in the solicitation document is late and may not be considered. A proposer's request for withdrawal of a proposal received after the due date and time stated in the solicitation document may not be considered.

b. Cancellation, Rejection, Delay, or Suspension of a Procurement

- i. Any procurement may be canceled or any or all proposals may be rejected in whole or in part, as determined by the Procurement Officer, when the cancellation or rejection is deemed to be in the best interest of Metro. The reason for the cancellation or rejection shall be made part of the Procurement File. Metro shall not be liable to any proposer or its subcontractor(s) for any loss or expense caused by or resulting from the cancellation or rejection of a procurement.
- ii. Any procurement may be delayed or suspended, as determined by the Procurement Officer, when the delay or suspension is in the best interest of Metro. Metro shall make the reasons for the delay or suspension part of the Procurement File. Metro shall not be held liable to any proposer or its subcontractor(s) for any loss or expense caused by or resulting from the delay or suspension of the procurement.
- iii. If a procurement is canceled prior to the proposal due date, Procurement Services shall provide written notice of cancellation in the same manner as

was used for the notice of the procurement except that advertisement of a cancellation is not required.

- iv. If a procurement is canceled prior to the proposal due date, all proposals that were received prior to the solicitation close will be returned unopened to the proposer(s).
- v. If a procurement is canceled after the proposal due date, proposals may either be returned to the proposer(s) or kept in the Procurement File.
- vi. If all proposals are rejected, all proposals shall be kept in the Procurement File.

VIII. REQUEST FOR INFORMATION

Metro may consider using a Request for Information (RFI) process to solicit preliminary information from the marketplace or to assess the availability of a desired service. An RFI is not a source selection method to procure services; however, information received in response to an RFI may be used to develop a statement of work for an RFP that may be subsequently issued. Responses to an RFI will be reviewed but not scored and no contract award(s) shall be made.

Interested parties will be asked to respond with some or all of the following information depending on the circumstances:

- A. Their interest in providing the service or solution to a problem.
- B. A brief description of past experience providing similar services or solutions.
- C. A description of services offered that will meet the needs of Metro.
- D. Any potential problems or risks Metro may encounter in utilizing the service or implementing the solution, along with suggestions to mitigate potential problems or reduce risk.
- E. An estimated price range to provide the proposed services.
- F. An estimated timeframe to complete the project, if applicable.

IX. NEGOTIATIONS

- A. One of the particular advantages of the RFP process is the ability of Metro to negotiate with the successful proposer to provide services at the price level that provides Metro with the best fair market value. The importance of negotiating with the selected proposer in order to obtain the best possible value for Metro and thereby assuring the best use of public funds cannot be overemphasized. During the negotiations, Metro will in good faith dedicate the necessary time and effort in order to reach a final agreement with the selected proposer. Negotiations typically occur prior to Metro issuing its notice of intent to award so that Metro may rely on the public record exemptions provided for under ORS 279B.060(6).
- B. Following principled negotiation efforts, if agreement with the highest scoring proposer cannot be reached within a reasonable period of time, Metro may, in its sole discretion, terminate negotiations and thereby reject the highest scored proposal. Metro may then attempt to reach a final agreement with the second highest scoring proposer and may

continue on, in the same manner, with remaining proposers until an agreement is reached. If negotiations with any proposer do not result in a contract within a reasonable period of time, as determined by Metro in its sole discretion, Metro may cancel the particular formal solicitation. Nothing in these Rules precludes Metro from proceeding with a new solicitation.

X. PROTESTS

- A. A proposer may protest a formal contract award, or notice of intent to award a contract over \$250,000, as follows:
 - 1. A proposer may protest the award of a contract, or the notice of intent to award a contract, whichever occurs first, if:
 - a. The proposer is adversely affected because the proposer would be eligible to be awarded the contract in the event that the protest were successful; and
 - b. The protest is based on at least one of the following reasons:
 - i. All higher scoring proposals are non-responsive.
 - ii. The proposal evaluation process was not conducted in accordance with the criteria or method described in the solicitation document.
 - iii. Metro has abused its discretion in rejecting the protestor's proposal as non-responsive.
 - iv. The proposal evaluation process is in violation of applicable rule or law.
 - 2. The evaluator's judgment applied in the scoring of proposals, including the use of outside expertise, is not a permitted basis for protest.
- B. A proposer may protest its exclusion from the competitive range or exclusion from a tier or step of formal competition if the proposer:
 - 1. Submitted a responsive offer.
 - 2. Is deemed responsible.
 - 3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the protesting proposer would have been included in the competitive range or in the next tier or step of competition.
- C. A proposer may appeal a decision that the proposer is not qualified under an RFQ process if the proposer can establish that it complied with all of the following conditions:
 - 1. Submitted a responsive offer.
 - 2. Is deemed responsible.
 - 3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the protesting proposer would have been included in the competitive range or in the next tier or step of competition.

- D. Unless otherwise specified in the solicitation document, a proposer shall deliver its written protest to the Procurement Officer by close of business within seven (7) calendar days after the date shown on the notice of the decision that is the subject of the protest.
- E. The protest must specifically state the reason for the protest, identify how its proposal or the winning proposal was mis-scored or show how the selection process deviated from that described in the solicitation document, and identify the remedy requested.
- F. Depending upon the substance of the protest, the Procurement Officer has a number of options available in resolving the protest. The Procurement Officer may: 1) waive any procedural irregularities that had no material effect on the selection of the proposed contractor; 2) invalidate the proposed award or amend the award decision; 3) request the evaluation committee re-evaluate any proposal; 4) develop an entirely new evaluation committee and re-evaluate the proposals; or 5) cancel the solicitation and begin again to solicit new proposals. In the event the matter is returned to the evaluation committee, the Procurement Officer shall issue a notice canceling the notice of intent to award.
- G. Decisions of the Procurement Officer are final and conclude the administrative appeals process. Any further redress sought by the proposer must be pursuant to state law.

XI. EXEMPTIONS FROM COMPETITIVE PROCUREMENT REQUIREMENTS

A. Exemptions by Rule

The services listed in paragraphs 1 through 11 below are designated as Personal Service and are exempt from competitive procurement requirements set forth in these Administrative Rules.

1. Contracts for the modification by the licensor of intellectual property licensed to Metro.
2. Contracts for legal services (e.g. expert witnesses, outside legal counsel, and bond counsel), if approved by the Metro Attorney.
3. Contracts with speakers, lecturers and performing artists (whether vocal, instrumental, or visual) to provide a paid speech, lecture, or performance for an audience determined by Metro.
4. Contracts in which the rates for the services being purchased are established by federal, state, county, or other local regulatory authority where an alternate selection process has been approved in advance by the Procurement Officer.
5. Contracts for which a non-Metro funding source (e.g. a grant or contract awarded by a government agency or private foundation) identifies the contractor in the funding award or makes a funding award conditioned upon the service being performed by a specific contractor.
6. Contracts for determining any prospective or current Metro employee's ability to work or return to work.
7. Contracts for processing any claim for workers' compensation benefits.
8. Contracts for determining any reasonable accommodation that may be made to any job classification at Metro.
9. Contracts for services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, laboratory

technicians and those with specific license or unique skill to administer treatments for the health and well-being of people or animals.

10. Contracts for services when the contractor is a not-for-profit organization and where both parties share in the decision making process work together to define a scope of work, contribute resources, share responsibilities, and accept risk and benefits.
11. Contracts for services otherwise described as Class Special Procurements and authorized by LCRB Rule 47-0288.

B. Specific Exemptions from the Competitive Procurement Requirements:

1. Sole Source Contractor Exemption

A sole source procurement is one that awards a contract without an open competitive environment. It is a declaration that the personal services being contracted for are of such a unique nature, or the contractor possesses such a singular capability to perform the work that proceeding without competition is likely to provide a significant benefit to Metro. Contracting by this method requires complete explanation and justification of: 1) the unique nature of the services; 2) the unique qualifications of the contractor; and 3) the basis upon which it was determined that there is only one known contractor able to meet the service needs.

The Procurement Officer is authorized to approve sole source requests. However, sole source procurements greater than \$250,000 will require a public notice be posted on its electronic procurement system for at least seven (7) calendar days prior to the award. Contractors who feel they are adversely affected by the award of the sole source procurement will have seven (7) calendar days from the issuance of the sole source notice to file a protest in accordance with Section X.D of these Administrative Rules. If a protest is received, the matter must be resolved before the Procurement Officer will review the Sole Source Request.

2. Emergency Exemption

Metro may award a contract as an emergency procurement without the use of competitive proposals if circumstances exist that (i) could not have been reasonably foreseen, (ii) create a substantial risk of loss, damage or interruption of services or a threat to property, public health, welfare or safety, and (iii) require prompt execution of a contract is required to remedy the situation.

The authority to declare an emergency and authorize an emergency procurement is as follows:

- a. The Procurement Officer may declare the existence of an emergency and authorize Metro or any of its Departments to enter into an emergency contract under \$250,000;
- b. The director of a Department may declare the existence of an emergency and authorize that Department to enter into an emergency contract under \$250,000 only if the Procurement Officer is not available when the contract needs to be executed.
- c. The Chief Operating Officer may declare the existence of an emergency and authorize emergency contracts that exceed \$250,000.

XII. AMENDMENTS TO PERSONAL SERVICES CONTRACTS

- A. A Department shall have authority to authorize an amendment to a contract for personal services in any amount to add additional services which are reasonably related to the scope of work under the original contract without competitive procurement, subject to the following conditions:
 - 1. The original contract was let by formal procurement process and cost per unit of services was provided for in the original proposal that establishes the cost basis for additional services; or
 - 2. The original contract was let pursuant to a declaration of emergency; if the emergency justification for entering into the contract still exists and the amendment is necessary to address the continuing emergency; or
 - 3. The additional services are required by reason of existing or new laws, rules, regulations, or ordinances of federal, state, or local agencies that affect performance of the original contract; or
 - 4. The aggregate increase resulting from all amendments to such personal services contract does not exceed twenty-five percent (25%) of the original contract price. Escalation clauses agreed to in the original contract (e.g. COLA increases) are excluded from the 25% calculation.
- B. If the conditions in XII. A.1-A.4 do not apply, Metro may still amend a personal services contract upon finding that the amendment is advantageous to Metro. For contracts \$250,000 and under the Procurement Officer has the authority to approve the amendment. For contracts over \$250,000 the Metro Chief Operating Officer has the authority to approve the amendment.
- C. Notwithstanding the limit set forth in XII. A.4, (i) contracts awarded as small procurements may be amended to increase the contract price to \$25,000 or one hundred twenty-five percent (125%) of the original contract price, whichever is greater and (ii) contracts awarded as an intermediate procurement may be amended to increase the total contract price to \$250,000 or one hundred twenty-five percent (125%) of the original contract price, whichever is greater.
- D. Any amendment increasing the contract amount beyond the thresholds set forth in this section, or any amendment that has not received the required authorization, will be treated as an unauthorized purchase and will be subject to the provisions of LCRB Rule 46-0200.

XIII. IMPLEMENTATION AND INTERPRETATION

Any questions relative to the intent or application of these Administrative Rules should be directed to the Procurement Officer who is delegated the responsibility for interpreting and implementing these procedures.

METRO
EQUITY IN CONTRACTING RULES
Procurement Administrative Rules

SUBJECT: Rules and Requirements for Metro’s Equity in Contracting Program

PURPOSE: To adopt rules of procedure to advance equity in public contracting that promote economic growth of disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses

DEPARTMENT RESPONSIBLE: Finance Department
PROCUREMENT

DEPARTMENTS AFFECTED: All Metro Departments

DATE: January 1, 2024

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I. POLICY STATEMENT

Metro expresses its strong commitment to provide contracting opportunities to State of Oregon certified minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses (collectively referred to herein as “COBID Certified Businesses”). Metro hereby creates its Equity in Contracting Program (the “Program”) to advance equity in public contracting, promote economic growth of COBID Certified Businesses and provide additional competition for Metro contracts. The Program is intended to function in addition to the general rules and procedures applicable to Metro procurements.

II. DEFINITIONS

- A. **COBID** - The State of Oregon’s Certification Office for Business Inclusion and Diversity, created within the Oregon Business Development Department or such state agency, department or entity to which has been delegated the responsibility to certify minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses.
- B. **Department** - A Metro Department or any unit or staff within a Department that has responsibilities for procuring public contracts.
- C. **Emerging small business** - Meaning set forth in ORS 200.005(5).
- D. **“Minority-owned business”, “woman-owned business” or “business that a service-disabled veteran owns”** - Meanings set forth in ORS 200.005(7).
- E. **Electronic Procurement System** - The online procurement solicitation system utilized by Metro to issue procurement and contracting opportunities and information.
- F. **Procurement Officer** - The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegatee.

III. PROGRAM ADMINISTRATION

The Procurement Officer shall be responsible for administering and implementing the Program on behalf of the Chief Operating Officer. Procedural rules created to implement the Program shall be promulgated for Department comment prior to their adoption by the Metro Local Contract Review Board. When deemed appropriate by the Metro Chief Operating Officer, Metro may seek public input before adopting, amending, or repealing such rules.

In administering the Program, the Procurement Officer shall advise all potential contractors that COBID is the sole agency that may certify enterprises and businesses as minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses.

IV. GENERAL PROGRAM ACTIVITIES

The Procurement Officer shall engage in the following activities with the goal of increasing Metro business with COBID Certified Businesses:

- A. **Outreach** - Engage in additional outreach procedures, including electronic notices of public contract solicitations, newsletters, attending regularly-scheduled contractor orientation programs, open houses, and participation in local and regional outreach opportunities.
- B. **Technical Assistance** - Provide technical assistance and information to outside third parties on feasible options for management assistance, bonding, insurance, certification, and Metro procurement processes.
- C. **Package Contracting Opportunities** - Examine alternatives for arranging public contract solicitations by type of work, subcontracting opportunities and partnerships so as to enhance the possibility of participation by COBID Certified Businesses.
- D. **Internal Education** - Provide periodic training and continuing education to Departments to ensure awareness of Program objectives and desired activities.

V. PROGRAM SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC CONTRACTS OTHER THAN PUBLIC IMPROVEMENTS

- A. **Small Procurements** - For small procurements (\$25,000 and under), Departments are strongly encouraged to review the COBID certification directory for firms in the category of work being solicited before awarding the contract.
- B. **Intermediate Procurements** - For intermediate procurements (exceeding \$25,000 but not exceeding \$250,000), Departments are required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. The Procurement Officer may waive the foregoing direct solicitation requirement if, upon review of the COBID certification directory, there are no such businesses qualified in the category of work being solicited. As an alternative to the direct solicitation requirement, Departments may instead advertise the intermediate contracting opportunity broadly on Metro's Electronic Procurement System.
- C. **Formal Procurements** - For formal procurements (over \$250,000), Departments are required to broadly advertise the competitive contracting opportunity on Metro's Electronic Procurement System. In addition, all formal procurements shall also be advertised in at least one minority-focused publication.
- D. **Proposal Scoring** - For requests for proposals procuring contracts for goods and services or personal services, 20% of the total available scoring points shall be based on the following Program criteria: COBID certification, firm demographics, support for workforce diversity, and, if applicable, utilization of COBID-certified subcontractors.
- E. **Exceptions to Requirements** - The Program solicitation and scoring requirements set forth in this Section V are not applicable to emergency procurements, sole source procurements, or any other special procurements that allow for direct award of a contract without competitive solicitation.

VI. PROGRAM SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC IMPROVEMENT CONTRACTS

- A. **Small Procurements** - For procurements of small public improvement contracts (\$25,000 and under), Departments are strongly encouraged to review the COBID certification directory for firms in the category of work being solicited before directly awarding the contract.
- B. **Intermediate Procurements (Competitive Quotes)** - Subject to the applicable Mandatory COBID Marketplace rule provided for below in Section VII(B), for intermediate procurement of public improvement contracts based off competitive quotes (exceeding \$25,000 but not exceeding \$100,000), Departments are required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. The Procurement Officer may waive the direct solicitation requirement if, upon review of the COBID certification directory, there are no such businesses qualified in the category of work being solicited. As an alternative to the direct solicitation requirement, Departments may instead advertise the intermediate contracting opportunity broadly on Metro's Electronic Procurement System.
- C. **Formal Procurements** - For formal procurements of public improvement contracts (over \$100,000), Departments are required to advertise the competitive contracting opportunity broadly on Metro's Electronic Procurement System. In addition, all formal procurements of public improvement contracts (over \$100,000) shall also be advertised in at least one minority-focused publication.
- D. **Proposal Scoring** - For public improvement contracts procured through alternative contracting methods, 20% of the total available scoring points will be based on the following Program criteria: COBID certification, firm demographics, support for workforce diversity, and, if applicable, utilization of COBID-certified subcontractors.
- E. **Exceptions to Requirements** - The Program solicitation and scoring requirements set forth in this Section VI are not applicable to emergency procurements or any other special/alternative procurements that allow for direct award of a public improvement contract without competitive solicitation.

VII. COBID MARKETPLACE

- A. **Elective Direct Award for Personal Services Contracts** - Departments may directly award a personal services contract that exceeds \$10,000 without following otherwise required competitive solicitation procedures if (i) the contractor is a COBID Certified Business, and (ii) the contract is for an amount that does not exceed \$150,000. All other rules and procedures applicable to personal services procurements set forth in the Metro Personal Services Contracting Manual remain applicable (e.g., contractor compliance, insurance, non-conflict of interest, etc.). A Department cannot enter into more than one direct award contract with an individual COBID Certified Business at a time. Once a Department has awarded a direct contract to a COBID Certified Business, they cannot award another direct contract to the same contractor until the work of the first directly-awarded contract is completed.
- B. **Elective Direct Award for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Contracts** -

Departments may directly award a contract to a Consultant that exceeds \$25,000 without following otherwise required competitive solicitation procedures if (i) the contractor is a COBID Certified Business, and (ii) the contract is for an amount that does not exceed \$100,000. All other rules and procedures applicable to procurements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Contracts set forth in Division 48 of the Metro Local Contract Review Board Rules remain applicable. A Department cannot enter into more than one direct award contract with an individual COBID Certified Business at a time. Once a Department has awarded a direct contract to a COBID Certified Business, they cannot award another direct contract to the same contractor until the work of the first directly-awarded contract is completed.

- C. **Mandatory Procedures for Public Improvement Contracts Under \$50,000** - For public improvement contracts that exceed \$25,000 but are less than \$50,000, Metro shall only consider competitive quotes, bids, and proposals from COBID Certified Businesses. The Procurement Officer may waive this requirement after making a written determination that there is not a competitive pool of businesses on COBID's certification list available and qualified to perform the work in accordance with reasonably required standards. The mandatory procedures set forth in this Section VII(B) shall not apply to emergency procurements or any other alternative procurements that allow for direct award of a public improvement contract without competitive solicitation.

VIII. SUBCONTRACTOR EQUITY PROGRAM

Metro's Subcontractor Equity Program is intended to incorporate the standards for good faith efforts described in ORS 200.045. The purpose of the Subcontractor Equity Program is to provide equitable opportunities for COBID Certified Businesses to participate in subcontract opportunities created through Metro public improvement contracts.

Prime contractors who intend to subcontract any portion of the project work are required to fulfill the following actions in order to comply with the Subcontractor Equity Program:

- A. Contractor contacts all COBID Certified Businesses who attend the project's presolicitation or prebid meeting and who indicated an interest in any subcontracting to solicit bids for subcontracting or material supply opportunities;
- B. Contractor identifies and selects specific economically feasible units of the public improvement contract that COBID Certified Businesses may perform in order to increase the likelihood that COBID certified subcontractors will participate in the public improvement contract;
- C. Contractor provides written notice of the subcontracting opportunities to a reasonable number of specific COBID Certified Businesses in sufficient time to allow such enterprises or businesses to participate effectively;
- D. Contractor follows up on initial solicitations of interest to determine with certainty whether the COBID certified businesses are interested in the subcontracting opportunities;
- E. Contractor provides interested COBID Certified Businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public improvement contract;

- F. Contractor negotiates with interested COBID certified subcontractors, and does not without justifiable reason reject as unsatisfactory bids or proposals that COBID enterprises or businesses prepare;
- G. Contractor advises and assists interested COBID certified subcontractors to obtain, when necessary, bonding, lines of credit or insurance that the contracting agency or contractor requires; and
- H. Contractor uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations that Metro identifies as providing assistance in recruiting COBID Certified Businesses for participation in public improvement contracts.

The Procurement Officer shall determine if any offer or proposal complies with requirements of the Subcontractor Equity Program. If the Subcontractor Equity Program documentation submitted by the offeror fails to substantially comply with the requirements of the solicitation document, the bidder/proposer shall be deemed non-responsible and shall be rejected by the Procurement Officer. Contractor is required to complete a monthly utilization report tracking progress toward the subcontracting plan outlined in the offer. Compliance with the Subcontractor Equity Program must be maintained during the entire period of the contract. Non-compliance may constitute a breach of contract.

IX. PRESOLICITATION EQUITY STRATEGY MEETING

For all formal, competitive procurements (personal services contracts and goods and services contracts over \$250,000; public improvement contracts over \$100,000), the Department project manager shall meet with the Procurement Officer prior to releasing a solicitation to discuss opportunities for setting aspirational goals for equity and diversity. Such aspirational goals may include, but are not limited to, focus on COBID certified prime contracting, subcontractor utilization, workforce diversity, mentorship, training, and any other areas identified by the Procurement Officer which will likely result in the advancement of equity and diversity related to the procurement.

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

Effective ~~July 14~~ January 1, 2022 ~~2024~~

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**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

DIVISION 46 - GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTING

46-0100 Application; Federal Law Supremacy

(1) If a conflict arises between these Division 46 rules and rules in Divisions 47, 48 and 49, the rules in Divisions 47, 48 and 49 take precedence over these Division 46 rules.

(2) Except as otherwise expressly provided in ORS 279C.800 through 279C.870, and notwithstanding ORS Chapters 279A, 279B, and 279C.005 through 279C.670, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of ORS Chapters 279A, 279B, or 279C.005 through 279C.670 or these Administrative Rules, or require additional conditions in Public Contracts not authorized by ORS Chapters 279A, 279B, and 279C.005 through 279C.670 or these Administrative Rules.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030 & ORS 279A.065

46-0130 Application of the State Code and Administrative Rules; Exceptions

(1) Except as set forth in this section, Metro shall exercise all procurement authority related to Public Contracting in accordance with the State Code and these Administrative Rules.

(2) Metro has specifically opted out of the Oregon Department of Justice Model Rules for Public Contracting and has elected to exercise its own contracting authority by adopting these Administrative Rules pursuant to ORS 279A.065. Except for those portions of the Oregon Department of Justice Model Rules for Public Contracting pertaining to the Procurement of Construction Manager/General Contractor Services under ORS 279A.065(3), (where the State Code provides that Metro is not permitted to opt out) the Oregon Department of Justice Model Rules for Public Contracting do not apply to Metro.

(3) Other than the Division 48 Administrative Rules that apply to Architectural, Engineering and Surveying Services and Related Services, contracts or classes of contracts for Personal Services designated as such by the Metro Local Contract Review Board are not subject to Divisions 46, 47, and 49 of these Administrative Rules.

(4) These Administrative Rules do not apply to Contracts or classes of Contracts described in ORS 279A.025(2) to which the State Code, ORS Chapters 279A, 279B and 279C, do not apply. Contracts that are exempt from competitive Bidding under the State Code, including but not limited to the following, retain that exemption regardless of any provisions of these Administrative Rules:

(a) Contracts between Metro and:

- A. Another "Contracting Agency" as defined by ORS 279A.010;
- B. The Oregon Health and Science University;
- C. The Oregon State Bar;
- D. A governmental body of another state;

- E. The federal government;
- F. An American Indian tribe or an agency of an American Indian tribe;
- G. A nation, or a governmental body in a nation, other than the United States; or
- H. An intergovernmental entity formed between or among governmental bodies of this or another state, the federal government, an American Indian tribe or an agency of an American Indian tribe, a nation other than the United States or a governmental body in a nation other than the United States.

(b) Contracts pursuant to 10 U.S.C. § 381 (relating to law enforcement equipment suitable for counter-drug activities through the Department of Defense), the Electronic Government Act of 2002 (relating to automated data processing equipment, including firmware, software, supplies, support equipment, and services from federal supply schedules), or other federal law that Metro Council determines are similar to those Acts in effectuating or promoting transfers of property to Metro;

(c) Contracts, agreements or other documents entered into, issued or established in connection with:

A. The incurring of debt by a public body, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated Contracts, agreements or other documents, regardless of whether the obligations that the Contracts, agreements or other documents establish are general, special or limited;

B. The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law;

C. The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures;

D. Banking, money management or other predominantly financial transactions of Metro that, by their character, cannot practically be established under competitive contractor selection procedures, based upon findings of the Purchasing Administrator.

(d) Grants, defined as follows:

A. An agreement under which:

(i) Metro receives moneys, property or other assistance, including, but not limited to, federal assistance that is characterized by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities, or other assets;

(ii) The assistance received by Metro is from a grantor for the purpose of supporting or stimulating a program or activity of Metro; and

(iii) No substantial involvement by the grantor is anticipated in the program or activity other than involvements associated with monitoring compliance with grant conditions.

B. An agreement under which:

(i) Metro provides moneys, property or other assistance, including by not limited to federal assistance that is characterized as a grant by federal law or regulations, loans, loan guarantees, credit enhancements, gifts, bequests, commodities or other assets;

(ii) The assistance is provided to a recipient for the purpose of supporting or stimulating a program or activity of the recipient; and

(iii) No substantial involvement by Metro is anticipated in the program or activity of the recipient other than involvement associated with monitoring compliance with the grant conditions.

(e) Acquisitions or disposals of real property or interests in real property;

(f) Transfer, sale or disposal of personal property;

(g) Sole source expenditures when rates are set by law or ordinance for purposes of these rules concerning source selection;

(h) Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125(4), 243.221, 243.275, 243.291, 243.303 and 243.565;

(i) Revenue Generating Contracts, defined as agreements whose primary purpose is generating revenue for Metro and are typically awarded to the offeror proposing the most Advantageous or highest monetary return to Metro. The Metro Council may designate a particular Contract as a revenue-generating Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.050, ORS 279A.055, ORS 279A.065 & ORS 279A.180

46-0140 Solicitation Document Templates; Contract Forms and Contract Templates; Contract Administrator Accountability

(1) The Procurement Officer will make available to all Metro departments Solicitation Document templates, Contract forms, and Contract templates. Metro departments and staff shall use approved Solicitation Document templates, Contract forms or Contract templates.

(2) All Solicitation Document templates, Contract forms, and Contract templates must be in a form preapproved by the Metro Attorney. The Metro Attorney may exempt from required use a Solicitation Document template, Contract form, or Contract template, subject to any conditions the Metro Attorney may impose on the continued use of the exempted and approved Solicitation Document template, Contract form or Contract template.

(3) ~~Before Metro executes a Contract with a Contract Price that exceeds \$150,000,~~ Metro must identify the staff employee who will oversee such specific Contract, or specifically identified Contracts, or a specifically identified category of Contracts. Such staff employee will be designated as the "Contract Administrator" for the Contract or Contracts. The Contract Administrator is responsible for reading and understanding all advice and recommendations given with respect to the Contract and Procurement. As used herein, "advice and recommendations" means material advice and recommendations from the Office of Metro Attorney or the Procurement Office with respect to a specific Contract and amendments to the Contract, or a Procurement that resulted in the Contract. Material advice or recommendations are communications that address: (i) subject matter that modifies or influences the meaning, performance, administration, or means of enforcement of a Contract; or (ii) the allocation of significant liabilities or risk under a Contract.

Stat. Auth.: ORS 279A.065, OL 2015, ch 646 (HB 2375)

Stats. Implemented: OL 2015, ch 646 (HB 2375)

- A. That unpriced technical Proposals are requested;
- B. That the Solicitation is a multistep competitive Proposal Procurement and that, in the second phase, priced Proposals will be accepted only from those Proposers whose unpriced technical Proposals are found qualified in the first phase;
- C. The criteria for the evaluation of unpriced technical Proposals; and
- D. That the Goods or Services being procured must be furnished generally in accordance with the Proposer's technical Proposal as found to be finally qualified and must meet the requirements of the Request for Proposals.

(c) **Addenda to the Request for Proposals.** After receipt of unpriced technical Proposals, Addenda to the Request for Proposals must be distributed only to Proposers who submitted unpriced technical Proposals.

(d) **Receipt and Handling of Unpriced Technical Proposals.** Unpriced technical Proposals need not be opened publicly.

(e) **Evaluation of Unpriced Technical Proposals.** Unpriced technical Proposals will be evaluated solely in accordance with the criteria set forth in the Request for Proposals.

(f) **Discussion of Unpriced Technical Proposals.** Metro may seek clarification of a technical Proposal of any Proposer who submits a qualified, or potentially qualified technical Proposal. During the course of such discussions, Metro may not disclose any information derived from one unpriced technical Proposal to any other Proposer.

(g) **Methods of Contractor Selection for Phase One.** In conducting phase one, Metro may employ any combination of the methods of contractor selection that call for the establishment of a Competitive Range or include discussions, negotiations, or best and final Offers as set forth in this Rule.

(h) **Procedure for Subsequent Phases.** On the completion of phase one, Metro shall invite each qualified Proposer to submit price Proposals. Metro shall conduct phase two as any other competitive Proposal Procurement except as set forth in this Rule.

(i) No public notice need be given of the request to submit price Proposals because such notice was previously given.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.060

47-0265 Small Procurements

(1) **Generally.** For Procurements of Goods or Services less than or equal to ~~\$10,000~~\$25,000, Metro may award a Contract as a Small Procurement pursuant to ORS 279B.065 and in accordance with this Administrative Rule. State Code prohibits a Procurement from being artificially divided or fragmented so as to constitute a Small Procurement under this section.

(2) **Methods Available.** Metro may choose any method of selecting such Contractors, including, but not limited to, offering and directly awarding the Contract to only one firm or conducting a competition for the Contract. However, if the Goods or Services are available from a Qualified Nonprofit Agency for Individuals with Disabilities, they must be purchased as provided under Oregon law.

(3) **Amendments.** Metro may amend a Contract awarded as a Small Procurement in accordance with Administrative Rule 47-0800, but the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of ~~\$10,000~~25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

Stat. Auth.: ORS 279A.065 & ORS 279B.065
Stats. Implemented: ORS 279B.065

47-0270 Intermediate Procurements

(1) **Generally; Price Quotes or Intermediate Proposals.** For Procurements of Goods or Services greater than ~~\$10,000~~25,000 and less than or equal to ~~\$150,000~~250,000, pursuant to ORS 279B.070 Metro may award a Contract as an Intermediate Procurement after seeking three Written Intermediate Proposals or Price Quotes. Notwithstanding the foregoing, if the Goods or Services are available from a Qualified Nonprofit Agency for Individuals with Disabilities, they must be purchased as provided under Oregon law.

(a) State Code prohibits a Procurement from being artificially divided or fragmented so as to constitute a Intermediate Procurement under this section.

(b) The Intermediate Request for Proposal and the Request for Quotes are both Written solicitation processes. If three Written Price Quotes or Intermediate Proposals are not reasonably available or Metro concluded that a Written Intermediate solicitation process will not result in a robust, competitive procurement, Metro may proceed with an oral procurement method. Metro shall keep records of the sources of the Quotes or Intermediate Proposals received.

(c) Metro uses an Electronic Procurement System as a primary tool for contacting potential Contractors. In the event a potential contractor is not registered on Metro's Electronic Procurement System, Metro may email or otherwise directly distribute the Solicitation document to such potential contractor.

(2) **Negotiations.** Metro may negotiate with a prospective Contractor who offers to provide Goods or Services in response to an Intermediate Procurement to clarify its Price Quote or Intermediate Proposal or to effect modifications that will make the Offer more Advantageous to Metro.

(3) **Award.** If a Contract is to be awarded, Metro shall award the Contract to the responsive, Responsible Offeror who provides the lowest Price Quote, or if criteria other than price are to be considered, whose Intermediate Proposal is the highest scoring. Metro may consider other criteria, in addition to price, in making the award: experience, expertise, product functionality, suitability for a particular purpose, equity, sustainability, and Contractor Responsibility under ORS 279B.110. For Intermediate Request for Proposals, Metro may choose to establish an evaluation committee with various experts from within and outside Metro. For Intermediate Proposals there is no required minimum number of evaluators on the panel. The Procurement Officer must approve the composition of any evaluation committee.

(4) **Amendments.** Metro may amend a Contract awarded as an Intermediate Procurement in accordance with Administrative Rule 47-0800, but the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of ~~\$150,000~~250,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

(5) **BOLI Applicability.** For Intermediate Contracts for minor alterations, ordinary repair or maintenance necessary to preserve a public improvement, where applicable Metro shall comply with the prevailing wage provisions of ORS 279C.800 to 279C.870. For Intermediate Contracts that involve Public Works, as defined in ORS 279C.800, Metro shall provide notification of award to BOLI as required by ORS 279C.835.

Stat. Auth.: ORS 279A.065 & ORS 279B.070

Stats. Implemented: ORS 279B.070

47-0275 Sole-Source Procurements

(1) **Generally.** In accordance with ORS 279B.075, Metro may award a Contract without competition as a sole-source Procurement when it is determined that the Goods or Services, or class of Goods or Services, are available from only one source. Such determination must be made by the Procurement Officer for Procurements under ~~\$150,000~~250,000. For all other Procurements the determination must be made by the Metro Local Contract Review Board. The determination must be made based on Written findings that include, where applicable, findings:

(a) Based on a brief description of the Contract or Contracts to be covered including volume of contemplated future purchases;

(b) Based on a description of the Goods or Services to be purchased; That current market research supports the determination that the Goods or Services are available from only one seller or source;

(c) That the efficient utilization of existing Goods or Services requires the acquisition of compatible Goods or Services;

(d) That the Goods or Services required for the exchange of software or data with other public or private agencies are available from only one source;

(e) That the required product is data processing equipment which will be used for research where there are requirements for exchange of software and data with other research establishments;

(f) That the Goods or Services are for use in a pilot or an experimental project; or

(g) Other findings that support the conclusion that the Goods or Services are available from only one source.

(2) **Public Notice.** For sole-source Contracts in excess of \$50,000, Metro shall give public notice of its determination that the Goods or Services or class of Goods or Services are available from only one source. Such notice must be published in a manner similar to public notice of competitive Bids under ORS 279B.055(4) and Administrative Rule 47-0300. The public notice must describe the Goods or Services to be acquired by a sole-source Procurement, identify the prospective Contractor and include the date, time and place that protests are due. Metro shall give Affected Persons at least seven (7) Days

from the date of the notice of the determination that the Goods or Services are available from only one source to protest the sole source determination.

(3) **Protest.** An Affected Person may protest Metro's determination that the Goods or Services or class of Goods or Services are available from only one source in accordance with Administrative Rule 47-0710.

Stat. Auth.: ORS 279A.065 & ORS 279B.075

Stats. Implemented: ORS 279B.075

47-0280 Emergency Procurements

(1) Metro may award a Contract as an Emergency Procurement without the use of competitive Bidding or competitive Proposals when the requirements of ORS 279B.080 and this Administrative Rule are met.

(2) Metro shall document the nature of the Emergency and describe the method used for the selection of the particular Contractor. Metro shall encourage competition for Emergency Procurements to the extent reasonable under the circumstances.

(3) The authority to declare an Emergency and authorize an Emergency Procurement is as follows:

(a) The Procurement Officer or designee may declare the existence of an Emergency and authorize Metro or any of its departments to enter into an Emergency Procurement Contract under ~~\$150,000~~250,000.

(b) The director of a department may declare the existence of an Emergency and authorize that department to enter into an Emergency Procurement Contract under ~~\$150,000~~250,000 only if the Procurement Officer or person to whom the powers of the Procurement Officer have been delegated, is not available when the Procurement needs to be made.

(c) The Chief Operating Officer may declare the existence of an Emergency and authorize Emergency Procurement Contracts that exceed ~~\$150,000~~250,000.

(4) All documentation of Emergency Procurements must be sent to the Procurement Officer for record keeping purposes.

(5) After the award of an Emergency Procurement Contract, Metro shall execute a Written Contract with the Contractor as soon as possible, and in no event later than sixty (60) Days after the award.

(6) All Emergency Procurement Contracts, whether or not Signed by the Contractor, will be deemed to contain a termination for convenience clause permitting Metro to immediately terminate the Contract at its discretion and, unless the Contract was void, Metro shall pay the Contractor only for work performed prior to the date of termination plus the Contractor's unavoidable costs incurred as a result of the termination. In no event will Metro pay for anticipated lost profits or consequential damages as a result of the termination.

(7) In accordance with ORS 279B.080(2), for an Emergency Procurement of construction services that are not Public Improvements, Metro shall ensure competition for a Contract for the Emergency work that is reasonable and appropriate under the Emergency circumstances. In conducting the Procurement, Metro shall set a Solicitation time period that Metro determines to be reasonable under the Emergency circumstances and may issue Written or oral requests for Offers or make direct appointments without competition in case of extreme necessity.

protest to Metro within seven (7) Days after issuance of Metro's decision to exclude the prospective Offeror's Goods from the qualified products list.

(3) **Content of Protest.** The prospective Offeror's protest shall be in Writing and must specify the grounds upon which the protest is based.

(4) **Metro Response.** Metro may not consider a prospective Offeror's qualified products list protest submitted after the timeline established for submitting such protest under this Rule, or such different time period as may be provided in Metro's notice to prospective Offerors of the opportunity to submit Goods for inclusion on the qualified products list. Metro shall issue a Written disposition of the protest in a timely manner. If Metro upholds the protest, it shall include the successful protestor's Goods on the qualified products list.

(5) **Judicial Review.** Judicial review of Metro's decision relating to a qualified products list protest must be in accordance with ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.115

47-0750 Judicial Review of Other Violations

Any violation of ORS Chapter 279A or ORS 279B by Metro for which no judicial remedy is otherwise provided in the State Code is subject to judicial review as set forth in ORS 279B.420.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.420

47-0760 Review of Prequalification and Debarment Decisions

(1) Review of Metro's prequalification and debarment decisions is as set forth in ORS 279B.425.

(2) The Local Contract Review Board hereby delegates its authority to the Chief Operating Officer for the purposes of receiving notice that a Person has appealed. Upon receipt of the notice the Chief Operating Officer may notify the Person appealing of a time and place of a hearing designed to consider the appeal within thirty (30) Days or a date mutually agreed upon by both parties.

(3) The Local Contract Review Board delegates its authority to conduct a hearing to the Chief Operating Officer. The Chief Operating Officer may subdelegate the authority to conduct a hearing to any person the Chief Operating Officer deems appropriate, including the Procurement Officer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.425

47-0800 Amendments to Contracts and Price Agreements

(1) **Generally.** Metro may amend a Contract reasonably related to the scope of work under the original Contract without additional competition.

(2) **Contract Increases.** Contract amendments for additional Goods and Services are allowed under the following circumstances, without any additional approvals:

(a) The original Contract was issued following a competitive Solicitation or alternative process (e.g. as a Special Procurement or Sole Source Procurement) and unit prices or additive alternates were

provided that established the cost basis for the additional Goods or Services and a binding obligation exists on the parties covering the terms and conditions of the additional work;

(b) The original Contract was issued pursuant to a declaration of Emergency, in accordance with Rule 47-0280;

(c) The additional Goods or Services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, that affect performance of the original Contract;

(d) The amendment resolves a bona fide dispute with the Contractor and is within the general scope of the original Contract; or

(e) The aggregate increase resulting from all amendments to the Contract does not exceed twenty-five percent (25%) of the original Contract price. Escalation clauses agreed to in the original Contract (e.g. COLA increases) are excluded from the 25% calculation.

(3) **Limits on Contract Increases; Authority.** If the circumstances set forth in section (2) of this Rule are not applicable, Metro may nonetheless amend a Contract for additional Goods and Services if the amendment is Advantageous to Metro. For Contracts that exceed \$~~150,000~~250,000, such a determination shall be made by the Chief Operating Officer prior to authorization of delivery of goods or performance of the services. All Contract Amendments processed under this section (3) shall be treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(4) **Renegotiated Contract.** Metro may renegotiate the terms and conditions of a Contract without additional competition and amend a Contract if it is Advantageous subject to the following conditions:

(a) The Goods or Services to be provided under the amended Contract are the same as the Goods or Services to be provided under the unamended Contract; and

(b) Metro determines that, with all things considered, the amended Contract is at least as favorable to Metro as the unamended Contract; and

(c) The amended Contract does not have a total term greater than allowed in the Solicitation Documents, if any, or if no Solicitation Documents, as described in the sole source notice or the approved Special Procurement, if any, after combining the initial and extended terms. For example, a one-year Contract described as renewable each year for up to four additional years, may be renegotiated as a two to five-year Contract, but not beyond a total of five years.

If the circumstances set forth in section (4) of this Rule are not applicable, Metro may nonetheless amend and renegotiate the terms of the Contract if the amendment is Advantageous to Metro and the amendment is approved by the Local Contract Review Board.

(5) **Small or Intermediate Contracts.** Metro may amend a Contract awarded as a small or Intermediate Procurement pursuant Rule 47-0265 for Small Procurements or Rule 47-0270 for Intermediate Procurements.

(6) **Emergency Contracts.** Metro may amend a Contract awarded as an Emergency Procurement if the Emergency justification for entering into the Contract still exists, and the amendment is necessary to address the continuing Emergency.

(7) **Price Agreements.** Metro may amend or terminate a Price Agreement as follows:

(a) As permitted by the Price Agreement;

(b) As permitted by this Rule;

(c) Metro fails to receive funding, appropriations, limitations, allotments or other expenditure authority, including the continuation of program operating authority sufficient, as determined in the discretion of Metro, to sustain purchases at the levels contemplated at the time of contracting;

(d) Any change in law or program termination that makes purchases under the price agreement no longer authorized or appropriate for Metro's use; or

(e) As otherwise permitted by applicable law.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065 & ORS 279B.140

47-0820 Records Maintenance; Right to Audit Records

(1) Contractors and subcontractors shall maintain all fiscal records relating to a Contract executed with Metro in accordance with generally accepted accounting principles. In addition, Contractors and subcontractors shall maintain any other records necessary to clearly document:

(a) Contract performance, including, but not limited to, compliance with plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or subcontractor under the Contract or subcontract;

(b) Any claims arising from or relating to their performance under a Contract;

(c) Any cost and pricing data; and,

(d) Payment to suppliers and subcontractors.

(2) Such records must be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer.

(3) Contractors and subcontractors shall make all their records available to Metro (and its authorized representatives, including but not limited to the staff of any Metro department and the Metro Auditor) within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor shall pay all costs for Metro employees, and any necessary consultants hired by Metro, including travel, per diem costs, salary, and any other expenses incurred by Metro in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.

(4) Metro and its authorized representatives (including but not limited to the staff of any Metro department and the Metro Auditor) are entitled to inspect, examine, copy and audit the books and records of any Contractor or subcontractor upon request by Metro for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and financial statements. Metro will keep such documents confidential to the extent permitted by Oregon law, subject to subsection 5 below.

A. The services consist of or are related to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services that have been substantially described, planned or otherwise previously studied in an earlier Contract with the same Consultant and are rendered for the same Project as the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services rendered under the earlier Contract;

B. Metro used either the formal selection procedure under Administrative Rule 48-0220 (Formal Selection Procedure) or the Intermediate selection procedure applicable to selection of the Consultant at the time of original selection to select the Consultant for the earlier Contract.

(2) Metro may select a Consultant for a Contract awarded under (1)(a), (1)(b), or (1)(d) above from the following sources:

- (a) Metro's current list of pre-qualified Consultants created under Administrative Rule 48-0120;
- (b) A list of Consultants from another public jurisdiction; or
- (c) Consultants offering the required Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services that Metro reasonably can identify under the circumstances.

(3) Metro shall direct negotiations with a Consultant selected under this Rule toward obtaining Written agreement on:

- (a) The Consultant's performance obligations and performance schedule;
- (b) Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to Metro as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services; and
- (c) Any other provisions Metro believes to be in Metro's best interest to negotiate.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279C.110 & 279C.115, OL 2011, ch 458

48-0210 Intermediate Selection Procedure

(1) Metro may use the Intermediate Selection Procedure described in this Rule to obtain a Contract if the Estimated Fee is expected not to exceed ~~\$150,000~~250,000.

(2) When using the Intermediate Selection Procedure on the basis of qualifications alone or, for Related Services, on the basis of price and qualifications Metro shall:

(a) Create a written Intermediate Request for Proposals that includes at a minimum the following:

A. A description of the Project for which a Consultant's Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services are needed and a description of the Architectural, Engineering, Photogrammetric Mapping, Transportation

Planning, or Land Surveying Services or Related Services that will be required under the resulting Contract;

- B. The anticipated Contract performance schedule;
- C. Conditions or limitations, if any, that may constrain or prohibit the selected Consultant's ability to provide additional services related to the Project, including construction services;
- D. The date and time Intermediate Proposals are due and other directions for submitting Intermediate Proposals;
- E. Criteria upon which the most qualified Consultant will be selected. Selection criteria may include, but are not limited to, the following:

- (i) The amount and type of resources and number of experienced staff the Consultant has committed to perform the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals within the applicable time limits, including the current and projected workloads of such staff and the proportion of time such staff would have available for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services;

- (ii) Proposed management techniques for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals;

- (iii) A Consultant's capability, experience and past performance history and record in providing similar Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services, including but not limited to quality of work, ability to meet schedules, cost control methods and Contract administration practices;

- (iv) A Consultant's approach to Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services described in the Intermediate Request for Proposals and design philosophy, if applicable;

- (v) A Consultant's geographic proximity to and familiarity with the physical location of the Project;

- (vi) Volume of work, if any, previously awarded to a Consultant, with the objective of effecting equitable distribution of Contracts among qualified Consultants, provided such distribution does not violate the principle of selecting the most qualified Consultant for the type of professional services required;

- (vii) A Consultant's ownership status and employment practices regarding women, minorities and emerging small businesses or historically underutilized businesses; and

- (viii) If Metro is selecting a Consultant to provide Related Services, pricing policies and pricing proposals or other pricing information, including the number of hours proposed for the services required, expenses, hourly rates and overhead.

- F. A Statement that Proposers responding to the Intermediate Request for Proposals do so solely at their expense, and Metro is not responsible for any Proposer expenses associated with the Intermediate Request for Proposals;

- (b) Provide the Intermediate Request for Proposals to a minimum of three (3) prospective Consultants. In accordance with Metro's Equity in Contracting Administrative Rules, Departments must

also complete a COBID search and, if available, one Minority-owned business, one Women-owned business, one Emerging Small Business and one Service-disabled Veteran business must be solicited.

(c) Review and rank all Intermediate Proposals received according to the criteria set forth in the Intermediate Request for Proposals.

(3) When using the Intermediate Selection Procedure for Related Services on the basis of price Proposals and other pricing information Metro will also include pricing criteria upon which the highest ranked Consultant will be selected. Pricing criteria may include, but are not limited to, the total price for the Related Services described in the Intermediate Request for Proposals, Consultant pricing policies and other pricing information such as the Consultant's estimated number of staff hours needed to perform the Related Services described in the Intermediate Request for Proposals, expenses, hourly rates and overhead.

(4) If Metro does not cancel the Intermediate Request for Proposals after it reviews the Intermediate Proposals and ranks each Intermediate Proposal, Metro will begin negotiating a Contract with the highest ranked Consultant. Metro will direct Contract negotiations toward obtaining written agreement on the following:

(a) The Consultant's performance obligations and performance schedule; Payment methodology and a maximum amount payable to the Consultant for the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract that is fair and reasonable to Metro as determined solely by Metro, taking into account the value, scope, complexity and nature of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services; and any other provisions Metro believes to be in Metro's best interest to negotiate.

(5) Metro shall, either orally or in Writing, formally terminate negotiations with the highest ranked Intermediate Proposer, if Metro and the proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. Metro may thereafter negotiate with the second ranked Intermediate Proposer, and if necessary, with the third ranked proposer, until negotiations result in a Contract. If negotiations with any of the top three (3) Intermediate Proposers do not result in a Contract within a reasonable amount of time, Metro may end the particular intermediate Solicitation and thereafter may proceed with a new intermediate Solicitation under this Rule or proceed with a formal Solicitation under Administrative Rule 48-0220 (Formal Selection Procedure).

(6) Metro must terminate the Intermediate Selection Procedure and proceed with the formal selection procedure under Administrative Rule 48-0220 if the scope of the anticipated Contract is revised during negotiations so that the Estimated Fee will exceed ~~\$150,000~~250,000.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458
Stats. Implemented: ORS 279C.110, OL 2011, ch 458

48-0220 Formal Selection Procedure

(1) **General.** Metro shall use the formal selection procedure described in this Rule to select a Consultant if the Consultant cannot be selected under either 48-0200 (Direct Appointment Procedure) or under 48-0210 (Intermediate Selection Procedure). The formal selection procedure described in this Rule may otherwise be used at Metro's discretion.

expires or is terminated, Metro may proceed as follows, subject to the requirements of subsection (2) of this Rule:

(a) **Expired Contracts.** If the Contract has expired as the result of Project delay caused by Metro or caused by any other occurrence outside the reasonable control of Metro or the Consultant, and if no more than one (1) year has passed since the Contract expiration date, Metro may amend the Contract to extend the Contract expiration date, revise the description of the Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services required under the Contract to reflect any material alteration of the Project made as a result of the delay, and revise the applicable performance schedule. Beginning on the effective date of the amendment, Metro and the Consultant shall continue performance under the Contract as amended; or

(b) **Terminated Contracts.** If Metro or both parties to the Contract have terminated the Contract for any reason and if no more than one (1) year has passed since the Contract termination date, then Metro may enter into a new Contract with the same Consultant to perform the remaining Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services not completed under the original Contract, or to perform any remaining Architectural, Engineering, Photogrammetric Mapping, Transportation Planning or Land Surveying Services or Related Services not completed under the Contract as adjusted to reflect a material alteration of the Project.

(2) Metro may proceed under either subsection (1)(a) or subsection (1)(a) of this Rule only after making written findings that amending the existing Contract or entering into a new Contract with the Consultant will:

(a) Promote efficient use of public funds and resources and result in substantial cost savings to Metro;

(b) Protect the integrity of the Public Contracting process and the competitive nature of the Procurement process by not encouraging favoritism or substantially diminishing competition in the award of Contracts; and

(c) Result in a Contract that is still within the scope of the original Procurement document.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065 & 279C.110, OL 2011, ch 458

48-0320 Contract Amendments

(1) Metro may amend any Contract if Metro, in its sole discretion, determines that the amendment is within the scope services contemplated under the Solicitation and that the amendment would not materially impact the field of competition for the services described in the Solicitation. In making this determination, Metro shall consider potential alternative methods of procuring the services contemplated under the proposed amendment. An amendment would not materially impact the field of competition for the services described in the Solicitation Document, if Metro reasonably believes that the number of Proposers would not significantly increase if the Solicitation were re-issued to include the additional services.

(2) Amendments are required to document price and schedule changes agreed upon between the parties.

(3) Metro may amend any Contract if the additional services are required by reason of existing or new laws, rules, regulations or ordinances of federal, state or local agencies, which affect performance of the original Contract.

(4) All amendments to Contracts must be in Writing, must be Signed by an authorized representative of the Consultant and Metro.

(5) For a Contract under ~~\$10,000~~25,000 awarded under Rule 48-0200(1)(b) (Direct Appointment Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed ~~\$10,000~~25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as Unauthorized Purchase in accordance with Rule 46-0200.

(6) For a Contract directly awarded to a pre-qualified Consultant under Rule 48-0200(1)(c) (Direct Appointment Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed \$100,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(7) For a Contract awarded under Rule 48-0210 (Intermediate Selection Procedure), Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed ~~\$150,000~~250,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Any amendment that causes Contract to exceed the foregoing limits shall be (a) submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

(8) For a Contract awarded under Rules 48-0220 (Formal Selection Procedure) Metro may authorize increases resulting from amendments to such Contract provided that the total of all such increases does not exceed one hundred twenty-five percent (125%) of the original Contract Price. Increases in excess of the 125% limit shall be (a) submitted to the Chief Operating Officer for approval prior to the authorization of the additional work and (b) treated as an Unauthorized Purchase in accordance with Rule 46-0200.

Stat. Auth.: ORS 279A.065, OL 2011, ch 458

Stats. Implemented: ORS 279A.065, 279C.110, OL 2011, ch 458

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

**DIVISION 49 - GENERAL PROVISIONS RELATED TO PUBLIC CONTRACTS
FOR CONSTRUCTION SERVICES**

49-0100 Application

These Division 49 Rules address matters covered in ORS Chapter 279C and apply to Public Improvement Contracts as well as, where identified, Public Contracts for ordinary construction that are not Public Improvements. Contracts for minor alteration, ordinary repair or maintenance of Public Improvements or Price Agreements, as well as other Contracts for construction services that are not defined as a Public Improvement under Division 10 of these Rules, are to be awarded and executed pursuant to Division 47 of these Rules and ORS 279B and not this Division 49.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279A.065

49-0110 Policies

In addition to the general State Code policies set forth in ORS 279A.015, the ORS 279C.300 policy on competition and the ORS 279C.305 policy on least-cost for Public Improvements apply to these Division 49 Rules.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.300 & 279C.305

49-0130 Competitive Bidding Requirement

Metro shall solicit Bids for Public Improvement Contracts by Invitation to Bid ("ITB"), except as otherwise allowed or required pursuant to ORS 279C.335 on Competitive Bidding exceptions and exemptions, ORS 279A.030 on federal law overrides, or ORS 279A.100 on affirmative action. See Rules 49-0600 to 49-0690 regarding the use of Alternative Contracting Methods and the process for obtaining an exemption from Competitive Bidding requirements.

Stat. Auth.: ORS 279A.065
Stats. Implemented: ORS 279C.335

49-0140 Contracts for Construction Other Than Public Improvements

(1) **Procurement Under ORS Chapter 279B.** Pursuant to ORS 279C.320, Public Contracts for construction services that are not Public Improvement Contracts may be procured and amended as general trade Services under the provisions of ORS Chapter 279B rather than under the provisions of ORS Chapter 279C and these Division 49 Rules. In accordance with ORS 279A.010, Contracts for emergency work, minor alternation, ordinary repair or maintenance necessary to preserve a Public Improvements are not Public Improvement Contracts.

(2) **Application of ORS Chapter 279C.** Notwithstanding the forgoing, Public Contracts for construction services that are not Public Improvement Contracts, and are therefore procured under ORS 279B are nonetheless subject to the non-procurement provisions of ORS Chapter 279C and these Division 49 Rules may still be applicable. See, for example, particular statutes on Disqualification (ORS 279C.440, 445, 450); Legal Actions (ORS 279C.460 and 465); Required Contract Conditions (ORS 279C.505, 515, 520, 530); Hours of Labor (ORS 279C.540, 545); Retainage (ORS 279C.550, 560 and 565); Subcontracts (ORS 279C.580); Action on Payment Bonds (ORS 279C.600, 605, 610, 615, 620, 625); Termination (ORS 279C.650, 660, 670); and all of the Prevailing Wage Rates requirements (ORS 279C.800 through 870) for Public ~~works~~Works Contracts.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.320

49-0150 Emergency Contracts; Bidding and Bonding Exemptions

(1) **Emergency Declaration.** Metro may declare that Emergency circumstances exist that require prompt execution of a Public Contract for Emergency construction or repair work pursuant to the procedures in Rules 47-0280 and 47-0800(4).

(2) **Excusing Bonds.** If the circumstances in ORS 279C.380(4) are met, the Emergency declaration may also state that Metro waives the requirement of furnishing a performance bond and payment bond for the Emergency Contract. After making such an Emergency declaration, those bonding requirements are excused for the procurement. However, an Emergency declaration does not affect the separate Public ~~works~~Works bond requirement for the benefit of the Bureau of Labor and Industries (BOLI) in enforcing prevailing wage rate and overtime payment requirements. In addition, nothing herein prevents Metro from subsequently requesting such bonds from the Contractor after work begins.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.080, 279C.320, 279C.380

49-0160 Intermediate Procurements; Competitive Quotes and Amendments

(1) **General.** As provided for under ORS 279C.412 and 279C.414, Public Improvement Contracts estimated by Metro not to exceed \$100,000 may be awarded in accordance with intermediate level procurement procedures for Competitive Quotes established by this Rule. A Procurement may not be artificially divided or fragmented so as to constitute an Intermediate Procurement under this Rule in order to circumvent Competitive Bidding requirements.

(2) **Written Competitive Quotes.** Requests for Competitive Quotes for a Public Improvement project anticipated to exceed \$~~10,000~~25,000 must be in Writing. Metro must seek at least three (3) Competitive Quotes and otherwise comply with Metro's Equity in Contracting Administrative Rules. The Request for Competitive Quotes must include the selection criteria to be utilized in selecting a Contractor and, if the criteria are not of equal value, their relative value or ranking. The criteria may be limited to price or some combination of price, experience, specific expertise, availability, project understanding, Contractor capacity, Responsibility and similar factors. Written requests must include the Bureau of Labor and Industries (BOLI) provisions regarding the prevailing wage, if the estimated cost exceeds \$50,000. Written Request for Competitive Quotes must also include the following:

- (a) A complete description of the proposed work.

- (b) Location and deadline for submittal of Competitive Quotes.
 - (c) The prevailing wage provisions of ORS 279C.800 to 279C.870, when applicable.
 - (d) The performance bond, payment bond and BOLI Public ~~works~~Works bond requirements of ORS 279C.380 and 279C.830, when applicable.
 - (e) The Contractor registration requirements of ORS 701.
 - (f) Any other law applicable to such a Contract.
- (3) **Award.** Metro shall award the Contract to the prospective Contractor whose Competitive Quote will best serve the interests of Metro, taking into account the announced selection criteria. If award is not made to the Contractor offering the lowest price, Metro shall make a Written record of the basis for award.
- (4) **BOLI Notification.** Metro shall provide notification of award to BOLI as required by ORS 279C.835.
- (5) **Price Increases and Amendments.** Intermediate level Public Improvement Contracts obtained by Competitive Quotes may be increased in accordance with Administrative Rule 49-0910, provided that the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of \$100,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.412 and ORS 279C.414.

Formal Procurement Rules

49-0200 Solicitation Documents; Required provisions; Assignment or Transfer

- (1) **Solicitation Document.** Pursuant to ORS 279C.365 and this Rule, the Solicitation Document must include the following:
- (a) General Information:
 - A. Identification of the Public Improvement project, including the character of the work, and applicable plans, Specifications and other Contract documents;
 - B. Notice of any pre-Offer conference as follows:
 - (i) The time, date and location of any pre-Offer conference;
 - (ii) Whether attendance at the conference will be mandatory or voluntary; and
 - (iii) That statements made by Metro's representatives at the conference are not binding upon Metro unless confirmed by Written Addenda.
 - C. The deadline for submitting mandatory prequalification applications and the class or classes of work for which Offerors must be prequalified if prequalification is a requirement;
 - D. The name and title of the authorized Metro representative designated for receipt of Offers and contract representative (if different);
 - E. Instructions and information concerning the form and submission of Offers, including the address of the office to which Offers must be delivered, any Bid or Proposal security requirements, and

any other required information or special information, e.g., whether Offers may be submitted by Electronic means (See Rule 49-0310 regarding Electronic Procurement);

F. The time and date of Closing after which Metro will not accept Offers, which time cannot be less than five (5) Days after the date of the last publication of the advertisement. Although a minimum of five (5) Days is prescribed, Metro will elect to use at least a fourteen (14) Day Solicitation period when feasible. If Metro is issuing an ITB that may result in a Public Improvement Contract with a value in excess of \$100,000, the time of Closing must be consistent with the first-tier subcontractor disclosure requirements of ORS 279C.370(1)(b) and Rule 49-0360;

G. The time, date and place of Opening;

H. The office where the Specifications for the work may be reviewed;

I. A statement that each Bidder to an ITB must identify whether the Bidder is a "resident Bidder," as defined in ORS 279A.120;

J. If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 to 3148), a statement that no Offer will be received or considered by Metro unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148."

K. A statement that Metro will not receive or consider an Offer for a Public Improvement Contract unless the Offeror is registered with the Construction Contractors Board, or is licensed by the State Landscape Contractors Board, as specified in Rule 49-0230;

L. Whether a Contractor or a Subcontractor under the Contract must be licensed under ORS 468A.720 regarding asbestos abatement projects;

M. Contractor's certification of nondiscrimination in obtaining required Subcontractors in accordance with ORS 279A.110(4). (See Rule 49-0440(3));

N. How Metro will notify Offerors of Addenda and how Metro will make Addenda available (See Rule 49-0250); and

O. When applicable, instructions and forms regarding First-Tier Subcontractor Disclosure requirements, as set forth in Rule 49-0360.

(b) The Solicitation Document must also contain the following information about the evaluation process:

A. A statement that Metro may reject any Offer not in compliance with all prescribed Public Contracting procedures and requirements, including the requirement to demonstrate the Bidder's responsibility under ORS 279C.375(3)(b), and may reject for good cause all Offers after finding that doing so is in the public interest;

B. The anticipated Solicitation schedule, deadlines, protest process and evaluation process, if any;

C. Evaluation criteria, including the relative value applicable to each criterion, that Metro will use to determine the Responsible Bidder with the lowest Responsive Bid (where award is based solely on price) or the Responsible Proposer or Proposers with the best Responsive Proposal or Proposals (where use of competitive Proposals is authorized under ORS 279C.335 and Rule 49-0620), along with the process Metro will use to determine acceptability of the work;

(i) If the Solicitation Document is an Invitation to Bid, Metro shall set forth any special price evaluation factors in the Solicitation Document. Examples of such factors include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, and ownership or life-cycle cost formulas. Price evaluation factors need not be precise predictors of actual future costs; but, to the extent possible, such evaluation factors must be objective, reasonable estimates based upon information Metro has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposals, Metro shall refer to the additional requirements of Rule 49-0650; and

(c) **Contract provisions.** The Solicitation Document must include all Contract terms and conditions, including warranties, insurance and bonding requirements, that Metro considers appropriate for the Public Improvement project. The Solicitation Document must also include all applicable Contract provisions required by Oregon law, including :

A. Prompt payment to all Persons supplying labor or material; contributions to Industrial Accident Fund; liens and withholding taxes (ORS 279C.505(1));

B. A demonstration that an employee drug testing program is in place (ORS 279C.505(2));

C. If the Contract calls for demolition work described in ORS 279C.510(1), a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

D. If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510(2));

E. Payment of claims by public officers (ORS 279C.515(1));

F. Contractor and first-tier Subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2), including the rate of interest;

G. A Person's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515(3));

H. Hours of labor in compliance with ORS 279C.520;

I. Environmental and natural resources regulations (ORS 279C.525);

J. Payment for medical care and attention to employees (ORS 279C.530(1));

K. A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530(2));

L. Maximum hours, holidays and overtime (ORS 279C.540);

M. Time limitation on claims for overtime (ORS 279C.545);

N. Prevailing wage rates (ORS 279C.800 to 279C.870);

O. Fee paid to BOLI (ORS 279C.830);

P. BOLI Public ~~works~~Works bond (ORS 279C.830(2));

- Q. Retainage (ORS 279C.550 to 279C.570);
- R. Prompt payment policy, progress payments, rate of interest (ORS 279C.570);
- S. Contractor's relations with Subcontractors (ORS 279C.580);
- T. Notice of claim (ORS 279C.605);
- U. Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385; and

V. Contractor's certification that all Subcontractors performing work described in ORS 701.005(2) (i.e., construction work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS Chapter 701 or 671, respectively before the Subcontractors commence work under the Contract.

(2) **Assignment or Transfer Restricted.** Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, or delegate duties under the Contract, either in whole or in part, without Metro's prior Written consent. Unless otherwise agreed by Metro in Writing, such consent does not relieve the Contractor of any obligations under the Contract. Any assignee or transferee is considered the agent of the Contractor and is bound to abide by all provisions of the Contract. If Metro consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, remain liable to Metro for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless Metro otherwise agrees in Writing.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.110, 279A.120, 279C.365, 279C.370, 279C.390, 279C.505 - 580, 279C.605, 305.385, 468A.720, 701.005 & 701.055

49-0210 Solicitation notice and Advertising Requirements; Posting

(1) **Notice and Distribution Fee.** Metro shall furnish "notice" as set forth below in subsections (a) through (c), to a number of Persons sufficient for the purpose of fostering and promoting competition. The notice must indicate where, when, how and for how long the Solicitation Document may be obtained and generally describe the Public Improvement project or work. The notice may contain any other appropriate information. Metro may charge a fee or require a deposit for the Solicitation Document. Metro may furnish notice using any method determined to foster and promote competition, including, without limitation:

- (a) Placing notice on an Electronic Procurement System; or
- (b) Mailing notice of the availability of Solicitation Documents to Persons that have expressed an interest in Metro's Procurements; or
- (c) Placing notice on Metro's Internet Web site.

(2) **Advertising.** Pursuant to ORS 279C.360 and this Rule, Metro shall advertise every Solicitation for Bids or Proposals for a Public Improvement Contract, unless the Local Contract Review Board has exempted the Solicitation from the advertisement requirement as part of a Competitive Bidding exemption under ORS 279C.335.

- (a) Unless Metro publishes by Electronic Advertisement as permitted by Section 2(b) below, Metro shall publish the advertisement for Offers at least once in at least one newspaper of general

circulation in the area where the Contract is to be performed and in as many additional issues and publications as Metro may determine to be necessary or desirable to foster and promote competition.

(b) Metro finds it cost effective to Electronically post notice of Solicitations. Metro may therefore publish advertisements for formal Offers on its Electronic Procurement System.

(c) In addition to Metro's publications under subsection (a) and (b) above, Metro shall also publish an advertisement for Bids or Proposals in at least one trade newspaper of general statewide circulation if the Contract is for a Public Improvement with an estimated cost in excess of \$125,000.

(d) All advertisements for Bids or Proposals must set forth:

- A. The Public Improvement project;
- B. The office where Contract terms, conditions and Specifications may be reviewed;
- C. The date that Persons must file applications for prequalification under ORS 279C.340, if prequalification is a requirement, and the class or classes of work for which Persons must be prequalified;
- D. The date of mandatory pre-offer meeting, if applicable;
- E. The scheduled Closing, which must not be less than five (5) Days after the date of the last publication of the advertisement;
- F. The name, title and address of Metro representative authorized to receive Offers;
- G. The scheduled Opening; and
- H. If applicable, that the Contract is for a Public workWorks subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 3141 to 3148).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.360 & 200.035

49-0220 Prequalification of Offerors

(1) **Mandatory Prequalification.** Pursuant to ORS 279C.430 and this Rule, Metro may require mandatory prequalification of Offerors for Contracts to construct Public Improvements or to perform Public worksWorks. Metro must indicate in the Solicitation Document if it will require mandatory prequalification. Mandatory prequalification is when Metro conditions a Person's submission of an Offer upon the Person's prequalification. Metro may not consider an Offer from a Person that is not prequalified if Metro required prequalification. Applications for Prequalification must be submitted to Metro in accordance with the deadlines provided in the Solicitation Document.

(2) **Prequalification Presumed.** If a an Offeror is currently Prequalified by either the Oregon Department of Transportation or the Oregon Department of Administrative Services to perform Contracts, the Bidder is rebuttably presumed qualified to perform the same work for Metro upon submission of proof of such Prequalification. If a Bidder submits proof of Prequalification, then the Bidder is rebuttably presumed qualified under ORS 279C.435. Nothing contained in this section waives Metro's requirements for Prequalification, Metro's authority to require additional information or detail, or prior approval as otherwise set forth in this Rule.

(3) **Standards for Prequalification.** To qualify, a Bidder must demonstrate to Metro's satisfaction, that they are a Responsible Bidder based on criteria set forth in ORS 279C.375 (3)(b) and Rule 49-0390. If

Metro determines the Bidder is qualified, notification shall be sent stating the Bidder's qualified Bidding limits, classes of work and the validity period of the Bidder's prequalification.

(4) **Notice of Denial; Appeal.** If a Person fails to prequalify for a mandatory prequalification, Metro shall notify the Person, specify the reasons for denying prequalification, and inform the Person of the Person's right to a hearing under ORS 279C.445 and 279C.450. The Procurement Officer shall conduct the hearing and has the authority of the Local Contract Review Board as provided in ORS 279C.450. The Procurement Officer may adopt rules of procedure for the hearing. The appeal shall be conducted and decided within thirty (30) Days of Metro's issuance of the non-qualification notice or a date mutually agreed upon by both parties.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.430 & 279C.435

49-0230 Eligibility to Bid or Propose; Registration or License

(1) **Construction Contracts.** Metro shall not consider a Person's Offer to do work as a Contractor, as defined in ORS 701.005(2), unless the Person has a current, valid certificate of registration issued by the Construction Contractors Board at the time the Offer is made.

(2) **Landscape Contracts.** Metro shall not consider a Person's Offer to do work as a landscape Contractor as defined in ORS 671.520(2), unless the Person has a current, valid landscape Contractors license issued pursuant to ORS 671.560 by the State Landscape Contractors Board at the time the offer is made.

(3) **Noncomplying Entities.** Metro deems an Offer received from a Person that fails to comply with this Rule nonresponsive and shall reject the Offer as stated in ORS 279C.365(1)(k), unless contrary to federal law or subject to different timing requirements set by federal funding agencies.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 671.530 & 701.055

49-0240 Pre-Offer Conferences

(1) **Purpose.** Metro may hold pre-Offer conferences with prospective Offerors prior to Closing to explain the Procurement requirements, obtain information, or to conduct site inspections.

(2) **Required attendance.** Metro may require attendance at the pre-Offer conference as a condition for making an Offer. Unless otherwise specified in the Solicitation Document, a mandatory attendance requirement is considered met if, at any time during the mandatory meeting, a representative of an offering firm is present.

(3) **Scheduled time.** If Metro holds a pre-Offer conference, it will be held within a reasonable time after the Solicitation Document has been issued, but sufficiently before the Closing to allow Offerors to consider information provided at that conference.

(4) **Statements Not Binding.** Statements made by Metro's representative at the pre-Offer conference do not change the Solicitation Document unless Metro confirms such statements with a Written Addenda to the Solicitation Document.

(12) **Receipt of Offers.** The Offeror is responsible for ensuring that Metro receives its Offer at the required delivery point prior to the Closing, regardless of the method used to submit or transmit the Offer.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365 & 279C.375

49-0290 Bid or Proposal Security

(1) **Security Amount.** If Metro requires Bid or Proposal security, it may not be more than ten percent (10%) or less than five percent (5%) of the Offeror's Bid or Proposal, consisting of the base Bid or Proposal together with all additive alternates. Metro may not use Bid or Proposal security to discourage competition. Metro must clearly state any Bid or Proposal security requirements in its Solicitation Document. The Offeror shall forfeit Bid or Proposal security after award if the Offeror fails to execute the Contract or otherwise fails to promptly return the Contract with any required performance bond, payment bond, BOLI Public ~~works~~Works bond, or any required proof of insurance. See ORS 279C.365(5), ORS 279C.385, and ORS 279C.830.

(2) **Requirement for Bid Security (Optional for Proposals).** Unless Metro has otherwise exempted a Solicitation or class of Solicitations from Bid security pursuant to ORS 279C.390, Metro must require Bid security for its Solicitation of Bids for Public Improvements. This requirement applies only to Public Improvement Contracts with a value, estimated by Metro, of more than \$100,000. Metro may require Bid security even if it has exempted a class of Solicitations from Bid security. Metro may also require Proposal security in RFPs. See ORS 279C.400(5).

(3) **Form of Bid or Proposal Security.** Metro may accept only the following forms of Bid or Proposal security:

(a) A surety bond, Signed by the surety's authorized Attorney in Fact, from a company authorized to do business in the State of Oregon and that is duly listed in the United States Treasury list as published in the Federal Register, or which is otherwise approved by the Metro Attorney. The A Power of Attorney for the Attorney in Fact shall be submitted; or

(b) A Signed irrevocable letter of credit issued by an insured institution as defined in ORS 706.008; or

(c) A cashier's check or Offeror's certified check.

(4) **Return of Security.** Metro shall return or release the Bid or Proposal security of all unsuccessful Offerors after a Contract has been fully executed and all required bonds and insurance have been provided, or after all Offers have been rejected. Metro may return the Bid or Proposal security of unsuccessful Offerors prior to award if the return does not prejudice Contract award and the security of at least the Bidders with the three lowest Bids, or the Proposers with the three highest scoring Proposals, is retained pending execution of a Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.385 & 279C.390

49-0395 Notice of Intent to award

(1) **Notice.** At least seven (7) Days before the award of a Public Improvement Contract, Metro shall issue to each Bidder (pursuant to ORS 279C.375(2)) and each Proposer (pursuant to ORS 279C.410(7)), or post Electronically or otherwise, a notice of Metro's intent to award the Contract. This notice requirement does not apply to contracts excepted or exempted from Competitive Bidding under ORS 279C.335(1)(c) or (d), including, without limitation, an award of a small Public Improvement Contract (under \$~~10,000~~25,000) or an award of an intermediate Public Improvement Contract based off of Competitive Quotes.

(2) **Form and Manner of Posting.** The form and manner of posting notice shall conform to customary practices within Metro's procurement system, and may be made Electronically.

(3) **Finalizing award.** Metro's award shall not be final until the later of the following three (3) dates:

(a) Seven (7) Days after the date of notice of intent to award, unless the Solicitation Document provided a different period for protest of Contract award. For purposes of this subsection, the Day on which the notice is posted from which the seven (7) Days or other time period begins to run is not included, but the last Day of the period is included; or

(b) The Day Metro provides a Written response to all timely-filed protests that denies the protest and affirms the award; or

(c) Upon concluding any administrative appeal pursuant to Rule 49-0450 if the Procurement Officer decides to permit an appeal.

(4) **Prior notice Impractical.** Posting of notice of intent to award is not required when Metro determines that it is impractical due to unusual time constraints in making prompt award for its immediate procurement needs, documents the Procurement file as to the reasons for that determination, and posts notice of that action as soon as reasonably practical.

Stat. Auth,: ORS 279A.065

Stats. Implemented: ORS 279C.375

49-0400 Documentation of Award; Availability of Award Decisions

(1) **Basis of Award.** After award, Metro must make a record showing the basis for determining the successful Offeror part of Metro's Solicitation file.

(2) **Contents of Award Record for Bids.** Metro's record must include:

(a) All submitted Bids;

(b) Completed Bid tabulation sheet; and

(c) Written justification for any rejection of lower Bids.

(3) **Contents of Award Record for Proposals.** Where the use of Requests for Proposals is authorized as set forth in Rule 49-0650, Metro's record must include:

(a) All submitted Proposals;

(b) The completed evaluation of the Proposals;

(c) Written justification for any rejection of higher scoring Proposals or for failing to meet mandatory requirements of the Request for Proposal; and

negotiation process has been terminated, at which time they are subject to disclosure pursuant to the provisions of the Oregon Public Records Law, ORS 192.410 to 192.505.

Stat. Auth.: ORS 279C.340 & 279A.065

Stats. Implemented: ORS 279C.340

49-0440 Rejection of Offers

(1) Rejection of an Offer.

(a) Metro may reject any Offer upon finding that accepting the Offer may impair the integrity of the Procurement process or that rejecting the Offer is in the public interest. An example of rejection in the public interest is Metro's determination that any of the unit Bid prices are significantly unbalanced to Metro's potential detriment.

(b) Metro may reject an Offer upon Metro's finding that the Offer:

A. Is contingent on Metro's acceptance of terms and conditions (including Specifications) that differ from the Solicitation Document;

B. Takes exception to terms and conditions (including Specifications);

C. Attempts to prevent public disclosure of matters in contravention of the terms and conditions of Solicitation Document or in contravention of applicable law;

D. Offers work that fails to meet the Specifications of the Solicitation Document;

E. Is late;

F. Is not in substantial compliance with the Solicitation Documents;

G. Is not in substantial compliance with all prescribed public Solicitation procedures;

H. Omits, or is unclear as to, the price;

I. Requires a delivery date different from that required by the Solicitation Document;

(c) Metro shall reject an Offer upon Metro's finding that the Offeror:

A. Has not been prequalified under ORS 279C.430 and Metro required mandatory prequalification;

B. Has been Disqualified;

C. Has been declared ineligible under ORS 279C.860 by the Commissioner of Bureau of Labor and Industries and the Contract is for a Public ~~work~~Work;

D. Is listed as not qualified by the Construction Contractors Board, if the Contract is for a Public Improvement;

E. Has not met the requirements of ORS 279A.105 if required by the Solicitation Document;

- F. Has not submitted properly executed Bid or Proposal security as required by the Solicitation Document;
- G. Has failed to provide the certification required under section (3) of this Rule;
- H. Has failed to substantially comply with Subcontractor Equity Program requirements (See Metro's Equity in Contracting Administrative Rules);
- I. Is not Responsible. See Rule 49-0390(2) regarding Metro determination that the Offeror has met statutory standards of responsibility.

(2) **Form of Business.** For purposes of this Rule, Metro may investigate any Person submitting an Offer. The investigation may include that Person's officers, Directors, owners, affiliates, or any other Person acquiring ownership of the Person to determine application of this Rule or to apply the Disqualification provisions of ORS 279C.440 to 279C.450 and Rule 49-0370.

(3) **Certification of Non-Discrimination.** The Offeror shall certify and deliver to Metro Written certification, as part of the Offer, that the Offeror has not discriminated and will not discriminate against any disadvantaged business enterprise, minority-owned business, women-owned business, emerging small business, or business that a service-disabled veteran owns, in obtaining any required subcontracts. Failure to do so shall be grounds for Disqualification.

(4) **Rejection of all Offers.** Metro may reject all Offers for good cause upon Metro's Written finding it is in the public interest to do so. Metro shall notify all Offerors of the rejection of all Offers, along with the good cause justification and finding.

(5) **Criteria for Rejection of All Offers.** Metro may reject all Offers upon a Written finding that:

- (a) The content of or an error in the Solicitation Document, or the Solicitation process unnecessarily restricted competition for the Contract;
- (b) The price, quality or performance presented by the Offerors is too costly or of insufficient quality to justify acceptance of the Offer;
- (c) Misconduct, error, or ambiguous or misleading provisions in the Solicitation Document threaten the fairness and integrity of the competitive process;
- (d) Causes other than legitimate market forces threaten the integrity of the competitive Procurement process. These causes include, but are not limited to, those that tend to limit competition such as restrictions on competition, collusion, corruption, unlawful anti-competitive conduct and inadvertent or intentional errors in the Solicitation Document;
- (e) Metro cancels the Solicitation in accordance with Rule 49-0270; or
- (f) Any other circumstance indicating that awarding the Contract would not be in the public interest.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.105, 279A.110, 279C.375, 279C.380, 279C.395, OL 2015, ch 325 (HB 2716), OL 2015, ch 565 (HB 3303)

- A. Sufficient information to identify the Solicitation that is the subject of the protest;
- B. A detailed statement of the alleged violation and all the legal and factual grounds for the protest;
- C. Evidence or supporting documentation that supports the grounds on which the protest is based;
- D. A description of the resulting harm to the Affected Person; and
- E. The relief requested.

(3) **Required Metro Response.** Metro shall take the following actions, as appropriate:

- (a) Metro shall inform the Affected Person in Writing if the protest was not timely filed;
- (b) Metro shall inform the Affected Person if it failed to meet the requirements of Section 2(b) above and the reasons for that failure;

(c) If the protest was timely filed and provides the information required by Section 2(b) above, Metro shall issue a decision in Writing and provide that decision to the Affected Person within a reasonable time of the receipt of the protest.

(d) If Metro denies the protest, it shall inform the Affected Person if the decision is final or whether the Procurement Officer has decided to refer the protest to the Local Council Review Board.

(4) **Optional Metro Response.** In addition to the requirements of section (3) above, Metro may take any or all of the following actions:

- (a) Agree with the protest and take any corrective action necessary;
- (b) Issue a Written response to the protest and provide that decision to the Affected Person;
- (c) Refer the protest and any response by the Procurement Officer to the Local Contract Review Board for decision; or

(d) Take any other action that is in the best interest of Metro while giving full consideration to the merits of the protest.

(5) **Judicial Review.** An Affected Person may not seek judicial review of the Procurement Officer's final decision (or if referred to the Local Contract Review Board by the Procurement Officer, the Board's final decision) unless it has timely and fully complied with the protest requirements of this Rule and has exhausted all administrative avenues of appeal provided by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380, 279C.385 & 279C.460

49-0460 Performance and Payment Security; Waiver

(1) **Public Improvement Contracts.** Unless the required performance bond is waived under ORS 279C.380(1)(a), excused in cases of Emergency under ORS 279C.380(4), or unless Metro's Local Contract Review Board exempts a Contract or classes of contracts from the required performance bond and payment bond pursuant to ORS 279C.390, the Contractor shall execute and deliver to Metro a performance bond and a payment bond each in a sum equal to the Contract Price for all Public Improvement Contracts. This requirement applies only to Public Improvement Contracts with a value, estimated by Metro, of more than \$100,000. See ORS 279C.380(5). The requirement for the BOLI Public

worksWorks payment bond under ORS 279C.830 may only be waived as provided in ORS 279C.836 (4), (7) and (8). See Rule 49-0815 regarding the separate requirement for a Public worksWorks bond.

(2) **Other Construction Contracts.** Metro may require performance security for other construction Contracts that are not Public Improvement Contracts. Such requirements must be expressly set forth in the Solicitation Document.

(3) **Requirement for Surety Bond.** Metro will accept only a performance bond and payment bond furnished by a surety company authorized to do business in Oregon and who is duly listed in the United States Treasury List as published in the Federal Register or is otherwise approved by the Metro Attorney each in the amount of 100 percent (100%) of the Contract Price unless otherwise specified in the Solicitation Document or such substitute security as approved by the Metro Attorney's office. The surety bond must be Signed by the surety's Attorney in Fact, and have attached the Power of Attorney for the Attorney in Fact.

(4) **Time for Submission.** The apparent successful Offeror must promptly furnish the required performance and payment security within ten (10) Days after notification by Metro. If the Offeror fails to furnish all security bonds as requested, Metro may reject the Offer and award the Contract to the Responsible Bidder with the next lowest Responsive Bid or the Responsible Proposer with the next highest-scoring Responsive Proposal, and, at Metro's discretion, the Offeror shall forfeit its Bid or Proposal security.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.375, 279C.380 & 279C.390

49-0470 Substitute Contractor

If the Contractor provided a performance bond, Metro may afford the Contractor's surety the opportunity to provide a substitute contractor to complete performance of the Contract. A substitute contractor shall perform all remaining Contract work and comply with all terms and conditions of the Contract, including the provisions of the performance bond and the payment bond. Such substitute performance does not involve the award of a new Contract and is not subject to the competitive Procurement provisions of ORS Chapter 279C.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.365, 279C.370, 279C.375, 279C.380 & 279C.390

49-0490 Foreign Contractor

If the Contract Price exceeds \$10,000 and the Contractor is a Foreign Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration, and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to Metro. Metro shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.120

Contract provisions

49-0800 Required Contract Clauses

Metro shall include in all Solicitation Documents for Public Improvement Contracts all of the ORS Chapter 279C required Contract clauses, as set forth in the checklist contained in Rule 49-0200(1)(c) regarding Solicitation Documents. The following series of rules provides further guidance regarding particular Public Contract provisions.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 297C.505 - 279C.545 & 279C.800 - 279C.870

49-0810 Waiver of Delay Damages Against Public Policy

No provision may be placed in a Public Improvement Contract purporting to waive, release, or extinguish the rights of a Contractor to damages resulting from Metro's unreasonable delay in performing the Contract. However, Contract provisions requiring notice of delay, providing for alternative dispute resolution such as arbitration (where allowable) or mediation, providing other procedures for settling contract disputes, or providing for reasonable liquidated damages, are permissible.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.315

49-0815 BOLI Public Works Bond

Pursuant to ORS 279C.830(2), the Specifications for every Public worksWorks Contract must contain a provision stating that the Contractor and every subcontractor must have a Public worksWorks bond filed with the Construction Contractors Board before starting work on the project, unless otherwise exempt. This bond is in addition to performance bond and payment bond requirements.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.830

49-0820 Retainage

(1) **Withholding of Retainage.** Metro may not retain an amount in excess of five percent (5%) of the Contract Price for work completed. If the Contractor has performed at least 50 percent (50%) of the Contract work and is progressing satisfactorily, upon the Contractor's submission of Written application containing the surety's Written approval, Metro may, in its discretion, reduce or eliminate retainage on any remaining progress payments. Metro shall respond in Writing to all such applications within a reasonable time. When the Contract work is 97 ½ percent (97.5%) completed, Metro may, at its discretion and without application by the Contractor, reduce the retained amount to 100 percent (100%) of the value of the remaining unperformed Contract work. If retainage has been reduced or eliminated, Metro reserves the right in protecting its interests to reinstate at any time retainage from further progress payments. Retainage will be included in the final payment of the Contract Price.

(2) **Form of Retainage.** Unless Metro finds in Writing that accepting a bond or instrument described in subsection (a) or (b) below poses an extraordinary risk that is not typically associated with the bond or instrument, Metro, in lieu of withholding moneys from payment, may accept from the Contractor:

(a) Bonds, securities or other instruments that are deposited and accepted as provided in Section (4)(a) of this Rule; or

(b) A surety bond deposited as provided in Section (4)(b) of this Rule.

(3) **Deposit in interest-bearing accounts.** Upon request of the Contractor, Metro shall deposit cash retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association, for the benefit of Metro. Earnings on such account accrue to the Contractor. Metro may determine the account into which the retainage is placed.

(4) **Alternatives to cash retainage.** In lieu of cash retainage to be held by Metro, the Contractor may substitute one of the following:

(a) Deposit of bonds, securities or other instruments:

A. The Contractor may deposit bonds, securities or other instruments with Metro or in any bank or trust company to be held for the benefit of Metro. If Metro accepts the deposit, Metro shall reduce the cash retainage by an amount equal to the value of the bonds and securities. This reduction in retainage will be made in the progress payments made subsequent to the time the Contractor deposits the bonds and securities;

B. Bonds, securities or other instruments deposited or acquired in lieu of cash retainage must be of a character approved by the Metro Chief Financial Officer, which may include, without limitation:

(i) Bills, certificates, notes or bonds of the United States.

(ii) Other obligations of the United States or agencies of the United States.

(iii) Obligations of a corporation wholly owned by the Federal Government.

(iv) Indebtedness of the Federal National Mortgage Association.

(v) General obligation bonds of the State of Oregon or a political subdivision of the State of Oregon.

(vi) Irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008.

C. Upon Metro's determination that all requirements for the protection of Metro's interests have been fulfilled, it shall release to the Contractor all bonds and securities deposited in lieu of retainage.

(b) **Deposit of surety bond.** Metro, at its discretion, may allow the Contractor to deposit a surety bond in a form acceptable to Metro in lieu of all or a portion of funds retained or to be retained. A Contractor depositing such a bond shall accept surety bonds from its subcontractors and suppliers in lieu of retainage. In such cases, retainage will be reduced by an amount equal to the value of the bond, and the excess shall be reimbursed.

(5) **Recovery of Costs.** If Metro incurs additional costs as a result of the exercise of any of the options for retainage, Metro may recover such costs from the Contractor by reduction of the final payment. As work on the Contract progresses, Metro shall, upon request, inform the Contractor of all accrued costs.

(6) **Additional Retainage When Certified Payroll Statements Not Filed.** Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, Metro shall retain 25 percent (25%) of any amount earned by the Contractor on a Public worksWorks Contract until the Contractor has filed such statements with Metro. Metro shall pay the Contractor the amount retained under this section within fourteen (14) Days after the Contractor files the certified statements, regardless of whether a subcontractor has filed such statements.

Stat. Auth.: ORS 279A.065 & 279C.845

Stats. Implemented: ORS 279C.560, 279C.570 & 701.420

49-0860 Public Works Contracts

(1) **Generally.** ORS 279C.800 to 279C.870 regulates Public worksWorks Contracts, as defined in ORS 279C.800(6), and requirements for payment of prevailing wage rates. Also see Rules of the Bureau of Labor and Industries (BOLI) at OAR Chapter 839.

(2) **BOLI Notification.** Metro shall provide notification of award to BOLI as required by ORS 279C.835.

(3) **Required Contract Conditions.** As detailed in the above statutes and rules, every Public worksWorks Contract must contain the following provisions:

(a) Metro authority to pay certain unpaid claims and charge such amounts to Contractors, as set forth in ORS 279C.515(1).

(b) Maximum hours of labor and overtime, as set forth in ORS 279C.520(1).

(c) Employer notice to employees of hours and days that employees may be required to work, as set forth in ORS 279C.520(2).

(d) Contractor required payments for certain services related to sickness or injury, as set forth in ORS 279C.530.

(e) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

(f) A requirement for payment of the prevailing wage rate, as set forth in ORS 279C.830.

A. If no federal funds are being used to fund the work, the wage rates established under ORS 279C.815(2)(a) must be paid.

B. If federal funds are being used to fund the work, the wage rates established under ORS 279C.815(2)(b) must be paid if both state and federal prevailing rates of wage apply, and the Contract and every Subcontract must provide that all workers must be paid the higher of the applicable state or federal prevailing rate of wage.

C. The rates may be incorporated into the Specifications by reference, in compliance with OAR 839-025-0020; or, when the rates are available electronically or by Internet access, the rates may be incorporated into the Specifications by referring to the rates and providing adequate information on how to access them in compliance with OAR 839-025-0020 and OAR 839-025-0035.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.800 - 279C.870, OL 2011, ch 458

49-0870 Specifications; Brand Name Products

- (1) Specification content is in the sole discretion of Metro, subject to statutory restrictions on the use of brand names.
- (2) Metro may consult with technical experts, suppliers, prospective contractors and representative of the industries with which Metro will Contract. Metro will take reasonable measure to ensure that no Person who prepares or assists in the preparation of Solicitation Documents, Specifications, plans or scope of work (collectively, "documents"), and that no business with which the Person is associated realizes a material competitive advantage that arises from Metro's use of those documents.
- (3) A "brand name or equal" Specification may be used when it is Advantageous to Metro, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by Metro. Metro's determination of what constitutes a product that is equal or superior to the product specified is final. Unless otherwise specified, the use of a brand name shall mean "brand name or equal."
- (4) A "brand name" Specification may be used requiring a Contractor to provide a specific brand when the Procurement Officer, or designee, makes the following findings:
 - (a) The use of a brand name Specification is unlikely to encourage favoritism in the awarding of a Contract or substantially diminish competition for Contracts: or
 - (b) The use of a brand name Specification would result in a substantial cost savings to Metro; or
 - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
 - (d) Efficient utilization of existing equipment, or supplies requires the acquisition of compatible equipment or supplies.
- (5) Metro's use of a brand name specification is subject to protest and review only as provided in Rule 49-0260(3).

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.345

49-0880 Records Maintenance; Right to Audit Records

- (1) Contractors and Subcontractors shall maintain all fiscal records relating to a Contract executed with Metro in accordance with generally accepted accounting principles. In addition, Contractors and Subcontractors shall maintain any other records necessary to clearly document:
 - (a) Their performance. Performance includes, but is not limited to, compliance with plans and Specifications, compliance with fair contracting and employment programs, compliance with Oregon law on payment of wages and accelerated payment provisions, and any and all requirements imposed on the Contractor or Subcontractor under the Contract or subcontract;
 - (b) Any claims arising from or relating to their performance under a Public Contract;
 - (c) Any cost and pricing data; and,
 - (d) Payment to suppliers and Subcontractors.

(2) Such records shall be maintained for a period of six years from the date of final completion of the Contract or until the conclusion of any audit, controversy or litigation arising out of or related to a Contract, whichever is longer, unless a shorter period of time is authorized in Writing by Metro.

(3) Contractors and Subcontractors shall make all their records available to Metro within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of the Metro region, the Contractor or Subcontractor shall pay all costs for Metro employees, and any necessary consultants hired by Metro, including travel, per diem costs, salary, and any other expenses incurred by Metro in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records are not recoverable costs in any legal proceeding.

(4) Metro and its Authorized Representatives shall be entitled to inspect, examine, copy and audit the books and records of any Contractor or Subcontractor upon request by Metro for any reason, including any documents that may be placed in escrow according to any Contract requirements. The records that may be inspected and copied include financial documents of the Contractor, including tax returns and financial statements. Metro will keep such documents confidential to the extent permitted by Oregon law, subject to Subsection 5 below.

(5) Contractors and Subcontractors agree to disclose the records requested by Metro and agree to their admission as evidence in any proceeding between the parties, including, but not limited to a court proceeding, arbitration, mediation or other alternative dispute resolution process.

(6) In the event that the records disclose that Metro is owed money or establishes that any portion of any claim made against Metro is not warranted, the Contractor or Subcontractor shall pay all costs incurred by Metro in conducting the audit and inspection. Such costs may be withheld from any sum due or that becomes due to the Contractor by Metro.

(7) Failure of the Contractor or Subcontractor to keep or disclose records as required may result in a finding that the Contractor or Subcontractor is not a Responsible Bidder or Proposer as provided in Subsection 5.34.610 B.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.030, 279C.375, 279C.380 & 279C.440

49-0890 Metro Payment for Unpaid Labor or Supplies

(1) **Contract incomplete.** If the Contract is still in force, Metro may, in accordance with ORS 279C.515(1), pay a valid claim to the Person furnishing the labor or services, and charge the amount against payments due or to become due to the Contractor under the Contract. If Metro chooses to make such a payment as provided in ORS 279C.515(1), the Contractor and the Contractor's surety are not relieved from liability for unpaid claims.

(2) **Contract completed.** If the Contract has been completed and all funds disbursed to the prime Contractor, all claims must be referred to the Contractor's surety for resolution. Metro shall not make payments to subcontractors or suppliers for work already paid for by Metro.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.515

49-0900 Contract Suspension; Termination Procedures

(1) **Suspension of work.** In the event Metro suspends performance of work for any reason considered by Metro to be in the public interest other than a labor dispute, the Contractor is entitled to a reasonable extension of Contract time, and to reasonable compensation for all costs (as defined in the Contract), including a reasonable allowance for related overhead (as defined in the Contract), incurred by the Contractor as a result of the suspension.

(2) **Termination of Contract by mutual agreement for reasons other than default.**

(a) **Reasons for termination.** The parties may agree to terminate the Contract or a divisible portion thereof if:

A. Metro suspends work under the Contract for any reason considered to be in the public interest (other than a labor dispute, or any judicial proceeding relating to the work filed to resolve a labor dispute); and

B. Circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work.

(b) **Payment.** When a Contract, or any divisible portion thereof, is terminated pursuant to this subsection (2), Metro will pay the Contractor a reasonable amount of compensation for preparatory work completed, and for costs and expenses arising out of termination (all as defined in the Contract). Metro will also pay for all work completed, based on the Contract Price. Unless the work completed is subject to unit or itemized pricing under the Contract, payment is calculated based on percent of Contract completed (as may be further defined in the Contract). No claim for loss of anticipated profits is allowed.

(c) **Public Interest Termination.** Metro may include in its Contracts terms detailing the circumstances under which the Contractor is entitled to compensation as a matter of right in the event Metro unilaterally terminates the Contract for any reason considered by Metro to be in the public interest.

(d) **Responsibility for Completed work.** Termination of the Contract or a divisible portion thereof pursuant to this Rule does not relieve either the Contractor or its surety of liability for claims arising out of the work performed.

(e) **Remedies Cumulative.** Metro may, at its discretion, avail itself of any or all rights or remedies set forth in these Rules, in the Contract, or available at law or in equity.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279C.650, 279C.655, 279C.660, 279C.665 & 279C.670

49-0910 Changes to the work and Contract Amendments

(1) **Definitions for Rule.** As used in this Rule:

(a) "Amendment" means a Written modification to the terms and conditions of a Public Improvement Contract, other than by Change Orders, within the general scope of the original Procurement that requires mutual agreement between Metro and the Contractor.

(b) "Change Order" means a mutually agreed upon change order, or a construction change directive or other Written order issued by Metro or its authorized representatives to the Contractor requiring a change in the work within the general scope of a Public Improvement Contract and issued

under its changes provisions in administering the Contract and, if applicable, adjusting the Contract Price or contract time for the changed work.

(2) **Changes Orders Generally.** Changes Orders are anticipated in construction and, accordingly, Metro shall include changes order provisions in all Public Improvement Contracts that detail the scope of the changes clause, provide pricing mechanisms, authorize Metro or its authorized representatives to issue Changes Orders and provide a procedure for addressing Contractor claims for additional time or compensation. When Change Orders are agreed to or issued consistent with the Contract's changes provisions they are not considered to be new Procurements and an exemption from Competitive Bidding is not required for their issuance by Metro.

(3) **Contract Amendments Generally.** Contract Amendments to Public Improvement Contracts are not considered to be new Procurements and an exemption from Competitive Solicitation is not required to add work when:

(a) The work added is within the general scope of the original Contract, or if the work is outside the scope of the original Contract, it can be performed by the Contractor at a cost below what Metro estimates it would cost if a Contract for that work were awarded through Competitive Bidding, Competitive Quotations, or Competitive Proposals. Additional work is "within the general scope of the original Contract" for the purposes of this subsection if the additional work is logically related to the Contract work; prudent Contract management, engineering or construction practices dictate that the additional work ought to be performed in conjunction with the original Contract work; the additional work is located at the same site as the Contract work; and the Contract objectively establishes the prices, or the method of arriving at the price, for the additional work;

(b) The field of competition and Contractor selection would not likely have been affected by the Contract modification. Factors to be considered in making that determination include similarities in work, project site, relative dollar values, differences in risk allocation and whether the original Procurement was accomplished through Competitive Bidding, competitive Proposals, Competitive Quotes, sole source or Emergency Contract;

(c) In the case of a Contract obtained under an Alternative Contracting Method, any additional work was specified or reasonably implied within the findings supporting the Competitive Bidding exemption; and

(d) The Amendment is made consistent with this Rule and other applicable legal requirements.

(4) **Limits on Contract Increases.** Except as otherwise set forth below in subsections (5) and (6), the aggregate increase resulting from all amendments to a Public Improvement Contract shall not exceed twenty-five percent (25%) of the original Contract Price. For Contracts over \$100,000, increases in excess of the 25% limit shall be treated as Unauthorized Purchases in accordance with Rule 46-0200 and submitted to the Procurement Officer to obtain approval by the Chief Operating Officer prior to authorization of performance of the work. Amendments to document the use of additive alternates are not subject to the contract increase limitations set forth in this section, provided the cost for such additive alternates were established through the original solicitation response.

(5) **Small or Intermediate Contracts.** Metro may amend a Public Improvement Contract awarded as a small Procurement Metro in accordance with this Rule, provided that the cumulative amendments may not increase the total Contract Price to a sum that exceeds the higher dollar amount of ~~\$10,000~~\$25,000 or one hundred twenty-five percent (125%) of the original Contract Price, whichever is greater. Metro may amend a Contract awarded as an Intermediate Procurement pursuant Rule 49-0160(5). Any

amendment that causes Contract to exceed the foregoing limits will be treated as an Unauthorized Purchase and shall be subject to the requirements of Rule 46-0200.

(6) **Amendment to Settle Bona Fide Dispute.** The limitation set forth above in Section (4) of this Rule is not applicable if the amendment resolves a bona fide dispute with the Contractor and is within the general scope of the original Contract.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279A.065, 279C.335 & 279C.400

METRO
PERSONAL SERVICES CONTRACTING RULES
Procurement Administrative Procedures

SUBJECT: Requirements and Procedures for the Procurement of
Personal Services Contracts

PURPOSE: To establish a uniform process for the acquisition of
personal services and rules related to the screening and
selection of persons to perform personal services

DEPARTMENT RESPONSIBLE: Finance Department
PROCUREMENT

DEPARTMENTS
AFFECTED: All Metro Departments

LEGAL CITATION/
REFERENCE: ORS 279A.055, 279A.065 and 279A.070

DATE: ~~July 14, 2022~~ January 1, 2024

I. POLICY STATEMENT

It is the policy of both the State of Oregon and Metro to provide a screening and selection process for the acquisition of personal services that ensures fair and equal opportunity for all contractors interested and qualified to contract with Metro. Full and open competition shall be used to the maximum extent practicable when procuring Personal Service contractors. As required under Metro Code 2.04, Metro Departments are required to adhere to the policies and procedures established in these Administrative Rules.

II. GENERAL GUIDELINES

These Rules identify various contractor screening and selection methods to be used and steps to be followed when procuring personal services.

- A. For procurements over the small purchase threshold and up to \$~~150,000~~250,000 in value, an Intermediate procurement method shall be conducted. For procurements over \$150,000~~250,000~~ in value, a formal procurement method shall be conducted.
- B. These Rules do not apply to the selection of Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors and providers of Related Services. See Division 48 of Metro's Local Contract Review Board (LCRB) Rules.
- C. Certain LCRB Rules may pertain to personal services procurements (e.g. Division 46 Rules regarding Solicitation Document Templates; Contract Forms and Contract Templates; Contract Administrator Accountability, Unauthorized Purchases, Discrimination; Disqualification, and Cooperative Procurements).
- D. The maximum contract term of a personal services contract is five (5) years unless otherwise approved by the Procurement Officer or limited by these Rules.
- E. Exceptions to these Rules shall only be allowed as authorized and specified in Section XI, Exemptions from Competitive Procurement Requirements.
- F. There may be more than one method to procure desired personal services, so Metro employees are encouraged to work with Procurement Services, and to the extent necessary the Office of the Metro Attorney, to determine the best method for selecting personal services. The Procurement Officer has the authority to waive minor irregularities and discrepancies, or make situational exceptions that will not affect the overall competitiveness or fairness of the solicitation and selection process, and that will provide significant benefit to Metro.

III. DEFINITIONS AND CONCEPTS

- A. **Competitive Range** – A specified number of proposers, as stated in the solicitation document, with whom Metro will conduct discussions and/or negotiations. This number may be decreased if the number of proposers that submit proposals is less than the specified number, or may be increased by Metro in accordance with LCRB Rule 47-0261.

- B. **Contract** – An agreement between Metro and a contractor describing the work to be performed, the obligations of both parties, etc.
- C. **Department** – A Metro Department, or any unit therein, that has responsibilities for procuring personal services.
- D. **Emergency** – Circumstances that could not have been reasonably foreseen which create a substantial risk of interruption of services or threat to the public health or safety and which require prompt execution of a contract to remedy the situation.
- E. **Exemption** – The process used to allow personal services contract formation outside the formal RFP or Intermediate solicitation procedures.
- F. **Formal** – The procurement process for purchases greater than \$~~150,000~~250,000. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “small” and “intermediate”.
- G. **Intermediate** – The procurement process for purchases greater than the small purchase threshold of \$~~10,000~~25,000 and less than or equal to \$~~150,000~~250,000. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “small” and “formal”.
- H. **Intermediate RFP** – A written solicitation for an intermediate procurement. The intermediate RFP is patterned after the formal RFP process, but with fewer requirements.
- I. **Local Contract Review Board (LCRB)** – The Metro Council acting as the local contract review board pursuant to ORS 279A.060, also known as the Board.
- J. **Multistep RFP** – A formal RFP process that is staged in phases, soliciting technical proposals as a first step, providing the option to conduct interim steps such as Clarification/Discussion phase, followed by a final competitive step.
- K. **Notice** – Announcement and distribution of information regarding a current procurement process by mail, email, or posting to an electronic procurement system.
- L. **Oral Procurement Method** – An alternative Intermediate procurement method for purchases valued at \$~~150,000~~250,000 or less that may be conducted orally. The oral procurement method may only be utilized as an exception to the standard, written intermediate process with prior approval of Procurement Services.
- M. **Personal Services** – Services which require specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment, including, without limitation, services of an accountant, physician, educator, counselors in investment, insurance, advertising, graphics, training, public relations, communications, real estate and property management, information technology or other consultant or artist (including a photographer, filmmaker, painter, weaver, or sculptor) and contracts for human services. Types of services not listed in this definition may also be classified as “personal services.” The Procurement Officer has the final determination on what constitutes “personal services” on a case by case basis.
- N. **Procurement Officer** – The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegate.

- O. **Procurement Services** – Refers to the Procurement section of the Finance and Regulatory Services Department of Metro.
- P. **Proposal** – An offer, binding on the proposer and submitted in response to formal solicitations.
- Q. **Proposer** – A person or entity who submits a response to a solicitation.
- R. **Request for Information (RFI)** – A non-competitive process used to gather information, possible approaches, solutions, and technical capabilities from industry experts and organizations. The RFI is designed to gather information that would be used in a subsequent procurement process. No contract award will result from an RFI.
- S. **Request for Proposals (RFP)** – A formal, competitive procurement process used to solicit offers from contractors. The RFP method involves the evaluation and selection of a contractor based upon various factors including, but not limited to the proposer’s expertise, experience, social equity contracting/corporate responsibility, licenses or certifications, work history, understanding of the scope of work and ability to resolve the issue or problem identified within the RFP document while providing a quantified cost for completing the work. RFPs are expected to result in selection of the contractor whose proposal offers the best value.
- T. **Request for Qualifications (RFQ)** – A procurement method that consists of two phases, which is intended to limit respondents for complex projects to only the most qualified; and/or to lessen the cost impact to respondents. Contract award is dependent on both phases being completed. The issuance of an RFQ is the first phase of the process and is used to short list the most qualified (highest scored) respondents. The first phase does not include cost as an evaluation criterion. The second phase is the issuance of a modified RFP to the short listed respondents and generally results in a contract award.
- U. **Small** – The procurement process for purchases less than or equal to ~~\$10,000~~**\$25,000**. These Administrative Rules establish three levels of procurement activity defined by increased funding limitations and required oversight. Other levels are “intermediate” and “formal”.
- V. **Solicitation Document** – A document issued by Metro to invite offers from prospective contractors.
- W. **Statement of Work** – Written detailed description of agreed upon work, typically including performance measures, deliverables and pricing, found in a contract and derived from the solicitation documents to generally describe the desired work objectives.

IV. AUTHORIZATION FOR PROCUREMENT/UNAUTHORIZED PURCHASES

A. Prior Authorization to Conduct Procurement Required

Procurement authorization is required prior to conducting a procurement. Authorization represents Department management approval to expend funds for the project under the Department’s adopted or proposed (in the case of a pending program offer) budget.

B. Unauthorized Purchases

Unauthorized Purchases are the purchases of goods or services, including personal services, made without following Metro Procurement requirements or without delegated authority.

Processing of payments for Unauthorized Purchases shall be in accordance with LCRB Rule 46-0200.

V. SMALL PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

Personal services purchases less than or equal to the small purchase threshold of ~~\$10,000~~25,000 may be made without soliciting competitive offers. Purchases may not be artificially divided or fragmented in order to reduce the transaction value below the threshold requiring competition.

VI. INTERMEDIATE PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

A. General Information

1. Metro may utilize an Intermediate procurement process for the selection and award of Personal Service contracts over ~~\$10,000~~25,000 and up to and including ~~\$150,000~~250,000 in value.
2. Metro must solicit from a minimum of three vendors (when available) who can reasonably be expected to provide the services. Solicitation shall be through issuance of a written, intermediate RFP, although in some cases an oral procurement method may be approved. See Section VI(C) below for more information regarding the oral procurement method.
3. Metro is required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. See the Metro Equity in Contracting Administrative Rules for more information regarding compliance.
4. Intermediate proposals should be solicited from entities that can reasonably be expected to perform the required services. Metro uses an electronic procurement system as a primary tool for contacting proposers. In the event a potential contractor is not registered on Metro's electronic procurement system, Metro may email or otherwise directly distribute the intermediate RFP to such potential contractor.
5. An intermediate RFP solicitation may be canceled at any point in time prior to contract execution if it is determined to be in the best interest of Metro.
6. There is no protest process for Intermediate procurements.
7. Metro shall retain Intermediate procurement information in accordance with State and Metro record retention requirements, including:
 - a. The date advertised and/or a record of all proposers contacted;
 - b. The original written solicitation document and any addenda. If the Department received prior approval from the Procurement Officer to do an oral procurement method, a summary of the oral information provided by Metro; and
 - c. Scoring summaries, documentation and notice letters.
8. Metro may award contracts to more than one vendor with a single Intermediate procurement process. The total value of all contracts issued under an Intermediate solicitation may not exceed ~~\$150,000~~250,000.

B. Written Solicitations Required for Intermediate Personal Services Procurements

1. The intermediate RFP is a written solicitation process. The Intermediate solicitation process can be conducted simply or can be structured with multiple steps to address complex requirements.
2. Intermediate RFPs shall be procured using template solicitation documents provided by Procurement Services. The content shall include:
 - a. A clear and concise scope of work identifying deliverables, including what, when, where, and potentially how the personal services will be provided.
 - b. Performance measures, if applicable, to assess receipt of satisfactory services.
 - c. Notice of whether multiple contracts are expected to be awarded.
 - d. The period of time for contract performance.
 - e. A statement that the contract(s) will be awarded to the responsive, responsible proposer(s) with the highest scoring intermediate proposal(s).
 - f. All minimum requirements, such as required contractor licenses, insurance, etc.
 - g. The time and location of a pre-proposal meeting, if applicable.
 - h. The evaluation factors Metro will consider when making the award.
 - i. The questions to which proposers must respond and any additional information or documents that must be submitted.
3. Metro shall respond in writing to questions received, providing any clarifications or changes to all proposers who were sent the intermediate RFP.
4. Any changes or addenda to the intermediate RFP documents must be provided to all proposers who received the original solicitation. Those proposers must be notified in the same manner and method used for the notification of the original solicitation or as otherwise specified in the intermediate RFP.
5. Evaluation and Scoring Intermediate Proposals

Metro must describe the evaluation process that will be utilized to score intermediate proposals in the solicitation document. Metro may choose to establish an evaluation committee with various experts from within and outside Metro, but there is no required minimum number of evaluators for intermediate proposals. To maintain a fair and consistent process, all intermediate proposals should be evaluated by the same evaluators and in the same manner.

C. Process for Using Oral Procurement Method

1. In cases where the Department and Procurement Officer reasonably conclude that a written Intermediate solicitation process will not result in a robust, competitive procurement, an Intermediate procurement may be via an oral procurement method. A previous failed written intermediate RFP is an example of when an oral procurement method may be appropriate, although a previously failed procurement is not a prerequisite for applying the exception.

2. If preapproved by the Procurement Officer, the oral procurement method procurement must be documented in a form provided by Procurement Services. Use of emails or other written correspondence is also allowable; when used this documentation should be retained in the Procurement File.
3. The Department shall develop a written description of vendor services to be performed and evaluation criteria that will be used to evaluate oral offers.
4. To ensure consistency and fairness, Metro shall present each vendor with the same information. The information provided to vendors may include:
 - a. Description of work
 - b. Estimated cost
 - c. Performance schedules
 - d. Deliverables/outcomes
 - e. Performance requirements
 - f. Minimum contractor qualifications
 - g. Performance measures
 - h. Sustainability considerations
 - i. Equity in contracting considerations

VII. FORMAL PROCUREMENT PROCESS FOR PERSONAL SERVICES CONTRACTS

A formal procurement process, such as an RFP, must be used to competitively acquire Personal Services contracts over \$~~150,000~~250,000. A clear and concise RFP or other appropriate solicitation promotes full and open competition, enables proposers to offer innovative solutions, and allows Metro to determine which proposal offers the best value.

A. Formal Procurement Solicitation Types

The formal procurement methods include, but are not limited to the following types of competitive solicitations:

1. A basic RFP that provides for determination of contractor award(s) based solely on the ranking of proposals.
2. An RFP that results in serial negotiations beginning with the highest ranking proposer or competitive simultaneous negotiations with eligible proposers.
3. A multistep RFP designed to identify, at each level, a class of proposers determined to be within competitive range, or to otherwise eliminate from consideration a class of lower ranked proposers.
4. A multistep or two-step RFP that initially solicits unpriced technical proposals and subsequently invites proposers whose technical proposals are determined to be qualified under the criteria set forth in the RFP to submit price proposals.

B. Solicitation Document Content

The solicitation document must include the following:

1. A statement of work, including a clear description of the services to be provided, standards by which performance of the services will be measured, and conditions affecting delivery of the services.
2. Minimum standards and qualifications required to be met by the proposers to be eligible to provide the services such as licensing, experience, etc. Minimum requirements should be carefully established so that qualified vendors are not inadvertently precluded from proposing. It is not necessary in all cases to establish minimum requirements.
3. Information required to be submitted as part of the proposal to support proposer capability, such as references showing experience providing the same or similar services, copies of license(s), etc.
4. Notice of pre-proposal meeting, if any, including date, time, place and whether the meeting is mandatory or optional.
5. The evaluation process factors Metro will consider when making the award, including (without limitation): (i) a list of all criteria (e.g. cost) to be used to evaluate proposals; (ii) the points assigned to each criterion; and (iii) the minimum total score that must be achieved (if any) to be eligible for contract award.
6. Identification of oral interviews, demonstrations, or other additional procurement process that may be contemplated, along with a description of the purpose of the process, the criteria for selecting proposers to participate, and how the process will affect the scoring.
7. The proposal structure, such as page limitations, content organization, supplemental information, and limitations, etc.
8. A copy of Metro services contract (or other contract if approved by the Office of Metro Attorney) that will be applicable to the resultant contract(s).
9. A description of minimum insurance requirements and, if applicable, a statement that insurance requirements may be increased or decreased depending on the solution proposed.

C. Advertisement, Public Notice, and Solicitation Documentation

Public notice of a formal procurement must be made at the time a solicitation is issued. Metro will post notice of the procurement on its electronic procurement system, where potential proposers can download the solicitation documents. Metro may give additional notice using any method appropriate to foster and promote competition, including:

1. Advertise the procurement in a publication of general circulation and in as many other publications as may be appropriate.
2. Printing copies of the solicitation, upon request, available for pick-up at the Procurement Services office.
3. Mailing or emailing the solicitation document or notice of procurement to the mailing list provided by the Department.
4. Providing copies of the solicitation document to other interested parties, as requested.

D. Addenda

1. All changes to a solicitation must be formalized by the issuance of a written addenda. Except to the extent justified by a countervailing public interest, Metro may not issue addenda less than 72 hours before the closing unless the addenda also extends the closing.
2. Metro may notify prospective proposers of addenda in a manner intended to foster competition and to make prospective proposers aware of the addenda. The original solicitation document must specify how Metro will provide notice of addenda and how Metro will make the addenda available before closing

E. Proposer Questions, Requests for Clarification/Change, and Protests of Specifications

The solicitation document shall require proposers to submit in writing to Procurement Services all questions, protests of specifications or requests for clarification or change to the solicitation. Questions may also be presented verbally at a pre-proposal meeting. All questions, requests for change or protests of specifications must be received by Metro by the date and time, and in the manner stated in the solicitation. If a change or substantive clarification is necessary, Metro will issue a written addenda by the date required in the solicitation.

F. Pre-Proposal Conference

1. A pre-proposal conference allows prospective proposers to meet with Metro after the solicitation is issued in order to discuss the procurement and obtain greater understanding of the requirements.
2. If held, the pre-proposal conference may be mandatory or optional. If mandatory, only proposers who have a representative attend and sign the attendance roster at the pre-proposal conference may submit a proposal. Mandatory pre-proposal conferences should be required only where there is a compelling reason to have all those who plan to propose be present. Requiring a mandatory conference may result in a qualified proposer being unable to participate if the proposer failed to receive a copy of the solicitation document or inadvertently missed the conference. All information regarding time, location, and whether the pre-proposal conference is optional or mandatory must appear in the solicitation document and in all advertisements.

G. Rules Governing Receipt of Proposals

1. Proposers are responsible for delivering sealed proposals to the Metro by the date and time specified in the solicitation.
2. Metro is responsible for receiving, time-stamping, and enforcing the submittal deadline for each proposal.
3. The Metro time-stamp shall be used to determine the timeliness of a proposal submission.
4. Metro shall record and make available the identity of all proposers as part of Metro's public records after the proposals are opened. Notwithstanding ORS 192.410 to 192.505, proposals are not required to be open for public inspection until after the notice of intent to award a contract is issued.

5. If, on the date proposals are due, Metro is officially closed for part or all of the day, preventing delivery of proposals, then the due date will automatically extend to the next business day that Metro is re-opened for business, at the same time as indicated in the solicitation. Closure may be due to inclement weather or other unplanned and unforeseen exigencies.

H. Evaluation Committee

1. Metro shall establish an evaluation committee comprised of at least three (3) members to evaluate proposals.
2. Committee members must not have a conflict of interest with any person or organization responding to the procurement.
3. The Procurement Officer must approve in advance the composition of any evaluation committee that does not comply with the above requirements.

I. Proposal Evaluation and Selection of Contractor(s) for Award

Purpose: A proposal evaluation process is conducted to determine which proposal offers the best overall value in accordance with criteria set forth in the solicitation. The following procedures outline the proposal evaluation process.

1. Evaluation of Proposals:

- a. Proposal evaluators shall evaluate and score proposals using only the evaluation method described in the solicitation. Evaluator comments and scores shall be documented on the evaluation score sheets and forms provided. Evaluators should be cautioned that information contained on the rating sheets will become public information and evaluators should be identified only by alpha designations and not by name or by signature.
- b. Metro may seek clarification of any proposal. Information obtained shall be shared with all evaluators and all such contacts with proposers seeking clarification shall be documented.
- c. The evaluation committee may consult with Metro employees who have technical expertise in a specific area of evaluation such as finance or budget.
- d. If the solicitation requires proposers to provide references and other supporting documentation (such as previous work history, projects that are similar to the one proposed) these references may be checked by the project manager, or a person(s) designated by the project manager and/or evaluation committee. Metro is not restricted to using only those references provided by the proposers, but may also check other references as they become available through the original reference check or as provided by the proposer during the interview phase. Comments and information provided by the reference checks will be documented, shared with the evaluation committee members, and become a part of the permanent procurement file.

2. Conducting Interviews

- a. After deliberation and discussion of the written proposals, the evaluation committee may not be able to determine a single apparent successful proposer and thus may elect to focus on only a limited number of the highest scored proposals by developing a "short list" based on the scores from the written

proposals. The number of proposals on the “short list” will depend upon whether the committee believes such proposals have a reasonable chance of receiving the award.

- b. Interviews or presentations will be conducted as indicated in the solicitation document. Each proposer will be allowed an equal amount of time for their interviews or presentations and will be treated fairly and equitably by Metro. The project manager and the Evaluation Committee will discuss each proposal on the short list and will (i) determine which areas of their proposal may need clarification, (ii) develop interview questions for each proposer, and (iii) provide the agenda and questions far enough in advance of the oral interviews to allow the proposers enough time to adequately prepare and to make reasonable travel arrangements.
- c. The evaluation committee will utilize the scoring method identified within the solicitation document as they proceed to score the interview; interview scores will either stand alone, or the scores for the written proposals will be adjusted according to the procedure stipulated in the solicitation document.

3. Completing the Evaluation

- a. If Metro determines after the scoring of proposals that two or more proposers are equally qualified, Metro may select a candidate through any process that Metro believes will result in the best value for Metro taking into account the scope, complexity, and nature of the personal services. The process shall instill public confidence through ethical and fair dealing, honesty, and good faith on the part of Metro and proposers, and shall protect the integrity of the public contracting process. Once a tie is broken, Metro and the selected proposer shall proceed with negotiations.
- b. If it is recommended that a proposer other than the highest scoring proposer(s) be awarded, the contract award must be approved by the Metro Chief Operating Officer. In such event, the following information shall be submitted to support the recommendation:
 - i. A detailed explanation of the reasons for award recommendation and justification for deviating from required procedures.
 - ii. Findings that the award procedure does not violate any applicable law or regulation.
 - iii. A statement that explains why the proposed award would be in the best interest of the public and Metro.

4. Contract Negotiation and Development

After determining the highest scoring proposer, Metro shall enter into and complete contract negotiations with the selected proposer(s) as provided for in the solicitation document:

5. Contractor Notification and Protest

- a. Following verification of contractor award selection, and only after contract negotiations have concluded, Metro shall provide proposers with notice of intent to award the contract(s). Such notice shall be via the method identified in the

Solicitation documents. The notification date will establish the beginning of the protest period. In the event that contract negotiations are prolonged, Procurement Services may informally notify the proposers that a selection has been made before the formal notice of intent to award the contract is distributed.

- b. Protests of contract award shall be received by Procurement Services and reviewed with the Department and the Metro Attorney. The Procurement Officer shall respond in a timely manner to any valid protests received.

6. Special Circumstances

a. Proposal Modification or Withdrawal

A proposer may modify or withdraw its proposal as described herein. A record of withdrawal or modification of a proposal by the proposer shall be kept in the Procurement File.

i. Proposal Modification

- (1) A proposer may modify its proposal by submitting a proposal modification request to Procurement Services in writing prior to the date and time that proposals are due.
- (2) Any modification shall include the proposer's statement that the modification amends and supersedes the prior proposal and must be identified as such including the solicitation number.

ii. Proposal Withdrawal

A proposer may withdraw its proposal by written notice signed by an authorized representative of the proposer and delivered to Procurement Services prior to the date and time that proposals are due.

iii. Late Modification or Withdrawal of a Proposal

A proposer's request for modification of a proposal received after the due date and time stated in the solicitation document is late and may not be considered. A proposer's request for withdrawal of a proposal received after the due date and time stated in the solicitation document may not be considered.

b. Cancellation, Rejection, Delay, or Suspension of a Procurement

- i. Any procurement may be canceled or any or all proposals may be rejected in whole or in part, as determined by the Procurement Officer, when the cancellation or rejection is deemed to be in the best interest of Metro. The reason for the cancellation or rejection shall be made part of the Procurement File. Metro shall not be liable to any proposer or its subcontractor(s) for any loss or expense caused by or resulting from the cancellation or rejection of a procurement.
- ii. Any procurement may be delayed or suspended, as determined by the Procurement Officer, when the delay or suspension is in the best interest of Metro. Metro shall make the reasons for the delay or suspension part of the Procurement File. Metro shall not be held liable to any proposer or its

subcontractor(s) for any loss or expense caused by or resulting from the delay or suspension of the procurement.

- iii. If a procurement is canceled prior to the proposal due date, Procurement Services shall provide written notice of cancellation in the same manner as was used for the notice of the procurement except that advertisement of a cancellation is not required.
- iv. If a procurement is canceled prior to the proposal due date, all proposals that were received prior to the solicitation close will be returned unopened to the proposer(s).
- v. If a procurement is canceled after the proposal due date, proposals may either be returned to the proposer(s) or kept in the Procurement File.
- vi. If all proposals are rejected, all proposals shall be kept in the Procurement File.

VIII. REQUEST FOR INFORMATION

Metro may consider using a Request for Information (RFI) process to solicit preliminary information from the marketplace or to assess the availability of a desired service. An RFI is not a source selection method to procure services; however, information received in response to an RFI may be used to develop a statement of work for an RFP that may be subsequently issued. Responses to an RFI will be reviewed but not scored and no contract award(s) shall be made.

Interested parties will be asked to respond with some or all of the following information depending on the circumstances:

- A. Their interest in providing the service or solution to a problem.
- B. A brief description of past experience providing similar services or solutions.
- C. A description of services offered that will meet the needs of Metro.
- D. Any potential problems or risks Metro may encounter in utilizing the service or implementing the solution, along with suggestions to mitigate potential problems or reduce risk.
- E. An estimated price range to provide the proposed services.
- F. An estimated timeframe to complete the project, if applicable.

IX. NEGOTIATIONS

- A. One of the particular advantages of the RFP process is the ability of Metro to negotiate with the successful proposer to provide services at the price level that provides Metro with the best fair market value. The importance of negotiating with the selected proposer in order to obtain the best possible value for Metro and thereby assuring the best use of public funds cannot be overemphasized. During the negotiations, Metro will in good faith dedicate the necessary time and effort in order to reach a final agreement with the selected proposer. Negotiations typically occur prior to Metro issuing its notice of intent to award so that Metro may rely on the public record exemptions provided for under ORS 279B.060(6).

- B. Following principled negotiation efforts, if agreement with the highest scoring proposer cannot be reached within a reasonable period of time, Metro may, in its sole discretion, terminate negotiations and thereby reject the highest scored proposal. Metro may then attempt to reach a final agreement with the second highest scoring proposer and may continue on, in the same manner, with remaining proposers until an agreement is reached. If negotiations with any proposer do not result in a contract within a reasonable period of time, as determined by Metro in its sole discretion, Metro may cancel the particular formal solicitation. Nothing in these Rules precludes Metro from proceeding with a new solicitation.

X. PROTESTS

- A. A proposer may protest a formal contract award, or notice of intent to award a contract over ~~\$150,000~~250,000, as follows:
1. A proposer may protest the award of a contract, or the notice of intent to award a contract, whichever occurs first, if:
 - a. The proposer is adversely affected because the proposer would be eligible to be awarded the contract in the event that the protest were successful; and
 - b. The protest is based on at least one of the following reasons:
 - i. All higher scoring proposals are non-responsive.
 - ii. The proposal evaluation process was not conducted in accordance with the criteria or method described in the solicitation document.
 - iii. Metro has abused its discretion in rejecting the protestor's proposal as non-responsive.
 - iv. The proposal evaluation process is in violation of applicable rule or law.
 2. The evaluator's judgment applied in the scoring of proposals, including the use of outside expertise, is not a permitted basis for protest.
- B. A proposer may protest its exclusion from the competitive range or exclusion from a tier or step of formal competition if the proposer:
1. Submitted a responsive offer.
 2. Is deemed responsible.
 3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the protesting proposer would have been included in the competitive range or in the next tier or step of competition.
- C. A proposer may appeal a decision that the proposer is not qualified under an RFQ process if the proposer can establish that it complied with all of the following conditions:
1. Submitted a responsive offer.
 2. Is deemed responsible.
 3. Establishes that but for a substantial violation of a provision in the solicitation document or of an applicable procurement statute or administrative rule, the

protesting proposer would have been included in the competitive range or in the next tier or step of competition.

- D. Unless otherwise specified in the solicitation document, a proposer shall deliver its written protest to the Procurement Officer by close of business within seven (7) calendar days after the date shown on the notice of the decision that is the subject of the protest.
- E. The protest must specifically state the reason for the protest, identify how its proposal or the winning proposal was mis-scored or show how the selection process deviated from that described in the solicitation document, and identify the remedy requested.
- F. Depending upon the substance of the protest, the Procurement Officer has a number of options available in resolving the protest. The Procurement Officer may: 1) waive any procedural irregularities that had no material effect on the selection of the proposed contractor; 2) invalidate the proposed award or amend the award decision; 3) request the evaluation committee re-evaluate any proposal; 4) develop an entirely new evaluation committee and re-evaluate the proposals; or 5) cancel the solicitation and begin again to solicit new proposals. In the event the matter is returned to the evaluation committee, the Procurement Officer shall issue a notice canceling the notice of intent to award.
- G. Decisions of the Procurement Officer are final and conclude the administrative appeals process. Any further redress sought by the proposer must be pursuant to state law.

XI. EXEMPTIONS FROM COMPETITIVE PROCUREMENT REQUIREMENTS

A. Exemptions by Rule

The services listed in paragraphs 1 through 11 below are designated as Personal Service and are exempt from competitive procurement requirements set forth in these Administrative Rules.

1. Contracts for the modification by the licensor of intellectual property licensed to Metro.
2. Contracts for legal services (e.g. expert witnesses, outside legal counsel, and bond counsel), if approved by the Metro Attorney.
3. Contracts with speakers, lecturers and performing artists (whether vocal, instrumental, or visual) to provide a paid speech, lecture, or performance for an audience determined by Metro.
4. Contracts in which the rates for the services being purchased are established by federal, state, county, or other local regulatory authority where an alternate selection process has been approved in advance by the Procurement Officer.
5. Contracts for which a non-Metro funding source (e.g. a grant or contract awarded by a government agency or private foundation) identifies the contractor in the funding award or makes a funding award conditioned upon the service being performed by a specific contractor.
6. Contracts for determining any prospective or current Metro employee's ability to work or return to work.
7. Contracts for processing any claim for workers' compensation benefits.
8. Contracts for determining any reasonable accommodation that may be made to any job classification at Metro.

9. Contracts for services provided by those in the medical community including, but not limited to, doctors, physicians, psychologists, nurses, veterinarians, laboratory technicians and those with specific license or unique skill to administer treatments for the health and well-being of people or animals.
10. Contracts for services when the contractor is a not-for-profit organization and where both parties share in the decision making process work together to define a scope of work, contribute resources, share responsibilities, and accept risk and benefits.
11. Contracts for services otherwise described as Class Special Procurements and authorized by LCRB Rule 47-0288.

B. Specific Exemptions from the Competitive Procurement Requirements:

1. Sole Source Contractor Exemption

A sole source procurement is one that awards a contract without an open competitive environment. It is a declaration that the personal services being contracted for are of such a unique nature, or the contractor possesses such a singular capability to perform the work that proceeding without competition is likely to provide a significant benefit to Metro. Contracting by this method requires complete explanation and justification of: 1) the unique nature of the services; 2) the unique qualifications of the contractor; and 3) the basis upon which it was determined that there is only one known contractor able to meet the service needs.

The Procurement Officer is authorized to approve sole source requests. However, sole source procurements greater than ~~\$150,000~~\$250,000 will require a public notice be posted on its electronic procurement system for at least seven (7) calendar days prior to the award. Contractors who feel they are adversely affected by the award of the sole source procurement will have seven (7) calendar days from the issuance of the sole source notice to file a protest in accordance with Section X.D of these Administrative Rules. If a protest is received, the matter must be resolved before the Procurement Officer will review the Sole Source Request.

2. Emergency Exemption

Metro may award a contract as an emergency procurement without the use of competitive proposals if circumstances exist that (i) could not have been reasonably foreseen, (ii) create a substantial risk of loss, damage or interruption of services or a threat to property, public health, welfare or safety, and (iii) require prompt execution of a contract is required to remedy the situation.

The authority to declare an emergency and authorize an emergency procurement is as follows:

- a. The Procurement Officer may declare the existence of an emergency and authorize Metro or any of its Departments to enter into an emergency contract under ~~\$150,000~~\$250,000;
- b. The director of a Department may declare the existence of an emergency and authorize that Department to enter into an emergency contract under ~~\$150,000~~\$250,000 only if the Procurement Officer is not available when the contract needs to be executed.

- c. The Chief Operating Officer may declare the existence of an emergency and authorize emergency contracts that exceed \$~~150,000~~250,000.

XII. AMENDMENTS TO PERSONAL SERVICES CONTRACTS

- A. A Department shall have authority to authorize an amendment to a contract for personal services in any amount to add additional services which are reasonably related to the scope of work under the original contract without competitive procurement, subject to the following conditions:
 - 1. The original contract was let by formal procurement process and cost per unit of services was provided for in the original proposal that establishes the cost basis for additional services; or
 - 2. The original contract was let pursuant to a declaration of emergency; if the emergency justification for entering into the contract still exists and the amendment is necessary to address the continuing emergency; or
 - 3. The additional services are required by reason of existing or new laws, rules, regulations, or ordinances of federal, state, or local agencies that affect performance of the original contract; or
 - 4. The aggregate increase resulting from all amendments to such personal services contract does not exceed twenty-five percent (25%) of the original contract price. Escalation clauses agreed to in the original contract (e.g. COLA increases) are excluded from the 25% calculation.
- B. If the conditions in XII. A.1-A.4 do not apply, Metro may still amend a personal services contract upon finding that the amendment is advantageous to Metro. For contracts \$~~150,000~~250,000 and under the Procurement Officer has the authority to approve the amendment. For contracts over \$~~150,000~~250,000 the Metro Chief Operating Officer has the authority to approve the amendment.
- C. Notwithstanding the limit set forth in XII. A.4, (i) contracts awarded as small procurements may be amended to increase the contract price to \$~~10,000~~25,000 or one hundred twenty-five percent (125%) of the original contract price, whichever is greater and (ii) contracts awarded as an intermediate procurement may be amended to increase the total contract price to \$~~150,000~~250,000 or one hundred twenty-five percent (125%) of the original contract price, whichever is greater.
- D. Any amendment increasing the contract amount beyond the thresholds set forth in this section, or any amendment that has not received the required authorization, will be treated as an unauthorized purchase and will be subject to the provisions of LCRB Rule 46-0200.

XIII. IMPLEMENTATION AND INTERPRETATION

Any questions relative to the intent or application of these Administrative Rules should be directed to the Procurement Officer who is delegated the responsibility for interpreting and implementing these procedures.

METRO
EQUITY IN CONTRACTING RULES
Procurement Administrative Rules

SUBJECT: Rules and Requirements for Metro's Equity in Contracting Program

PURPOSE: To adopt rules of procedure to advance equity in public contracting that promote economic growth of disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses

DEPARTMENT RESPONSIBLE: Finance Department
PROCUREMENT

DEPARTMENTS AFFECTED: All Metro Departments

DATE: ~~July 14, 2022~~ January 1, 2024

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I. POLICY STATEMENT

Metro expresses its strong commitment to provide contracting opportunities to State of Oregon certified minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses (collectively referred to herein as “COBID Certified Businesses”). Metro hereby creates its Equity in Contracting Program (the “Program”) to advance equity in public contracting, promote economic growth of COBID Certified Businesses and provide additional competition for Metro contracts. The Program is intended to function in addition to the general rules and procedures applicable to Metro procurements.

II. DEFINITIONS

- A. **COBID** - The State of Oregon’s Certification Office for Business Inclusion and Diversity, created within the Oregon Business Development Department or such state agency, department or entity to which has been delegated the responsibility to certify minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses.
- B. **Department** - A Metro Department or any unit or staff within a Department that has responsibilities for procuring public contracts.
- C. **Emerging small business** - Meaning set forth in ORS 200.005(5).
- D. **“Minority-owned business”, “woman-owned business” or “business that a service-disabled veteran owns”** - Meanings set forth in ORS 200.005(7).
- E. **Electronic Procurement System** - The online procurement solicitation system utilized by Metro to issue procurement and contracting opportunities and information.
- F. **Procurement Officer** - The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegatee.

III. PROGRAM ADMINISTRATION

The Procurement Officer shall be responsible for administering and implementing the Program on behalf of the Chief Operating Officer. Procedural rules created to implement the Program shall be promulgated for Department comment prior to their adoption by the Metro Local Contract Review Board. When deemed appropriate by the Metro Chief Operating Officer, Metro may seek public input before adopting, amending, or repealing such rules.

In administering the Program, the Procurement Officer shall advise all potential contractors that COBID is the sole agency that may certify enterprises and businesses as minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses.

IV. GENERAL PROGRAM ACTIVITIES

The Procurement Officer shall engage in the following activities with the goal of increasing Metro business with COBID Certified Businesses:

- A. **Outreach** - Engage in additional outreach procedures, including electronic notices of public contract solicitations, newsletters, attending regularly-scheduled contractor orientation programs, open houses, and participation in local and regional outreach opportunities.
- B. **Technical Assistance** - Provide technical assistance and information to outside third parties on feasible options for management assistance, bonding, insurance, certification, and Metro procurement processes.
- C. **Package Contracting Opportunities** - Examine alternatives for arranging public contract solicitations by type of work, subcontracting opportunities and partnerships so as to enhance the possibility of participation by COBID Certified Businesses.
- D. **Internal Education** - Provide periodic training and continuing education to Departments to ensure awareness of Program objectives and desired activities.

V. PROGRAM SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC CONTRACTS OTHER THAN PUBLIC IMPROVEMENTS

- A. **Small Procurements** - For small procurements (~~\$10,000~~25,000 and under), Departments are strongly encouraged to review the COBID certification directory for firms in the category of work being solicited before awarding the contract.
- B. **Intermediate Procurements** - For intermediate procurements (exceeding ~~\$10,000~~25,000 but not exceeding ~~\$150,000~~250,000), Departments are required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. The Procurement Officer may waive the foregoing direct solicitation requirement if, upon review of the COBID certification directory, there are no such businesses qualified in the category of work being solicited. As an alternative to the direct solicitation requirement, Departments may instead advertise the intermediate contracting opportunity broadly on Metro's Electronic Procurement System.
- C. **Formal Procurements** - For formal procurements (over ~~\$150,000~~250,000), Departments are required to broadly advertise the competitive contracting opportunity on Metro's Electronic Procurement System. In addition, all formal procurements shall also be advertised in at least one minority-focused publication.
- D. **Proposal Scoring** - For requests for proposals procuring contracts for goods and services or personal services, 20% of the total available scoring points shall be based on the following Program criteria: COBID certification, firm demographics, support for workforce diversity, and, if applicable, utilization of COBID-certified subcontractors.
- E. **Exceptions to Requirements** - The Program solicitation and scoring requirements set forth in this Section V are not applicable to emergency procurements, sole source procurements, or any other special procurements that allow for direct award of a contract without competitive solicitation.

VI. PROGRAM SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC IMPROVEMENT CONTRACTS

- A. **Small Procurements** - For procurements of small public improvement contracts (~~\$10,000~~\$25,000 and under), Departments are strongly encouraged to review the COBID certification directory for firms in the category of work being solicited before directly awarding the contract.
- B. **Intermediate Procurements (Competitive Quotes)** - Subject to the applicable Mandatory COBID Marketplace rule provided for below in Section VII(B), for intermediate procurement of public improvement contracts based off competitive quotes (exceeding ~~\$10,000~~\$25,000 but not exceeding \$100,000), Departments are required to directly solicit at least one minority-owned business, one woman-owned business, one business that a service-disabled veteran owns and one emerging small business. The Procurement Officer may waive the direct solicitation requirement if, upon review of the COBID certification directory, there are no such businesses qualified in the category of work being solicited. As an alternative to the direct solicitation requirement, Departments may instead advertise the intermediate contracting opportunity broadly on Metro's Electronic Procurement System.
- C. **Formal Procurements** - For formal procurements of public improvement contracts (over \$100,000), Departments are required to advertise the competitive contracting opportunity broadly on Metro's Electronic Procurement System. In addition, all formal procurements of public improvement contracts (over \$100,000) shall also be advertised in at least one minority-focused publication.
- D. **Proposal Scoring** - For public improvement contracts procured through alternative contracting methods, 20% of the total available scoring points will be based on the following Program criteria: COBID certification, firm demographics, support for workforce diversity, and, if applicable, utilization of COBID-certified subcontractors.
- E. **Exceptions to Requirements** - The Program solicitation and scoring requirements set forth in this Section VI are not applicable to emergency procurements or any other special/alternative procurements that allow for direct award of a public improvement contract without competitive solicitation.

VII. COBID MARKETPLACE

- A. **Elective Direct Award for Personal Services Contracts** - Departments may directly award a personal services contract that exceeds \$10,000 without following otherwise required competitive solicitation procedures if (i) the contractor is a COBID Certified Business, and (ii) the contract is for an amount that does not exceed \$150,000. All other rules and procedures applicable to personal services procurements set forth in the Metro Personal Services Contracting Manual remain applicable (e.g., contractor compliance, insurance, non-conflict of interest, etc.). A Department cannot enter into more than one direct award contract with an individual COBID Certified Business at a time. Once a Department has awarded a direct contract to a COBID Certified Business, they cannot award another direct contract to the same contractor until the work of the first directly-awarded contract is completed.

- B. **Elective Direct Award for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Contracts** - Departments may directly award a contract to a Consultant that exceeds \$~~10,000~~25,000 without following otherwise required competitive solicitation procedures if (i) the contractor is a COBID Certified Business, and (ii) the contract is for an amount that does not exceed \$100,000. All other rules and procedures applicable to procurements for Architectural, Engineering, Photogrammetric Mapping, Transportation Planning, or Land Surveying Services or Related Services Contracts set forth in Division 48 of the Metro Local Contract Review Board Rules remain applicable. A Department cannot enter into more than one direct award contract with an individual COBID Certified Business at a time. Once a Department has awarded a direct contract to a COBID Certified Business, they cannot award another direct contract to the same contractor until the work of the first directly-awarded contract is completed.
- C. **Mandatory Procedures for Public Improvement Contracts Under \$50,000** - For public improvement contracts that exceed \$~~10,000~~25,000 but are less than \$50,000, Metro shall only consider competitive quotes, bids, and proposals from COBID Certified Businesses. The Procurement Officer may waive this requirement after making a written determination that there is not a competitive pool of businesses on COBID's certification list available and qualified to perform the work in accordance with reasonably required standards. The mandatory procedures set forth in this Section VII(B) shall not apply to emergency procurements or any other alternative procurements that allow for direct award of a public improvement contract without competitive solicitation.

VIII. SUBCONTRACTOR EQUITY PROGRAM

Metro's Subcontractor Equity Program is intended to incorporate the standards for good faith efforts described in ORS 200.045. The purpose of the Subcontractor Equity Program is to provide equitable opportunities for COBID Certified Businesses to participate in subcontract opportunities created through Metro public improvement contracts.

Prime contractors who intend to subcontract any portion of the project work are required to fulfill the following actions in order to comply with the Subcontractor Equity Program:

- A. Contractor contacts all COBID Certified Businesses who attend the project's presolicitation or prebid meeting and who indicated an interest in any subcontracting to solicit bids for subcontracting or material supply opportunities;
- B. Contractor identifies and selects specific economically feasible units of the public improvement contract that COBID Certified Businesses may perform in order to increase the likelihood that COBID certified subcontractors will participate in the public improvement contract;
- C. Contractor provides written notice of the subcontracting opportunities to a reasonable number of specific COBID Certified Businesses in sufficient time to allow such enterprises or businesses to participate effectively;
- D. Contractor follows up on initial solicitations of interest to determine with certainty whether the COBID certified businesses are interested in the subcontracting opportunities;

- E. Contractor provides interested COBID Certified Businesses with adequate information about plans, specifications and requirements for subcontracting or material supply work in connection with the public improvement contract;
- F. Contractor negotiates with interested COBID certified subcontractors, and does not without justifiable reason reject as unsatisfactory bids or proposals that COBID enterprises or businesses prepare;
- G. Contractor advises and assists interested COBID certified subcontractors to obtain, when necessary, bonding, lines of credit or insurance that the contracting agency or contractor requires; and
- H. Contractor uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations that Metro identifies as providing assistance in recruiting COBID Certified Businesses for participation in public improvement contracts.

The Procurement Officer shall determine if any offer or proposal complies with requirements of the Subcontractor Equity Program. If the Subcontractor Equity Program documentation submitted by the offeror fails to substantially comply with the requirements of the solicitation document, the bidder/proposer shall be deemed non-responsible and shall be rejected by the Procurement Officer. Contractor is required to complete a monthly utilization report tracking progress toward the subcontracting plan outlined in the offer. Compliance with the Subcontractor Equity Program must be maintained during the entire period of the contract. Non-compliance may constitute a breach of contract.

IX. PRESOLICITATION EQUITY STRATEGY MEETING

For all formal, competitive procurements (personal services contracts and goods and services contracts over ~~\$150,000~~\$250,000; public improvement contracts over \$100,000), the Department project manager shall meet with the Procurement Officer prior to releasing a solicitation to discuss opportunities for setting aspirational goals for equity and diversity. Such aspirational goals may include, but are not limited to, focus on COBID certified prime contracting, subcontractor utilization, workforce diversity, mentorship, training, and any other areas identified by the Procurement Officer which will likely result in the advancement of equity and diversity related to the procurement.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 23-5360, FOR THE PURPOSE OF AMENDING METRO'S CONTRACTING AND PROCUREMENT ADMINISTRATIVE RULES

Date: December 7, 2023

Prepared by: Gabriele Schuster,
Procurement Manager, Ext 1577

BACKGROUND

The Metro Local Contract Review Board has adopted contracting and procurement administrative rules that direct the process by which Metro contracts for goods and services, personal services and construction services. The last significant changes to the contracting and procurement administrative rules were in July, 2022. Staff has since been monitoring the rules for effectiveness to Metro procurements and has identified areas that would benefit from minor revisions.

The proposed changes to Metro's contracting and procurement administrative rules reflect revisions that have been made to the Oregon Contracting Code (ORS 279A, B and C), which state law revisions increased the small purchasing thresholds for goods and services, personal services, and public improvements from \$10,000 to \$25,000 and the intermediate purchasing threshold for all contracts except for public improvements from \$150,000 to \$250,000. The proposed changes to Metro's contracting and procurement administrative rules will align Metro's rules with the new Oregon Contracting Code thresholds that go into effect on January 1, 2024.

Redlined versions of the administrative rules are attached to this report.

ANALYSIS/INFORMATION

1. **Known Opposition.** None known.
2. **Legal Antecedents.** Oregon Revised Statutes Chapter 279A, B,C. Senate Bill (SB) 1047 (2023). Metro Local Contract Review Board Rules; Metro Personal Services Contracting Rules; Metro Equity in Contracting Rules
3. **Anticipated Effects.** Revises Metro's contracting and procurement administrative rules to be consistent with recent changes in state law and increase effectiveness.
4. **Budget Impacts.** None.

RECOMMENDED ACTION

Staff recommends adoption of the revised contracting and procurement administrative rules by the Metro Local Contract Review Board.