

28-30 Regional Flexible Funds – Step 1A.1 Bond Draft Conditions of Approval and IGA Provisions

As part of the 28-30 Regional Flexible Funds – Step 1A.1 process, Metro has been identified as a potential borrower for bond funds. Should Metro agree to be the borrower, the agency will include conditions on each commitment of project funding that address the circumstances and timing of issuing bonds. Conditions are needed to protect Metro from the liabilities of drawing forward revenues if situations at the federal level or project level change or for other extraordinary events. This is especially important due to the uncertain federal funding environment under the current administration and the need for large federal discretionary grants to deliver the proposed projects.

Project conditions may be set out as part of the legislative materials approving the Regional Flexible Fund bond proposal. However, these conditions do not imply a commitment to bonding. A final action on serving as a borrower for RFFA bonding will be at the sole discretion of the Metro Council. Metro may also delegate the borrower role to another agency willing to issue bonds consistent with this legislation. In such case, the board of that agency assumes the roles and responsibilities defined here for oversight of the bonding process. However, Metro may not delegate the Metro Council's role in approving projects as a part of the MPO Board decision making authority.

Legislative Overarching Bond Conditions

- Metro may choose not to pursue bonding of Regional Flexible Funds if the federal government decides to pause, eliminate, or significantly reduce federal transportation discretionary grant programs or formula funds.
- Metro may choose not to pursue bonding with Regional Flexible Funds should the necessary intergovernmental agreements not be in place to exchange federal Regional Flexible Funds for local dollars. Any fund exchange package must encompass a schedule to support long-term debt service that equates to \$88.5 million in bond revenues to support the advancement of all five projects.
- Should Metro agree to serve as the borrower, executed intergovernmental agreements between Metro, the lead agency of the bond recipient projects and (if necessary) the project delivery agency shall be in place prior to Metro bonding Regional Flexible Funds and disbursing proceeds to the projects.
- Should Metro as the local borrower decide not to issue bonds, MPO staff would return to JPACT and the Metro Council as the MPO board for new direction regarding the use of regional flexible funds initially identified for bond purposes.
- Should all necessary fund exchange actions, bond arrangements and project agreements proceed, Metro would seek to advance a first issuance of bonds when one or more of the FTA Capital Investment Grant (CIG)-eligible projects is ready to develop a formal request for a construction grant agreement.
 - If any one of the CIG projects has not submitted a formal request for a construction grant agreement by March 1, 2027, Metro staff will review the project schedules and work phases to be funded with RFFA bond proceeds of the Burnside Bridge and Sunrise Corridor projects and consider:
 - the viability of the package of five RFFA bond agreement projects still proceeding, and

- the cash flow timing and needs from the RFFA bond agreement for the Burnside Bridge and Sunrise Corridor projects to proceed, and
- options for alternative timing and methods of cash flow contributions to the five RFFA bond agreement projects that maximize purchasing power of RFFA funds while still supporting the agreed to contribution of RFFA funds to the bond package of projects.
- If all five projects remain viable within the timeframe of the federal fiscal year of 2028-30 RFFA funding, Metro will manage RFFA programming, bonding, and project cash flow consistent with the 2028-30 RFFA legislation and subsequent bond arrangements and project agreements.
- If a modification to the RFFA bond agreement package of five projects is needed because one or more projects is no longer viable within the FY2028-30 RFFA time frame, MPO staff, in consultation with TPAC, will return to JPACT and the Metro Council to seek new direction for the RFFA bond agreement.
- Should Metro take on the role of borrower, the Metro Council, as the board of the borrowing agency, would act as the oversight body for the Regional Flexible Fund bond, unless Metro has delegated the borrower agency to another agency. Metro staff will keep JPACT apprised of any issues that may arise.

General Conditions – Applicable to All Bond Projects

- Bond proceeds are awarded to the projects, not to the lead agency delivering the project.
- Bond proceeds must be utilized on activities pertaining to the delivery of the identified project in the adopting legislation. The lead agency does not have the discretion to change the use of bond proceeds. The Intergovernmental Agreement between the borrower and the lead agency will include change management procedures.
- The bond proceeds amount awarded to each project in the legislation approved by JPACT and Metro Council is the total amount of bond proceeds available to the project. The lead agency is expected to cover any cost overruns or unexpected costs to emerge. It is understood by the lead agency that Metro and the Regional Flexible Funds program does not have any further financial commitment or responsibility beyond providing the amount awarded.
- If a bond recipient project is determined to be unfeasible or is completed without expending all bond proceeds awarded, any remaining bond proceeds for that project shall be returned to Metro and any remaining bond program capacity shall revert back to the Regional Flexible Fund allocation process.
- The lead agency of the bond project must execute an Intergovernmental Agreement with Metro prior to receiving or incurring bond proceed funded expenditures.
- A bond recipient, as the project lead agency, will execute an IGA with Metro that includes the following:
 - A scope of work with defined milestones, deliverables, cost per milestone/deliverable, and outcomes for defining success for the project.
 - A detailed schedule for the delivery of the project according to the scope of work.

- An updated project cost estimate and budget that specifies the use of the Regional Flexible Funds bond proceeds. [Note: The cost estimate must include reasonable contingency based on current phase of project development.]
- Identification of roles and responsibilities among the project partners, including Metro.
 - If necessary, Metro may require a supplemental agreement such as a Memorandum of Understanding codifying the roles and responsibilities of project partners.
- A financial plan that defines all match sources and the details of how Regional Flexible Fund bond proceeds will be used, including how the Regional Flexible Funds bond-funded aspects of the project will be completed regardless of other funding constraints.
- A project funding contingency plan that outlines strategies for the project to move forward even in the event of an impact to the financial plan.
- Evidence of commitment of local matching funds, and all proposed project funds, to expend with the bond proceeds.
- Terms for determining how bond proceeds to the project may be withdrawn or disbursed based on the project circumstances and terms and procedures regarding any excess funds.
- Bond issuance will only take place if projects are ready to spend bond proceeds based on an approved project financial plan and when funding from other sources is secured or committed. If funding from other sources is contingent on the bond funds being committed, the project team will work with the bond agent to determine the necessary documentation to fulfill the stated requirement.
- All bond recipients are required to deliver the project scopes as written and described in the 2028-2030 Regional Flexible Fund adopting legislation and further defined and agreed upon in the Intergovernmental Agreement.
- All bond recipients are required to expend the local matching funds consistent with the 2028-2030 Regional Flexible Fund adopting legislation.
- The bond recipient project team is expected to carry out public involvement processes and document the engagement activities. Public involvement activities at a minimum need to meet Metro public engagement guidelines and federal Civil Rights requirements. As appropriate, local data and knowledge shall be used to supplement analysis and inform public involvement.
- All bond proceed projects will include Metro staff participation in the following project development and delivery activities. Further definition of the activities and Metro's participation are expected as part of the development of the project Intergovernmental Agreements. These include and are not limited to:
 - Participation in project coordination meetings and reviews.
 - Participation in completing project initiation activities, including completing a project scoping document with a thorough scope, schedule and budget with milestones and deliverables.
- Bond recipients will support the regional data repository of the transportation network maps by providing to Metro the relevant network data to be added or adjusted according to the project. Metro will provide guidelines on network data submissions upon request.

- If the bond project includes Intelligent Transportation Systems (ITS) elements in the project scope, those elements will be consistent with National ITS Architecture and Standards and Final Rule (23 CFR Section 940) and Regional ITS Architecture.
 - This includes completing a systems engineering process during project development to be documented through the systems engineering form and submitted to Metro for inventory purposes. For further guidance, consult ODOT's ITS compliance checklist.
- Bond recipients implementing Transportation System Management and Operations (TSMO) elements will provide information to Metro on the TSMO elements for inventory purposes.
 - Metro will provide guidelines on how to provide TSMO data submissions.
- The bond proceed recipients shall acknowledge Metro as a funding partner. Acknowledgement will attribute credit to Metro on all project materials (print or electronic), such as reports, newsletters, booklets, brochures, web pages, and social media posts. Attribution on materials must read "Made possible with support from Metro." If marketing is done with audio only, spoken attribution language must be "This project is made possible with support from Metro." The local jurisdiction/sponsor delivering the project will include the Metro logo on all print ads, banners, flyers, posters, signage, and videos. Bond recipient will include the Metro logo on all marketing and advertising materials, both print and online (size permitting). Metro will provide partners with Metro logos and usage guidelines. Lastly, the bond recipient will extend invitations to Metro Councilors to attend events or engagements pertaining to the project.

Project Specific Conditions: Large Capital Transit Projects with Federal Transit Administration Capital Investment Grant Funds

82nd Avenue Transit Project

- Bond proceeds are only eligible for construction activities, unless otherwise requested and approved by Metro for other project delivery activities.
- Bond proceeds will not be released until a financial plan identifying committed funds for the project has been provided and vetted by Metro.
 - The bond recipient will specifically address the risks and mitigations to project funding as part of the finance plan and contingency plan.
- TriMet staff will coordinate with Metro staff on specific project delivery and monitoring activities:
 - MTIP and STIP programming to a realistic project delivery schedule to meet funding obligation targets.
 - Quarterly Progress Updates, providing updates on project delivery, including coordination activities with ODOT Region 1 leadership and the terminus property owner; and addressing questions raised by the Metro advisory committees.
- Should Metro serve as the borrower, TriMet must certify that the project has achieved the milestones required to access bonded funds before Metro issues and dispenses bond proceeds to the project. Metro and TriMet staff will identify the milestones and certification procedures during the development of Intergovernmental Agreements around bond funding.

Tualatin Valley Highway Transit Project

- Bond proceeds are only eligible for construction activities, unless otherwise requested and approved by Metro for other project delivery activities.
- Bond proceeds will not be released until a financial plan identifying committed funds for the project has been provided and vetted by Metro.
 - The bond recipient will specifically address the risks and mitigations to project funding as part of the finance plan and contingency plan.
- TriMet staff will coordinate with Metro staff on specific project delivery and monitoring activities:
 - MTIP and STIP programming to a realistic project delivery schedule to meet funding obligation targets.
 - Quarterly Progress Updates, providing updates on project delivery, including right of way and coordination activities with ODOT Region 1, the Union Pacific Railroad, and the Portland Western Railroad, and addressing questions raised by the Metro advisory committees.
- Should Metro serve as the borrower, TriMet must certify that the project has achieved the milestones required to access bonded funds before Metro issues and dispenses bond proceeds to the project. Metro and TriMet staff will identify the milestones and certification procedures during the development of Intergovernmental Agreements around bond funding.

Portland Streetcar Montgomery Park Extension

- Bond proceeds are only eligible for construction activities, unless otherwise requested and approved by Metro for other project delivery activities.
- Bond proceeds will not be released until a financial plan identifying committed funds for the project has been provided and vetted by Metro.
 - The bond recipient will specifically address the risks and mitigations to project funding as part of the finance plan and contingency plan.
- Should Metro serve as the borrower, PBOT and TriMet must certify that the project has achieved the milestones required to access bonded funds before Metro issues and dispenses bond proceeds to the project. Metro, TriMet and PBOT staff will identify the milestones and certification procedures during the development of Intergovernmental Agreements around bond funding.
- PBOT and TriMet staff will coordinate with Metro staff on specific project delivery and monitoring activities:
 - MTIP and STIP programming to a realistic project delivery schedule to meet funding obligation targets.
 - Quarterly Progress Updates, providing updates on project delivery, including right of way and coordination activities with adjacent property owners, and addressing questions raised by the Metro advisory committees.

Project Specific Conditions: Large Capital Transportation Project with Federal Funding

Earthquake Ready Burnside Bridge

- Bond proceeds are only eligible for construction activities, unless otherwise requested and approved by Metro for other project delivery activities.
- Bond proceeds will not be released until a financial plan identifying committed funds for the remaining project shortfall has been provided and vetted by Metro.
- Metro staff will participate in the following specific project delivery & monitoring activities:
 - MTIP and STIP programming to a realistic project delivery schedule that accounts for meeting funding obligation targets.
 - Quarterly Progress Updates, providing updates on project delivery, including the right of way negotiation and acquisition process, and addressing questions raised by the Metro advisory committees.
- An oversight protocol will be developed as part of the Intergovernmental Agreement development to ensure the necessary milestones have been met prior to issuing and dispensing bond proceeds to the project.

Project Specific Conditions: Large Corridor Planning and Project Development

Sunrise Gateway Corridor

- As part of the negotiations on the intergovernmental agreement (IGA), Metro, ODOT, and Clackamas County will establish a separate agreement which defines the roles and responsibilities of each agency and decision-making. The IGA will also address participation in the planning and project development work for public transit service providers that serve the corridor.
- ODOT and Clackamas County staff will coordinate with Metro staff on specific project delivery and monitoring activities.

Note: Metro staff will continue to work with Clackamas and ODOT staff on project specific conditions relevant to the proposed scope of work for inclusion in the July 2025 TPAC and JPACT materials.