

## **2028-2030 RECOMMENDED REGIONAL FLEXIBLE FUND STEP 2 PROJECT AWARDEE CONDITIONS OF APPROVAL**

Conditions of approval are mechanisms to ensure that projects are planned, designed, and built consistent with the project applications as approved by JPACT and Metro Council, with federal regulations, and with regional program policies. Metro may review projects at any point in the process for consistency with the conditions of approval and may take action to ensure projects comply.

There are two sets of conditions which apply to Regional Flexible Fund-awarded projects: 1) conditions which apply to all projects; and 2) project-specific conditions.

The conditions applied to all projects outline expectations pertaining to the use of funds, project delivery, community engagement, and project communications. The project-specific conditions outline expectations to create the best project possible in accordance to regional program policies and federal regulations. Recognizing that projects are at different stages of development (i.e. some are in planning phases while others are ready for construction), Metro may choose to waive or modify certain conditions for a project based on what is appropriate for the project's stage in development.

### **Conditions applied to all projects and programs:**

1. Funding is awarded to the project as outlined in the JPACT-approved and Metro Council-adopted 2028-2030 Regional Flexible Fund Allocation (RFFA). If any project is determined to be unfeasible or is completed without expending all of the awarded Regional Flexible Funds, any remaining Regional Flexible Funds shall revert back to Metro to the regional pool for future distribution. Alternatively, the project sponsor/local jurisdiction with the project receiving the Regional Flexible Funds may request reallocation and reprogramming of the funds to another project per the Metropolitan Transportation Improvement Program (MTIP) amendment process. Depending on the nature of the reallocation request, JPACT and Metro Council approval may be required.
2. The award amount is the total amount of Regional Flexible Funds provided to deliver the awarded project as it is defined in the project application and as approved by JPACT and Metro Council. The project sponsor/local jurisdiction is expected to resolve any cost overruns or unexpected costs to emerge. Metro and the Regional Flexible Fund program does not have any further financial commitment or responsibility beyond providing the amount awarded.
3. Project scopes shall reflect what was included in the project application narratives and project refinements in response to comments. Refined project schedules and budgets will be determined during the pre-implementation phase following adoption of the 2028-2030 RFFA. Changes to project scope, schedule, and budget must be requested and made in writing to the MTIP Project Manager following the amendment procedures adopted in the MTIP (Please see the Administration section of the active MTIP.) Changes to project scope must be approved by Metro to ensure the original intent of the project is still being delivered.

4. All projects shall follow the design approach and decision-making process as defined in the [Designing Livable Streets and Trails Guide](#)<sup>1</sup> (Metro; 3<sup>rd</sup> edition; October 2019 and any updates in effect at the time a funding intergovernmental agreement is signed.) Other street and trail design guidelines, including those developed by local jurisdictions, the National Association of City Transportation Officials, the Institute of Transportation Engineers, the Oregon Department of Transportation, the American Association of State Highway and Transportation Officials, and the Federal Highway Administration, may also be referred to as long as the design approach and decision making process used are consistent with Metro's guidelines. Additionally, all bicycle and pedestrian projects shall implement sufficient wayfinding signage consistent with sign guidelines in Metro's [Intertwine Regional Trails Signage Guidelines](#)<sup>2</sup> (Metro; 2<sup>nd</sup> edition; December 2017) and the Manual on Uniform Traffic Control Devices.
5. All projects shall update local network maps and provide relevant network data to Metro. Metro will provide guidelines on network data submissions upon request.
6. All projects with Intelligent Transportation Systems (ITS) elements shall be consistent with the Architecture Reference for Cooperative and Intelligent Transportation (ARC-IT; previously called the National ITS Architecture), included in Final Rule (23 CFR Section 940) and Regional ITS Architecture.<sup>3</sup> This includes completing a systems engineering process during project development to be documented through the ITS systems engineering checklist (request form and submit to [tsmo@oregonmetro.gov](mailto:tsmo@oregonmetro.gov)) for inventory purposes. For further guidance, consult ODOT's ITS compliance checklist.<sup>4</sup>
7. All projects implementing Transportation System Management and Operations (TSMO) elements shall provide information to Metro on the TSMO elements, referencing specific connections to the 2021 TSMO Strategy found in Chapter 4, Performance Measures and/or Chapter 5, Actions, for program evaluation purposes.<sup>5</sup> Specific connections shall be emailed to [tsmo@oregonmetro.gov](mailto:tsmo@oregonmetro.gov).
8. All local jurisdiction/project sponsors 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. The jurisdiction/project sponsors shall 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 upon request. Lastly, the local jurisdiction/project

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<sup>1</sup> <https://www.oregonmetro.gov/tools-partners/guides-and-tools/guidelines-designing-livable-streets-and-trails>

<sup>2</sup> <https://www.oregonmetro.gov/sites/default/files/2018/01/05/2017-Intertwine-Trail-sign-guidelines.pdf>

<sup>3</sup> ARC-IT is here <https://www.arc-it.net/index.html> and the Regional ITS Architecture will be updated in the next two years. Until then refer to the 2016 version:

[https://www.oregonmetro.gov/sites/default/files/2017/10/18/TransPort%20ITS%20Architecture%20Report\\_2016-12-16.pdf](https://www.oregonmetro.gov/sites/default/files/2017/10/18/TransPort%20ITS%20Architecture%20Report_2016-12-16.pdf)

<sup>4</sup> <https://www.oregon.gov/odot/Maintenance/Documents/ITS-QualityPlan.pdf>

<sup>5</sup> <https://www.oregonmetro.gov/sites/default/files/2022/08/22/2021-Regional-Transportation-System-Management-Operations-Strategy-20220106.pdf>

sponsor shall extend invitations to Metro Councilors to attend events or engagements pertaining to the project.

9. All projects shall carry out public involvement processes to meet federal and state requirements including Title VI requirements. As appropriate, local data and knowledge shall be used to supplement analysis and inform public involvement. Metro guidelines for public involvement can be found in Metro's [Public Engagement Guide](#) (April 2024), with guidance specific to transportation planning in Appendix D of the guide.<sup>6</sup>
10. All projects shall ensure compliance with applicable local, state and federal laws, regulations and policies pertaining to protection of archeological, cultural or historic resources, ancestral human remains, cultural areas or landscapes, and natural resources. This includes all pertinent and required compliance responsibilities with Section 106 of the National Historic Preservation Act that come as a recipient of federal funding through the Regional Flexible Funds Allocation.
11. All construction projects shall implement transportation demand management (TDM) strategies/ activities in conjunction with the delivery and opening of the project to enhance the success and performance of the project. Local jurisdiction/project sponsors must request and receive Metro approval to waive the requirement for transportation demand management activities. Agencies that intend to use Regional Flexible Funds within their awarded project budget for TDM activities shall identify to Metro the amount needed to complete the activities. Metro will program the Regional Flexible Funds for TDM activities as a separate MTIP project to avoid construction phase conflicts with the IGA between ODOT and the local jurisdiction/project sponsors.
12. All projects shall measure the progress and performance of the Regional Flexible Funds awarded project. Local jurisdictions/project sponsors shall identify a set of indicators for data collection and pre-and post-project monitoring. Metro will provide input and feedback into the indicators and datasets, especially to help respond to regional transportation performance measures. Indicators may be determined as early as the pre-implementation phase of the project.
13. Metro anticipates that projects awarded to local agencies that are not certified in the federal-aid highway project delivery process (Non-Certified Agencies) will be delivered by the Oregon Department of Transportation (ODOT). ODOT Delivered Local Agency Projects (ODLAP) are expected to comply with ODLAP program requirements and conduct project pre-implementation activities including completion of the project's Technical Scoping Sheet and Environmental Prospectus. The ODLAP program requirements include:
  - facilitate programming the Regional Flexible Funds into the Metropolitan Transportation Improvement Program (MTIP) and the Statewide Transportation Improvements Program (STIP) to meet funding obligation targets;
  - initiate development and execution of the Intergovernmental Agreement (IGA); and
  - enable timely obligation and expenditure of awarded federal funds for the project.

The awarded local agency is required to complete or participate in the following project delivery and monitoring activities:

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<sup>6</sup> <https://www.oregonmetro.gov/sites/default/files/2024/08/20/metro-public-engagement-guide-a11y-remediated-20240724.pdf>

- Designation of a qualified person(s) as the project manager to support project delivery
- Satisfactory completion of the project's Technical Scoping Sheet
- Satisfactory completion of the project's Environmental Prospectus
- Complete and execute a project IGA in time to obligate funds as programmed
- Participate in project coordination meetings and reviews
- Participation in Project Delivery Actions, including attending project kick-off meetings, Project Development Team (PDT) review meetings, completing and submitting project Milestone Reports and Progress Updates, participating in Plans, Specifications and Estimate (PS&E) deliverables review, supporting the permitting and land use review approvals process, providing any performance measurement project data, providing project delivery status updates, and addressing questions raised by the Metro advisory committees
- Providing project close-out/final reports and billings

**Conditions applied to specific projects (alphabetical order by coordinating committee and jurisdiction):**

**Clackamas County**

**City of Gladstone: Historic Trolley Trail Bridge**

- The project shall confirm the roles and responsibilities of interagency coordination and project delivery between the City of Gladstone, Clackamas County as the certified agency to delivery the project, ODOT Region 1, and any other affected jurisdiction. As part of confirming roles and responsibilities, the project shall also identify points of contact and each partner's roles and responsibilities to advance the project. Executing Intergovernmental Agreements (IGAs) between all affected jurisdictions to document each partner's roles and responsibilities may be necessary.
- As noted in the risk assessment, the complexity of the utilities and emergency infrastructure (i.e. fire hydrant) relocation and mitigations for construction necessitates an increased level of coordination. The project shall emphasize coordination among electric, natural gas, and environmental services utilities.
- The complexity of the number of easements and permits necessitates that the project to coordinate with Water and Environmental Services, the Urban Renewal Agency of Oregon City, the Oregon Division of State Lands, the U.S. Army Corps of Engineers (USACE), the Oregon Department of Environmental Quality (DEQ), and the Oregon Department of Fish and Wildlife (ODFW) for acquiring the appropriate easements and permits.
- There is a high probability the project will need to conduct additional cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

### **City of Milwaukie: Railroad Avenue Multiuse Path: 37th Avenue to Linwood Avenue**

- The project shall coordinate with Union Pacific Railroad (UPRR) to determine whether permanent or temporary easements from UPRR are required.
- There is a high probability the project will need to initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- Any project development activities which result in ground disturbance in the project area shall require the project to develop and implement an Inadvertent Discovery Plan (IDP).

### **City of Oregon City: OR99E (McLoughlin Boulevard) 10th Street to tumwater village: Streetscape Enhancements Project Development**

- As the Regional Flexible Fund awardee, the City of Oregon City is responsible to ensure awarded Regional Flexible Funds are used for activities consistent with the project intent and scope as described in Step 2 application and advances the regional policy objectives which supported its award of funding.
- The project shall define the roles and responsibilities of interagency coordination between the City of Oregon City as the agency awarded the Regional Flexible Funds and ODOT Region 1 as the project delivery agency, and ODOT Region 1 as the facility owner maintaining OR 99E within the vicinity of the proposed improvements.
- The project shall coordinate with all transit providers/operators in the project area and the nearby transit center. Providers include, but not limited to: TriMet, Canby Area Transit, and Clackamas County shuttle services.
- The project's lead agency shall coordinate with Water Environmental Services (WES) to address the required mitigations for planning and engineering.
- There is a high probability the project will need to conduct additional cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- Any project development activities which result in ground disturbance in the project area shall require the project to develop and implement an Inadvertent Discovery Plan (IDP).

### **East Multnomah County**

#### **City of Gresham: NW Division Street Complete Street: Gresham-Fairview Trail - Birdsdale Avenue**

- The City of Gresham is expected to conduct community outreach and engagement activities throughout the design and development of the project with an emphasis on community engagement activities ahead of developing the 30% project design milestone.

- There is a medium probability the project will need to conduct initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

**Multnomah County: NE 223rd Ave: NE Glisan to NE Marine Dr Safety Corridor Planning**

- Throughout the planning process Multnomah County shall coordinate with adjacent and intersecting land/facility owners, including Union Pacific Railroad, TriMet, the City of Fairview, and the City of Wood Village.
- There is a high probability the project will need to initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- Any project development activities which result in ground disturbance in the project area shall require the project to develop and implement an Inadvertent Discovery Plan (IDP).

**City of Portland**

**Portland Bureau of Transportation: NE Glisan St: 82nd Avenue Multimodal Safety and Access**

- As the project lead agency, the City of Portland shall coordinate with TriMet to ensure the proposed travel lane alterations and other proposed enhancements do not adversely affect transit operations.
- There is a low probability the project will need to conduct cultural resources and archaeological research. Nonetheless, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

**Portland Bureau of Transportation: NE MLK Jr Blvd Safety and Access to Transit**

- As the project lead agency, the City of Portland will coordinate with TriMet to ensure proposed pedestrian crossing enhancements and signal timing modifications do not adversely impact transit operations.
- There is a high probability the project will need to initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to

conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.

- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

## **Washington County**

### **City of Tigard: North Dakota Street (Fanno Creek) Bridge Replacement**

- Prior to the programming of the Regional Flexible Fund award for the project, the City of Tigard shall submit either: 1) a funding strategy and plan defining all funding sources required to fund the project through completion and addressing the remaining deficit; or 2) a proposed scaled project buildable with funds secured that constructs a bridge over Fanno Creek on North Dakota Street that serves the purpose of a connected and low stress bicycle and pedestrian facility agreed to by Metro.
- As a project which has already commenced as a result of receiving ODOT Local Bridge Program funding, the project shall ensure that the identified ODOT approvals regarding amended IGAs, consultant contracts, amended MTIP and STIP programming, and rail entity agreements have been met. As noted in the risk assessment, the project has significant complexities. As a result, the project shall conduct close coordination with Washington County, ODOT Rail, Union Pacific Railroad (UPRR), Portland & Western Railroad, Clean Water Services (CWS), utility providers, landowners to address relocation work, mitigations, and right of way acquisitions, easements, and temporary construction easements (TCEs).
- There is a medium probability the project will need to initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

### **Tualatin Hills Parks and Recreation District (THPRD): Westside Trail Pedestrian and Bicycle Bridge Over Highway 26**

- Prior to the programming of the Regional Flexible Fund award for the project, THPRD shall submit a funding strategy defining all funding sources required and anticipated schedule for securing to fund the project through completion. As part of the funding strategy, THPRD should include a formal plan of phasing the project in a manner to reduce the risk the Regional Flexible Funds from not getting obligated.
- The project shall define and identify the roles and responsibilities of interagency coordination and project delivery between Tualatin Hills Parks and Recreation District as the Regional Flexible Fund awardee, ODOT Region 1 as the project delivery agency, ODOT Region 1 as the facility owner of US 26, and any other affected jurisdiction including the City of Beaverton and Washington County. As part of confirming roles and responsibilities, the

project shall also identify points of contact and each partner's roles and responsibilities to advance the project. Executing Intergovernmental Agreements (IGAs) between all affected jurisdictions to document each partner's roles and responsibilities may be necessary.

- As noted in the risk assessment, the project has significant complexities. As a result, the project shall conduct close coordination with Bonneville Power Administration (BPA), Clean Water Services (CWS), the Oregon Department of State Lands (DSL), and the U.S. Army Corps of Engineers (USACE) to address utility adjustments or relocations required to meet clearance minimums, required mitigations for construction in a designated wetland area, and obtaining easements for construction.
- There is a low probability the project will need to conduct additional cultural resources and archaeological research. Nonetheless, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.

#### **Washington County: Cedar Mill Better Bus and Access to Transit Enhancements**

- The project shall coordinate with TriMet to ensure the proposed transit signal priority improvements and enhanced pedestrian crossings do not adversely affect transit operations in the project area.
- There is a medium probability the project will need to initiate and conduct cultural resources and archaeological research, which may include an archaeological survey of the project area, that meets current Oregon SHPO standards. Additionally, the project should prepare to conduct tribal consultation. The project should adequately budget for these activities. Refer to the 28-30 Regional Flexible Fund Step 2 Project Delivery Risk Assessment results for any further requirements.
- The project shall develop and implement an Inadvertent Discovery Plan (IDP) for all ground disturbance or construction activities in the project area.