

Council meeting agenda

Thursday, July 16, 2026

10:00 AM

Metro Regional Center, Council chamber;
<https://zoom.us/j/615079992> (Webinar ID:
615079992) or 253-205-0468 (toll free),
[https://www.youtube.com/watch?](https://www.youtube.com/watch?v=SqlTE5N8jB0)
v=SqlTE5N8jB0

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://zoom.us/j/615079992> (Webinar ID: 615 079 992); <https://www.youtube.com/@OregonMetro/streams>

1. Call to Order and Roll Call

2. Public Communication

Public comments are heard in person and by Zoom during most, but not all, Council meetings. Comments are limited to three minutes. Public comments relating to resolutions and ordinances are accepted during that agenda item, following a staff presentation. General public comments are heard at the beginning of the meeting. To sign up in person, fill out a blue card in the Council chamber and bring it to the clerk. To sign up virtually, please "Raise Hand" on Zoom during either general public comment or during the agenda item.

Written comments are accepted at any time. Those received by 4:00 p.m. the day before a Council meeting are distributed to Council prior to the meeting and included in the updated online materials after the meeting.

Signing up in advance is encouraged. Please contact legislativecoordinator@oregonmetro.gov or call (503) 81-7591 with your name and the topic you'd like to comment on. Please also reach out for any assistance.

3. Consent Agenda

- 3.1 Resolution No. 26-5619 For the Purpose of Amending or Adding Six projects to the 2024-27 MTIP to Meet Federal Project Delivery Requirements

[RES 26-5619](#)

Attachments: [Resolution No. 26-5619](#)
[Exhibit A](#)
[Exhibit B](#)
[Staff Report](#)

4. Resolutions

- 4.1 Resolution no. 26-5596 For The Purpose of Amending [RES 26-5596](#)
Metro's Procurement and Public Contracting
Administrative Rules

Presenter(s): Gabriele Schuster, Procurement Manager

Attachments: [Resolution No. 26-5596](#)

[Exhibit A](#)

[Exhibit B](#)

[Exhibit C](#)

[Staff Report](#)

- 4.2 Resolution No. 26-5600 For the Purpose of Amending [RES 26-5600](#)
Three I-5 Rose Quarter Projects to the 2024-2027 MTIP to
Meet Federal Project Delivery Requirements

Presenter(s): Gabriela Lopez, Senior Transportation Planner
Monica Blanchard, Interim Project Director, Oregon
Department of Transportation
David Kim, Project Delivery Manager, Oregon Department
of Transportation

Attachments: [Resolution No. 26-5600](#)

[Exhibit A](#)

[Exhibit B](#)

[Staff Report](#)

[Attachment 1 - Staff Memo on Major Project Assessment](#)

[Attachment 2 - Project Fact Sheet: Construction Phases](#)

5. Chief Operating Officer Communication

5.1 JPACT Update (Ted Leybold, Transportation Policy Director)

5.2 RPOC Update (Liam Frost, Housing Director)

6. Councilor Communication**7. Adjourn**

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សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

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

إشعار بعدم التمييز من Metro

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Metro

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

Agenda #: 3.1

File #: RES 26-5619

Agenda Date: 7/16/2026

Resolution No. 26-5619 For the Purpose of Amending or Adding Six projects to the 2024-27 MTIP to Meet Federal Project Delivery Requirements

BEFORE THE METRO COUNCIL

**FOR THE PURPOSE OF AMENDING OR
ADDING SIX PROJECTS TO THE 2024-27
MTIP TO MEET FEDERAL PROJECT
DELIVERY REQUIREMENTS**

) RESOLUTION NO. 26-5619
)
) Introduced by Chief Operating Officer
) Marissa Madrigal with concurrence of
) Council President Juan Carlos
) González

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 (USDOT) 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. 23-5335 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 USDOT 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, the formal amendment amends the 181st Ave Safety Upgrades: SE Stark St to E Burnside St project to add \$1,912,000 local funds to the Construction phase; and

WHEREAS, the formal amendment amends the NE Columbia: Cully Blvd & Alderwood Rd project to change the project description, increase the Utility Relocation phase by \$200,000 of local funds, increase the Construction phase by \$6,050,261 of local funds and Rail Highway Crossing Hazard funds, and change the Construction phase to FFY 2027; and

WHEREAS, the formal amendment amends the Stark/Washington St Signal ATC Upgrades: 76th Ave - 257th Ave project to reduce project location mileposts resulting in a change in project name and project description; and

WHEREAS, the project's Construction phase will be moved to FFY 2027 and reduced by \$218,350 to move \$156,235 to the Other phase and \$62,295 to the preliminary engineering phase; and

WHEREAS, the formal amendment amends the TriMet Preventive Maintenance Support Program (2027) and TriMet Bus Purchase (2027) projects to complete programming changes needed to ensure consistency with TriMet's Federal Transit Administration (FTA) Grant; and

WHEREAS, the projects will be amended to change the project names and descriptions, as well as move the projects to FFY 2028 in the unconstrained funding years of the MTIP; and

WHEREAS, the formal amendment adds the Tualatin River Wayfaring Project with \$22,282 of Recreation Trails Program funds with a local match of \$5,570 and overmatch of \$858 in the Other phase for FFY 2026; and

WHEREAS, the programming updates to the project are stated in Exhibit A to this resolution; and

WHEREAS, on June 5, 2026, Metro's Transportation Policy and Alternatives Committee recommended that JPACT approve this resolution; and

WHEREAS, on July 1, 2026, Metro completed a 30-day public comment period, as summarized in Exhibit B to this resolution; and

WHEREAS, on July 16, 2026, JPACT approved and recommended that the Metro Council adopt this resolution; now therefore

BE IT RESOLVED that the Metro Council adopts this resolution to amend or add six projects, as stated within Exhibit A, to the 2024-27 Metropolitan Transportation Improvement Program to meet federal project delivery requirements.

ADOPTED by the Metro Council this 16th day of July 2026.

Juan Carlos González, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 71397 - 181st Ave Safety Upgrades: SE Stark St to E Burnside St

ODOT Key 23555	RTP ID 10454	RFFA ID -	Lead Agency Gresham

Project Type Active Transportation	System Investment Type Capital Project	Total Cost \$5,454,501

Project Description

Complete safety upgrades and enhancements between Stark St and Burnside St including: new traffic signals, adding and rehabbing sidewalks, a buffered bike lane, street lighting improvements and street utility upgrades for greater pedestrian safety.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Community Project Funding / Congressionally Directed Spending	\$0	\$758,219	\$0	\$0	\$0	\$0	\$758,219
Preliminary Engineering	Local Match	\$0	\$86,782	\$0	\$0	\$0	\$0	\$86,782
Total Preliminary Engineering		\$0	\$845,001	\$0	\$0	\$0	\$0	\$845,001
Right of Way	Community Project Funding / Congressionally Directed Spending	\$0	\$0	\$390,325	\$0	\$0	\$0	\$390,325
Right of Way	Local Match	\$0	\$0	\$44,675	\$0	\$0	\$0	\$44,675
Total Right of Way		\$0	\$0	\$435,000	\$0	\$0	\$0	\$435,000
Construction	Community Project Funding / Congressionally Directed Spending	\$0	\$0	\$0	\$2,030,141	\$0	\$0	\$2,030,141
Construction	Local Match	\$0	\$0	\$0	\$232,359	\$0	\$0	\$232,359
Construction	Overmatch	\$0	\$0	\$0	\$1,912,000	\$0	\$0	\$1,912,000
Total Construction		\$0	\$0	\$0	\$4,174,500	\$0	\$0	\$4,174,500
Total Programmed		\$0	\$845,001	\$435,000	\$4,174,500	\$0	\$0	\$5,454,501

Previously Approved Amendment 71397 - 181st Ave Safety Upgrades: SE Stark St to E Burnside St

ODOT Key 23555	RTP ID 10454	RFFA ID -	Lead Agency Gresham

Project Type Active Transportation	System Investment Type Capital Project	Total Cost \$3,542,501

Project Description

Complete safety upgrades and enhancements between Stark St and Burnside St including: new traffic signals, adding and rehabbing sidewalks, a buffered bike lane, street lighting improvements and street utility upgrades for greater pedestrian safety.

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Community Project Funding / Congressionally Directed Spending	\$0	\$758,219	\$0	\$0	\$0	\$0	\$758,219
Preliminary Engineering	Local Match	\$0	\$86,782	\$0	\$0	\$0	\$0	\$86,782
Total Preliminary Engineering		\$0	\$845,001	\$0	\$0	\$0	\$0	\$845,001
Right of Way	Community Project Funding / Congressionally Directed Spending	\$0	\$0	\$390,325	\$0	\$0	\$0	\$390,325
Right of Way	Local Match	\$0	\$0	\$44,675	\$0	\$0	\$0	\$44,675
Total Right of Way		\$0	\$0	\$435,000	\$0	\$0	\$0	\$435,000
Construction	Community Project Funding / Congressionally Directed Spending	\$0	\$0	\$0	\$2,030,141	\$0	\$0	\$2,030,141
Construction	Local Match	\$0	\$0	\$0	\$232,359	\$0	\$0	\$232,359
Total Construction		\$0	\$0	\$0	\$2,262,500	\$0	\$0	\$2,262,500
Total Programmed		\$0	\$845,001	\$435,000	\$2,262,500	\$0	\$0	\$3,542,501

CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Cost and Funding Increase - Major
PROJECT CHANGES	Plan Revision Name changed from "AM26-07-APR" to "FFY26-NO.9-JUL"
FUNDING CHANGES	Overmatch + Increase funds in FY 2026 in CN from \$0 to \$1,912,000
FEDERAL PROJECT COST	Stays the same \$3,178,685
TOTAL PROJECT COST	Increased from \$3,542,501 to \$5,454,501 (53.97%)

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 70778 - NE Columbia Blvd: Cully Blvd & Alderwood Rd

ODOT Key 18837	RTP ID 10336	RFFA ID -	Lead Agency Portland

Project Type Roadway	System Investment Type Capital Project	Total Cost \$15,578,960

Project Description

Reconstruct the intersections of NE Columbia Blvd/Alderwood Rd and NE Columbia Blvd/Cully Blvd including the installation of new traffic signals at both locations, side-by-side left turn lanes between the intersections, roadway tapers east and west of the intersections, exclusive left and right turn lanes on Alderwood approaching Columbia, and pedestrian/bicycle facilities.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Local Match	\$213,616	\$0	\$0	\$0	\$0	\$0	\$213,616
Preliminary Engineering	STBG - Flex	\$1,686,488	\$0	\$0	\$0	\$0	\$0	\$1,686,488
Preliminary Engineering	STBG-RD25	\$179,896	\$0	\$0	\$0	\$0	\$0	\$179,896
Total Preliminary Engineering		\$2,080,000	\$0	\$0	\$0	\$0	\$0	\$2,080,000
Right of Way	Local Match	\$0	\$0	\$291,734	\$0	\$0	\$0	\$291,734
Right of Way	STBG - Flex	\$0	\$0	\$2,548,906	\$0	\$0	\$0	\$2,548,906
Total Right of Way		\$0	\$0	\$2,840,640	\$0	\$0	\$0	\$2,840,640
Construction	Local Match	\$0	\$0	\$0	\$0	\$455,788	\$0	\$455,788
Construction	Other	\$0	\$0	\$0	\$0	\$5,920,261	\$0	\$5,920,261
Construction	Rail HWY Cross Hazard	\$0	\$0	\$0	\$0	\$134,595	\$0	\$134,595
Construction	STBG - Flex	\$0	\$0	\$0	\$0	\$1,468,078	\$0	\$1,468,078
Construction	STBG - Urban	\$0	\$0	\$0	\$0	\$2,179,847	\$0	\$2,179,847
Construction	STBG-RD25	\$0	\$0	\$0	\$0	\$199,751	\$0	\$199,751
Total Construction		\$0	\$0	\$0	\$0	\$10,358,320	\$0	\$10,358,320
Utilities	Local Match	\$10,270	\$0	\$0	\$0	\$0	\$0	\$10,270
Utilities	Overmatch	\$0	\$0	\$0	\$200,000	\$0	\$0	\$200,000
Utilities	STBG - Flex	\$89,730	\$0	\$0	\$0	\$0	\$0	\$89,730
Total Utilities		\$100,000	\$0	\$0	\$200,000	\$0	\$0	\$300,000
Total Prior Costs		\$2,180,000	\$0	\$0	\$0	\$0	\$0	\$2,180,000
Total Programmed		\$2,180,000	\$0	\$2,840,640	\$200,000	\$10,358,320	\$0	\$15,578,960

Previously Approved Amendment 70778 - NE Columbia Blvd: Cully Blvd & Alderwood Rd

ODOT Key 18837	RTP ID 10336	RFFA ID -	Lead Agency Portland

Project Type Roadway	System Investment Type Capital Project	Total Cost \$9,328,700

Project Description

Install or replace a signal and construct a taper on Columbia Blvd's east leg at Alderwood for future side-by-side left-turn lanes between Cully and Alderwood. Construct sidewalks at the Columbia/Alderwood intersection and on N side to Cully. The project will keep Columbia Blvd a viable freight route while enhancing neighborhood connections and improving safety.

 Metro

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Slip Phase (FA) - Cost and Funding Increase - Major
PROJECT CHANGES	Description changed from "Install or replace a signal and construct a taper on Columbia Blvd's east leg at Alderwood for future side-by-side left-turn lanes between Cully and Alderwood. Construct sidewalks at the Columbia/Alderwood intersection and on N side to Cully. The project will keep Columbia Blvd a viable freight route while enhancing neighborhood connections and improving safety." to "Reconstruct the intersections of NE Columbia Blvd/Alderwood Rd and NE Columbia Blvd/Cully Blvd including the installation of new traffic signals at both locations, side-by-side left turn lanes between the intersections, roadway tapers east and west of the intersections, exclusive left and right turn lanes on Alderwood approaching Columbia, and pedestrian/bicycle facilities." Plan Revision Name changed from "FB25-07-FEB3" to "FFY26-NO.9-JUL" Flex Transfer to FTA changed from "None" to "No" FTA Conversion Code changed from "None" to "N/A"
FUNDING CHANGES	Local Match + Increase funds in FY 2027 in CN from \$0 to \$15,404 Other + Increase funds in FY 2027 in CN from \$20,000 to \$5,920,261 Overmatch + Increase funds in FY 2026 in UR from \$0 to \$200,000 Rail HWY Cross Hazard + Increase funds in FY 2027 in CN from \$0 to \$134,595
FEDERAL PROJECT COST	Increased from \$8,352,696 to \$8,487,291 (1.61%)
TOTAL PROJECT COST	Increased from \$9,328,700 to \$15,578,960 (67.00%)

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 71408 - Stark/Washington St Signal ATC Upgrades:76th Ave - 181st Ave

ODOT Key 23585	RTP ID 11104	RFFA ID -	Lead Agency Portland

Project Type Other	System Investment Type System Management & ITS	Total Cost \$1,859,289

Project 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.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Local Match	\$0	\$0	\$30,707	\$6,398	\$0	\$0	\$37,105
Preliminary Engineering	STBG - Urban	\$0	\$0	\$268,293	\$55,897	\$0	\$0	\$324,190
Total Preliminary Engineering		\$0	\$0	\$299,000	\$62,295	\$0	\$0	\$361,295
Construction	Local Match	\$0	\$0	\$0	\$0	\$130,066	\$0	\$130,066
Construction	STBG - Urban	\$0	\$0	\$0	\$0	\$1,136,404	\$0	\$1,136,404
Total Construction		\$0	\$0	\$0	\$0	\$1,266,470	\$0	\$1,266,470
Other	Local Match	\$0	\$0	\$7,732	\$16,045	\$0	\$0	\$23,777
Other	STBG - Urban	\$0	\$0	\$67,557	\$140,190	\$0	\$0	\$207,747
Total Other		\$0	\$0	\$75,289	\$156,235	\$0	\$0	\$231,524
Total Programmed		\$0	\$0	\$374,289	\$218,530	\$1,266,470	\$0	\$1,859,289

Previously Approved Amendment 71408 - Stark/Washington St Signal ATC Upgrades:76th Ave - 257th Ave

ODOT Key 23585	RTP ID 11104	RFFA ID -	Lead Agency Portland

Project Type Other	System Investment Type System Management & ITS	Total Cost \$1,859,289

Project 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.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Local Match	\$0	\$0	\$30,707	\$0	\$0	\$0	\$30,707
Preliminary Engineering	STBG - Urban	\$0	\$0	\$268,293	\$0	\$0	\$0	\$268,293
Total Preliminary Engineering		\$0	\$0	\$299,000	\$0	\$0	\$0	\$299,000
Construction	Local Match	\$0	\$0	\$0	\$152,510	\$0	\$0	\$152,510
Construction	STBG - Urban	\$0	\$0	\$0	\$1,332,490	\$0	\$0	\$1,332,490
Total Construction		\$0	\$0	\$0	\$1,485,000	\$0	\$0	\$1,485,000
Other	Local Match	\$0	\$0	\$7,732	\$0	\$0	\$0	\$7,732
Other	STBG - Urban	\$0	\$0	\$67,557	\$0	\$0	\$0	\$67,557
Total Other		\$0	\$0	\$75,289	\$0	\$0	\$0	\$75,289
Total Programmed		\$0	\$0	\$374,289	\$1,485,000	\$0	\$0	\$1,859,289

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Adjust funds (FA) - Project Name Change (FA) - Project limits change - Major
PROJECT CHANGES	Title changed from "Stark/Washington St Signal ATC Upgrades:76th Ave - 257th Ave" to "Stark/Washington St Signal ATC Upgrades:76th Ave - 181st Ave" Plan Revision Name changed from "End of Year 24" to "FFY26-NO.9-JUL" Flex Transfer to FTA changed from "None" to "No" RTP Performance Measures changed from "None" to "Safety" ODOT Project Type changed from "None" to "OP-ITS" Project Status changed from "None" to "Project Scheduled For Construction" Safety Project changed from "None" to "Yes" ODOT Work Class changed from "None" to "Safety & Traffic Control" Federal Performance Measures changed from "None" to "Roadway Safety" Federal Functional Class changed from "None" to "Minor Arterial" FTA Conversion Code changed from "None" to "N/A"
FUNDING CHANGES	STBG - Urban + Increase funds in FY 2026 in PE from \$0 to \$55,897 - Decrease funds in FY 2026 in OT from \$67,557 to \$0 - Decrease funds in FY 2025 in CN from \$1,332,490 to \$0 (TRANSLATION NEEDED) + Increase funds in FY 2025 in OT from \$0 to \$67,557 (TRANSLATION NEEDED) + Increase funds in FY 2026 in OT from \$0 to \$140,190 + Increase funds in FY 2027 in CN from \$0 to \$1,136,404 (TRANSLATION NEEDED) Local Match + Increase funds in FY 2026 in PE from \$0 to \$6,398 - Decrease funds in FY 2026 in OT from \$7,732 to \$0 - Decrease funds in FY 2025 in CN from \$152,510 to \$0 + Increase funds in FY 2025 in OT from \$0 to \$7,732 + Increase funds in FY 2026 in OT from \$0 to \$16,045 + Increase funds in FY 2027 in CN from \$0 to \$130,066
FEDERAL PROJECT COST	Increased from \$1,668,340 to \$1,668,341 (0.00%)
TOTAL PROJECT COST	Stays the same \$1,859,289

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 71292 - TriMet Bus/Rail Preventative Maintenance program (2028)

ODOT Key 23184	RTP ID 10855, 10928	RFFA ID 50431	Lead Agency TriMet
Project Type Transit	System Investment Type Capital Project	Total Cost \$4,516,049	

Project Description

Metro's STBG funds are exchanged with TriMet local funds under the Metro-TriMet Transit Oriented Development (TOD) exchange program. The STBG contributes to TriMet's annual Bus/Rail Preventative Maintenance program (2028).

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Other	Local Match	\$0	\$0	\$0	\$0	\$0	\$463,798	\$463,798
Other	STBG - Urban	\$0	\$0	\$0	\$0	\$0	\$4,052,251	\$4,052,251
Total Other		\$0	\$0	\$0	\$0	\$0	\$4,516,049	\$4,516,049
Total Future Costs		\$0	\$0	\$0	\$0	\$0	\$4,516,049	\$4,516,049
Total Programmed		\$0	\$0	\$0	\$0	\$0	\$4,516,049	\$4,516,049

Previously Approved Amendment 71292 - TriMet Preventative Maintenance Support (2027)

ODOT Key 23184	RTP ID 10855, 10928	RFFA ID 50431	Lead Agency TriMet
Project Type Transit	System Investment Type Capital Project	Total Cost \$4,516,049	

Project Description

The federal fund portion to the annual Metro-TriMet Transit Oriented Development (TOD) STBG for local funds exchange. The Metro STBG supports TriMet's 2027 Preventative Maintenance program. (2025-27 RFFA TOD Allocation)

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Other	Local Match	\$0	\$0	\$0	\$0	\$463,798	\$0	\$463,798
Other	STBG - Urban	\$0	\$0	\$0	\$0	\$4,052,251	\$0	\$4,052,251
Total Other		\$0	\$0	\$0	\$0	\$4,516,049	\$0	\$4,516,049
Total Programmed		\$0	\$0	\$0	\$0	\$4,516,049	\$0	\$4,516,049

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Slip Phase (FA) - Project Name Change (AM)
PROJECT CHANGES	Title changed from "TriMet Preventive Maintenance Support (2027)" to "TriMet Bus/Rail Preventative Maintenance program (2028)" Description changed from "The federal fund portion to the annual Metro-TriMet Transit Oriented Development (TOD) STBG for local funds exchange. The Metro STBG supports TriMet's 2027 Preventative Maintenance program. (2025-27 RFFA TOD Allocation)" to "Metro's STBG funds are exchanged with TriMet local funds under the Metro-TriMet Transit Oriented Development (TOD) exchange program. The STBG contributes to TriMet's annual Bus/Rail Preventive Maintenance program (2028)." Plan Revision Name changed from "24-Adoption" to "FFY26-NO.9-JUL" Project Features changed from "None" to "Preservation or Maintenance" Flex Transfer to FTA changed from "None" to "Yes" RTP Performance Measures changed from "None" to "Climate, Economic Prosperity, Mobility" Project Status changed from "None" to "Non-Construction Project" Oversight Agency changed from "None" to "FHWA, FTA" Federal Performance Measures changed from "None" to "Transit Asset Management" ODOT Project Type changed from "None" to "TRANST" Applicant/Awardee Agency Status changed from "None" to "N/A" Facility Design Classification changed from "None" to "N/A" Regional Network Classifications changed from "None" to "Transit" Facility Owner Agency changed from "None" to "TriMet" Federal Funding Agency changed from "None" to "FHWA, FTA" FTA Conversion Code changed from "None" to "5307" Applicant/Awardee Agency changed from "None" to "TriMet" Federal Functional Class changed from "None" to "Minor Collector" Awarding Agency changed from "None" to "Metro" Long Description changed from "TriMet's Metro STBG portion in exchange for their local funds. The STBG is from the RFFA Step 1 RFFA TOD allocation. The STBG is committed to TriMet's annual Preventative Maintenance program needs. Metro receives TriMet's local funds and applies them in support of TOD program needs." to "Metro's federal fund exchange contribution to the annual Metro-TriMet Transit Oriented Development (TOD) program. The STBG contributes to TriMet's annual Preventive Maintenance program supporting the overhaul and rebuilding of vehicles, station infrastructure, track, signals, communications, and computer hardware/software, associated transit improvements, and workforce development for more efficient transit service delivery. Metro receives TriMet local to complete TOD activities (2025-27 Metro RFFA TOD Allocation)" ODOT Work Class changed from "None" to "Unique"
FUNDING CHANGES	N/A
FEDERAL PROJECT COST	Stays the same \$4,052,251
TOTAL PROJECT COST	Stays the same \$4,516,049

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIPI ID 71329 - TriMet bus purchase (2028)

ODOT Key 23178	RTP ID 10928	RFFA ID -	Lead Agency TriMet

Project Type Transit	System Investment Type Maintenance & Preservation	Total Cost \$4,418,099

Project Description

Funding to support the purchase of approximately five (5) full-sized 40-foot electric replacement buses planned for FFY2028 to be used on existing fixed routes across TriMet's 3-county service region

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Other	5339(a) Bus and Bus Facilities Formula Grant Program	\$0	\$0	\$0	\$0	\$3,534,479	\$0	\$3,534,479
Other	Local Match	\$0	\$0	\$0	\$0	\$883,620	\$0	\$883,620
Total Other		\$0	\$0	\$0	\$0	\$4,418,099	\$0	\$4,418,099
Total Programmed		\$0	\$0	\$0	\$0	\$4,418,099	\$0	\$4,418,099

Previously Approved Amendment 71329 - TriMet bus purchase (2027)

ODOT Key 23178	RTP ID 10928	RFFA ID -	Lead Agency TriMet

Project Type Transit	System Investment Type Maintenance & Preservation	Total Cost \$4,418,099

Project Description

Funding to support the purchase of up to 58 full sized 40 foot electric replacement buses planned for FFY2026 to be used on existing fixed routes across TriMet's 3 county service region.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Other	5339(a) Bus and Bus Facilities Formula Grant Program	\$0	\$0	\$0	\$0	\$3,534,479	\$0	\$3,534,479
Other	Local Match	\$0	\$0	\$0	\$0	\$883,620	\$0	\$883,620
Total Other		\$0	\$0	\$0	\$0	\$4,418,099	\$0	\$4,418,099
Total Programmed		\$0	\$0	\$0	\$0	\$4,418,099	\$0	\$4,418,099

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Slip Phase (FA) - Technical Correction
PROJECT CHANGES	Title changed from "TriMet bus purchase (2027)" to "TriMet bus purchase (2028)" Description changed from "Funding to support the purchase of up to 58 full sized 40 foot electric replacement buses planned for FFY2026 to be used on existing fixed routes across TriMet's 3 county service region." to "Funding to support the purchase of approximately five (5) full-sized 40-foot electric replacement buses planned for FFY2028 to be used on existing fixed routes across TriMet's 3-county service region" Plan Revision Name changed from "End of Year 24" to "FFY26-NO.9-JUL" Federal Performance Measures changed from "None" to "Congestion Mitigation and Air Quality, Transit Asset Management, Transit Safety" Facility Owner Agency changed from "None" to "TriMet" RTP Performance Measures changed from "None" to "Climate, Economic Prosperity, System Preservation and Maintenance" FTA Conversion Code changed from "None" to "N/A" Federal Funding Agency changed from "None" to "FTA" Project Status changed from "None" to "Non-Construction Project" Awarding Agency changed from "None" to "TriMet" Applicant/Awardee Agency changed from "None" to "TriMet" Oversight Agency changed from "None" to "FTA" ODOT Project Type changed from "None" to "TRANST" System Investment Type changed from "Capital Project" to "Maintenance & Preservation" Applicant/Awardee Agency Status changed from "None" to "N/A" Flex Transfer to FTA changed from "None" to "No" Long Description changed from "Funding to support the purchase of up to 58 full sized 40 foot electric replacement buses planned for FFY2026 to be used on existing fixed routes across TriMet's 3 county service region." to "None"
FUNDING CHANGES	N/A
FEDERAL PROJECT COST	Stays the same \$3,534,479
TOTAL PROJECT COST	Stays the same \$4,418,099

Exhibit A to Resolution 26-5619
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed New Project: MTIP ID 71650 - Tualatin River Wayfaring Project

ODOT Key 24479	RTP ID -	RFFA ID -	Lead Agency Tualatin
Project Type Active Transportation	System Investment Type Capital Project	Total Cost \$28,710	

Project Description
Install signage, improve website and printed information, and construct loaner life jacket stations along the Tualatin River Water Trail.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Other	Local Match	\$0	\$0	\$0	\$5,570	\$0	\$0	\$5,570
Other	Overmatch	\$0	\$0	\$0	\$858	\$0	\$0	\$858
Other	Recreational Trails	\$0	\$0	\$0	\$22,282	\$0	\$0	\$22,282
Total Other		\$0	\$0	\$0	\$28,710	\$0	\$0	\$28,710
Total Programmed		\$0	\$0	\$0	\$28,710	\$0	\$0	\$28,710

CURRENT CHANGE REASON	New Project
FEDERAL PROJECT COST	\$22,282
TOTAL PROJECT COST	\$28,710

Exhibit B to Resolution 26-5619



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: July 2, 2026
To: JPACT, Metro Council, and Interested Parties
From: Gabriela Lopez, Senior Transportation Planner
Subject: **Public Comment Period Summary July FFY 2026 MTIP Formal Amendment (FFY26-NO.09-JUL)**

The July FFY 2026 Metropolitan Transportation Improvement Program (MTIP) Formal Amendment proposes the following programming changes:

- Amends the 181st Ave Safety Upgrades: SE Stark St to E Burnside St project
- Amends the NE Columbia Blvd: Cully Blvd & Alderwood Rd project
- Amends the Stark/Washington St Signal ATC Upgrades: 76th Ave - 257th Ave project
- Amends the TriMet Preventive Maintenance Support (2027) project
- Amends the TriMet bus purchase (2027) project
- Adds the Tualatin River Wayfaring Project

Public Comment Period Notice and Invitation to Participate

Between June 1, 2026 and July 1, 2026, Metro conducted a 30-day public comment period on the proposed MTIP formal amendment. The notice and invitation to participate was posted on the Metro website: <https://www.oregonmetro.gov/what-metro-does/transportation/metropolitan-transportation-improvement-program>

Comments were accepted via email to summer.blackhorse@oregonmetro.gov.

During this comment period, Metro did not receive any comments.

IN CONSIDERATION OF RESOLUTION NO. 26-5619

FOR THE PURPOSE OF AMENDING OR ADDING SIX PROJECTS TO THE 2024-27 MTIP TO MEET FEDERAL PROJECT DELIVERY REQUIREMENTS

Date: July 6, 2026

Department: Planning, Development and Research

Meeting Date: July 16, 2026

Prepared by: Gabriela Lopez, Planning, Development and Research

Presenter: N/A

Length: N/A (Consent Agenda)

ISSUE STATEMENT

The July FFY 2026 Metropolitan Transportation Improvement Program (MTIP) Formal Amendment proposes the following programming changes:

- Amends the 181st Ave Safety Upgrades: SE Stark St to E Burnside St project
- Amends the NE Columbia Blvd: Cully Blvd & Alderwood Rd project
- Amends the Stark/Washington St Signal ATC Upgrades: 76th Ave - 257th Ave project
- Amends the TriMet Preventive Maintenance Support (2027) project
- Amends the TriMet bus purchase (2027) project
- Adds the Tualatin River Wayfaring Project

Resolution No. 26-5619 authorizes the proposed MTIP Formal Amendment. The proposed changes are detailed in **Exhibit A: MTIP Project Detail Report**

ACTION REQUESTED

Recommend approval of Resolution 26-5619 to amend or add six projects, as stated within Exhibit A, to the 2024-27 MTIP to meet federal project delivery requirements

IDENTIFIED POLICY OUTCOMES

Advancement of the 2023 Regional Transportation Plan (RTP) investment priorities of equitable transportation, climate action and resilience, safe system, mobility options, and thriving economy.

POLICY QUESTION(S)

- Should JPACT and the Metro Council approve the resolution to move forward with proposed MTIP project amendments?

POLICY OPTIONS TO CONSIDER

The Joint Policy Advisory Committee on Transportation (JPACT) is scheduled to consider recommending approval of Resolution 26-5619 to the Metro Council on the morning of July 16, 2026.

Should JPACT recommend approval, the Metro Council will consider adopting Resolution 26-5619 at its meeting on July 16, 2026.

- If the Metro Council adopts the resolution, the required programming actions will be completed for the project in the July FFY 2026 Formal Amendment.
- If the Metro Council does not adopt the resolution, the required programming actions will not be completed, the projects will not move forward with next steps, and the amendment will return to JPACT for further consideration.

STAFF RECOMMENDATIONS

Metro staff recommend approval of Resolution 26-5619.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

1. **Metro's Strategic Framework or Core Mission:** The 2024-2027 MTIP follows transportation policy established in the development of the 2023 RTP. Projects programmed in the MTIP must be consistent with the RTP to ensure federal requirements are met.
2. **Metro's racial equity and climate action goals:** While the package of investments in the adopted 2024-27 MTIP make very slight progress towards the 2023 RTP goals, which include Equitable Transportation and Climate Action, the individual projects and programs within the MTIP are likely to make better progress to the local communities in which they are located.

The 181st Ave Safety Upgrades: SE Stark St to E Burnside St project, included in the proposed amendment, completes safety upgrades and enhancements including: new traffic signals, adding and rehabbing sidewalks, a buffered bike lane, and street lighting improvements in an identified 2023 RTP equity focus area.

3. **Known Opposition/Support/Community Feedback:** The agencies leading the projects included in this amendment acknowledge the proposed programming changes.

Metro conducted a 30-day public comment period, which closed on July 1, 2026. During this comment period, Metro did not receive any comments. Detailed information can be found in **Exhibit B: Public Comment Period Summary**.

4. **Legal Antecedents:**

- a. Amends the 2024-27 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 23-5335 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 2024-27 MTIP on September 13, 2023.
- c. 2024-2027 Statewide Transportation Improvement Program (STIP) Approval and 2024 Federal Planning Finding on September 25, 2023.

5. **Anticipated Effects:** Enables the amendments to the projects in the MTIP and STIP.

6. **Financial Implications:** The proposed amendments have no impact to the Metro budget.

BACKGROUND

The 2024-2027 MTIP is a program implementation tool. It includes an investment profile and performance analysis of the progress expected toward the 2023 RTP's regionally significant transportation investments. The MTIP must accurately maintain project information throughout the life of a project, from initial award/allocation to funding obligation and through all phases of project delivery. If a change emerges to a project's scope, schedule or budget, the MTIP may need to be amended to reflect the change. As new federally funded and regionally significant projects emerge and are funded, the MTIP is amended to include the projects.

Amend Existing MTIP/STIP Programmed Projects:

Project Number: 1	Key Number: 23555	Status: Existing Project
Project Name:	181st Ave Safety Upgrades: SE Stark St to E Burnside St	
Lead Agency:	Gresham	
Description:	Complete safety upgrades and enhancements between Stark St and Burnside St including: new traffic signals, adding and rehabbing sidewalks, a buffered bike lane, street lighting improvements and street utility upgrades for greater pedestrian safety.	
Funding Summary:	The project is currently programmed with \$3,178,685 of FFY 2023 Congressionally Directed Spending (CDS) funds and a local match of \$363,816.	
Added Notes:	The formal amendment is to add \$1,912,000 local funds to the Construction phase. Total project funding increases from \$3,542,501 to \$5,454,501.	

Project Number: 2	Key Number: 18837	Status: Existing Project
Project Name:	NE Columbia Blvd: Cully Blvd & Alderwood Rd	
Lead Agency:	Portland	
Description:	Install or replace a signal and construct a taper on Columbia Blvd's east leg at Alderwood for future side-by-side left-turn lanes between Cully and Alderwood. Construct sidewalks at the Columbia/Alderwood intersection and on N side to Cully. The project will keep Columbia Blvd a viable freight route while enhancing neighborhood connections and improving safety.	
Funding Summary:	The project is currently programmed with \$5,793,202 of Surface Transportation Block Grant (STBG) - Flex funds, \$2,179,847 of STBG - Urban funds, \$379,647 of STBG - 2025 Redistribution funds, and \$976,004 of local funds.	
Added Notes:	The formal amendment is to: • Increase Construction phase by \$6,050,261 of local funds and Rail Highway Crossing Hazard funds • Increase Utility Relocation phase by \$200,000 of local funds • Slip Construction phase from FFY 2026 to 2027 • Change project description to: "Reconstruct the intersections of NE Columbia Blvd/Alderwood Rd and NE Columbia Blvd/Cully Blvd including the installation of new traffic signals at both locations, side-by-side left turn lanes between the intersections, roadway tapers east and west of the intersections, exclusive left and right turn lanes on Alderwood approaching Columbia, and pedestrian/bicycle facilities." Total project funding increases from \$9,328,700 to \$15,578,960.	

Project Number: 3	Key Number: 23585	Status: Existing Project
Project Name:	Stark/Washington St Signal ATC Upgrades: 76th Ave - 257th Ave	
Lead Agency:	Portland	
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.	
Funding Summary:	The project is currently programmed with \$1,668,340 of STBG - Urban funds and a local match of \$190,949.	
Added Notes:	The formal amendment is to: • Reduce Construction phase by \$218,350 and move \$156,235 to the Other phase and \$62,295 to Preliminary Engineering phase. • Slip Construction phase from FFY 2026 to 2027	

	Reduce project Mileposts (MPs) by 3.6 miles from 76th - 257th to 76th - 185th. Project name will also change to "Stark/Washington St Signal ATC Upgrades:76th Ave - 181st Ave" to reflect changes in limits. The changes are due to duplication of scope from K22138 and K23584.

Project Number: 4	Key Number: 23184	Status: Existing Project
Project Name:	TriMet Preventive Maintenance Support (2027)	
Lead Agency:	TriMet	
Description:	The federal fund portion to the annual Metro-TriMet Transit Oriented Development (TOD) STBG for local funds exchange. The Metro STBG supports TriMet's 2027 Preventative Maintenance program. (2025-27 RFFA TOD Allocation)	
Funding Summary:	The project is currently programmed with \$4,052,251 of STBG - Urban funds and a local match of \$463,798.	
Added Notes:	The formal amendment is to slip project to FFY 2028. The project will remain in the 2024-2027 MTIP but will be canceled from the 24-27 STIP due to moving to unconstrained funding years. Formal amendment also changes project name and description to: "TriMet Bus/Rail Preventative Maintenance program (2028): Metro's STBG funds are exchanged with TriMet local funds under the Metro-TriMet Transit Oriented Development (TOD) exchange program. The STBG contributes to TriMet's annual Bus/Rail Preventive Maintenance program (2028)." Changes to the project are being completed to ensure consistency with TriMet's FTA grant and the programming of the 2027-2030 MTIP and STIP.	

Project Number: 5	Key Number: 23178	Status: Existing Project
Project Name:	TriMet bus purchase (2027)	
Lead Agency:	TriMet	
Description:	Funding to support the purchase of up to 58 full sized 40 foot electric replacement buses planned for FFY2026 to be used on existing fixed routes across TriMet's 3 county service region.	
Funding Summary:	The project is currently programmed with \$3,534,479 of Federal Transit Administration (FTA) 5339 (a) Bus and Bus Facilities Formula Frant Program funds and a local match of \$883,620.	
Added Notes:	The formal amendment is to slip project to FFY 2028. The project will remain in the 2024-2027 MTIP but will be canceled from the 24-27 STIP due to moving to unconstrained funding years. Formal amendment also changes project name and description to:	

	“TriMet bus purchase (2028): Funding to support the purchase of approximately five (5) full-sized 40-foot electric replacement buses planned for FFY2028 to be used on existing fixed routes across TriMet's 3-county service region” Changes to the project are being completed to ensure consistency with TriMet’s FTA grant and the programming of the 2027-2030 MTIP and STIP.

Add New MTIP/STIP Projects:

Project Number: 6	Key Number: 24479	Status: Existing Project
Project Name:	Tualatin River Wayfaring Project	
Lead Agency:	Tualatin Riverkeepers	
Description:	Install signage, improve website and printed information, and construct loaner life jacket stations along the Tualatin River Water Trail.	
Funding Summary:	The new project will be programmed with \$22,282 of Recreation Trails Program funds with a local match of \$5,570 and overmatch of \$858 in Other phase for FFY 2026.	
Added Notes:	The formal amendment adds the new Oregon Parks and Recreation Department (OPRD) Recreational Trails Program funded project to the MTIP. The project is located on the Metro Pedestrian and Bicycle networks resulting in its classification as a regionally significant project.	

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. Metro staff evaluate each project and its requested changes against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The evaluation process is designed to ensure the MTIP is fiscally constrained, consistent with the approved RTP, and provides transparency in its updates, changes, and/or implementation.

PROPOSED PROCESSING AND APPROVAL ACTIONS:

<u>Action</u>	<u>Target Date</u>
• TPAC agenda mailing.....	May 29, 2026
• Initiate the required public notification/comment process.....	June 1, 2026
• TPAC action	June 5, 2026
• Completion of public notification/comment process.....	July 1, 2026
• JPACT action	July 16, 2026
• Metro Council action	July 16, 2026
• Final amendment package submission to ODOT & USDOT.....	Late July 2026
• USDOT clarification and final amendment approval.....	September 2026

Note: The above dates are anticipated and could change.

ATTACHMENTS

- **Resolution 26-5619** For the Purpose of Amending or Adding Six Projects to the 2024-27 MTIP to Meet Federal Project Delivery Requirements
- **Exhibit A to Resolution 26-5619:** MTIP Project Detail Report
- **Exhibit B to Resolution 26-5619:** Public Comment Period Summary



Metro

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

Agenda #: 4.1

File #: RES 26-5596

Agenda Date: 7/16/2026

Resolution no. 26-5596 For The Purpose of Amending Metro's Procurement and Public Contracting Administrative Rules

Gabriele Schuster, Procurement Manager

BEFORE THE METRO LOCAL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AMENDING METRO'S	)	RESOLUTION NO. 26-5596
PROCUREMENT AND PUBLIC CONTRACTING	)	
ADMINISTRATIVE RULES	)	Introduced by Chief Operating Officer
	)	Marissa Madrigal, with the concurrence of
	)	Council President Juan Carlos González

WHEREAS, the Metro Council is the Local Contract Review Board for Metro, and as such is required by state law to adopt rules of procedure for procurement and public contracting; and

WHEREAS, Metro has administrative rules of procedure for public contracting (the "LCRB Contracting Rules"), rules of procedure for screening and selecting persons to perform personal services for Metro (the "Personal Services Contracting Rules"), and rules of procedure to advance equity in public contracting at Metro ("Equity in Contracting Rules"); and

WHEREAS, the Metro Local Contract Review Board has directed procurement staff to periodically review Metro's administrative rules to both confirm ongoing compliance with state public contracting 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 procurement and public contracting administrative rules; now therefore,

BE IT RESOLVED THAT THE METRO LOCAL CONTRACT REVIEW BOARD:

1. Adopts the revisions to its LCRB Contracting Rules, attached hereto as Exhibit A; and
2. Adopts the revisions to the Personal Services Contracting Rules attached hereto as Exhibit B; and
3. Adopts the revisions to the Equity in Contracting Rules attached hereto as Exhibit C.

ADOPTED by the Metro Council this 16th day of July, 2026.

Juan Carlos González, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

Effective July 16, 2026

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**METRO
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

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 marketplace 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
LOCAL CONTRACT REVIEW BOARD
ADMINISTRATIVE RULES**

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.

Community Rehabilitation Program (CRP): A nonprofit organization for individuals with disabilities providing or facilitating services to individuals with disabilities as defined in OAR 125-055-0005.

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 publicly 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.

Oregon Forward Contract. A Contract entered into under the Oregon Forward Program created by ORS 279.835 – 279.855.

Oregon Forward Contractor (OFC). An organization operating as a Community Rehabilitation Program.

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).

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), as determined by Metro in its reasonable discretion, 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, as determined by Metro in its reasonable discretion.

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. 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
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) 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, as required under ORS 279A.110, the Offeror has not discriminated, and will not discriminate, against a subcontractor in the awarding of a subcontract because the subcontractor is a business certified under ORS 200.055; 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 Oregon Forward Contractors (OFC) in certain instances. When required, Metro must use an OFC pursuant to ORS 279.850 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.

Stat. Auth.: ORS 279A.065, OL 2009, ch 880, sec. 5

Stats. Implemented: ORS 279B.055

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.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.055

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:

(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, associated information technology, hardware, software, components, equipment, parts, or on-going Services 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, or scientific developments, that a reliable highest prevalent standard does not exist or has not been developed;

(d) 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 and at any state of the selection process, 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 Addendum 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 an OFC, 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 requires approval of the Procurement Officer.

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 informal Proposals or Price Quotes. Notwithstanding the foregoing, if the Goods or Services are available from an OFC, 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 an Intermediate Procurement under this section.

(b) Metro must keep Written records of the sources of informal Proposals or Price Quotes received. If three Proposals or Price Quotes are not reasonably available, Metro may proceed with the Procurement but only after making a Written record of the effort made to obtain the Proposals or Price Quotes..

(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 whose Proposal or Price Quote will best serve the interests of Metro, considering price as well as other considerations including but not limited to experience, expertise, product functionality, suitability for a particular purpose, equity, sustainability, and Contractor Responsibility under ORS 279B.110.

(4) **Amendments.** Metro may amend a Contract below the Intermediate Procurement threshold 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 requires approval of the Procurement Officer.

(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 based on Written findings that include, where applicable, findings:

- (a) That the efficient utilization of existing Goods or Services requires the acquisition of compatible Goods or Services;
- (b) 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;
- (c) That the Goods or Services are for use in a pilot or an experimental project; or
- (d) Any 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 \$250,000, 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 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.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.080

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.

Stat. Auth.: ORS 279A.065

Stats. Implemented: ORS 279B.085

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 Addendum 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 Addendum 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 timestamp 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 to 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 Addendum 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 pre-qualification of Offerors, Metro shall prepare a pre-qualification application setting forth the criteria and qualifications for pre-qualification. Upon receipt of a pre-qualification 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 an 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 no 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, 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 re-solicitation.

(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.** Metro may also 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 set forth above in section
- (5) 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.** Metro may also 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.** The Procurement Officer may also 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 set forth above in section

(5) 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.** Metro may also 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 Addendum 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.** Metro may also 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, including without limitation, cancelling the Solicitation if Metro determines it to be in the best interest of Metro.

(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.

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.
- (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 that falls below the Small or Intermediate Procurement threshold 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 \$100,000;
- (c) **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 279C110 & 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 an 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; and
 - (vii) 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.
 - (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.

(a) 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.

(b) 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. 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;

I. Consultants' ability to assist Metro in complying with the energy technology requirements of ORS 279C.527 and 279C.528; and

J. Any other information Metro deems reasonably necessary to evaluate Consultants' qualifications.

(c) 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.

(d) 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.

(e) 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.
- (f) 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.
- (g) 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.
- (a) **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, performance review, and recommendations from past clients;

(viii) Proposers' performance history, including Metro's experience with Proposers and Proposers' key personnel, 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.

(b) **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 a 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 a 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 directly awarded to a pre-qualified Consultant 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 \$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 submitted to the Chief Procurement Officer for approval prior to the authorization of the additional work in accordance with the process set forth in Rule 46-0200.

(6) 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 requires approval of the Procurement Officer.

(7) 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 requires approval of both the Procurement Officer and the Department Director.

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 whenever reasonably practical. 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 submission 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 pre-qualification applications and the class or classes of work for which Offerors must be pre-qualified if pre-qualification 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. How Metro will notify Offerors of Addenda and how Metro will make Addenda available (See Rule 49-0250); and

N. 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 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 Contractor's 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 non-responsive 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 Addendum 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 Addenda 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 Addenda consistent with the standards of notice set forth in Rule 49-0210(1). The Solicitation Document must specify how Metro will provide notice of Addenda and how Metro will make the Addenda available (see, Rule 49-0200(1)(a)(N)).

(3) **Timelines; Extensions.** 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 an Addendum. Except to the extent required by public interest, Metro will not issue an Addendum 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.** Metro may also 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 Addendum 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 re-solicitation.

(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 timestamp 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 Addendum 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 a 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 subcontracting 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.

(a) **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.

(b) **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 re-solicitation 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) **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.

(4) **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. Metro may also 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, including without limitation, cancelling the Solicitation if Metro determines it to be in the best interest of Metro.

(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 in 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.** Metro may also 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.

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, which 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 279C.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 payment of prevailing rate of wage, as set forth in ORS 279C.830(1). If both state and federal prevailing rates of wage apply, 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.
 - (f) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).
 - (g) A requirement for payment of the prevailing wage rate, as set forth in ORS 279C.830.
- (4) **Requirements for Specifications.** The Specifications for every Public Works Contract, consisting of the procurement package (such as the project manual, Bid or Proposal booklets, request for quotes or similar procurement Specifications), must contain the following provisions:
 - (a) The state prevailing rate of wage, and, if applicable, the federal prevailing rate of wage, as required by ORS 279C.830(1)(a):
 - A. Physically contained within or attached to hard copies of procurement Specifications;
 - B. Included by a statement incorporating the applicable wage rate publication into the Specifications by reference, in compliance with OAR 839-025-0020; or, (iii) 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.
 - (b) If both state and federal prevailing rates of wage apply, a requirement that the contractor shall pay the higher of the applicable state or federal prevailing rate of wage to all workers. See BOLI rules at OAR 839-025-0020 and 0035.
 - (c) A requirement for filing a public works bond by contractor and every subcontractor, as set forth in ORS 279C.830(2).

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 require approval of both the Procurement Officer and the Department Director. 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 below the small Procurement threshold 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 below the Intermediate Procurement threshold pursuant Rule 49-0160(5). Any proposed amendment that causes Contract to exceed the foregoing limits requires approval of the Procurement Officer.

(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 16, 2026

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 solicitation for an intermediate procurement.
- 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. 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. If three quotes or proposals are not reasonably available fewer will suffice, but Metro must make a written record of the effort made to obtain the quotes or proposals.
3. Intermediate proposals should be solicited from entities that can reasonably be expected to perform the required services. or otherwise directly distribute the intermediate RFP to such potential contractors.
4. 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.
5. There is no protest process for Intermediate procurements.
6. 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. Any original solicitation documentation. If the Department conducted an oral procurement method, a summary of the oral information provided by Metro; and
 - c. Scoring summaries, documentation and notice letters, if any.
7. Metro may award contracts to more than one vendor with a single Intermediate procurement process. The total value of each contract issued under an Intermediate solicitation may not exceed \$250,000.

B. Process Requirements for Intermediate Personal Services Procurements

1. Metro shall seek at least three written informally solicited competitive quotes or proposals. Prior to solicitation, Metro must develop a clear and concise scope of work identifying deliverables, including what, when, where, and potentially how the personal services will be provided. To ensure consistency and fairness, Metro should present each vendor with consistent scope information, which may include: (a) a description of work, (b) the estimated cost, (c) performance schedules, (d) the deliverables/outcomes, (e) performance requirements, (f) minimum contractor qualifications, (g) any applicable sustainability considerations or equity considerations.
2. Metro shall keep a written record of the sources of the quotes or proposals received. Metro must also keep a written record of the selection criteria and evaluation factors

considered when making the award.

3. If a contract is awarded, Metro shall award the contract to the Offeror whose quote or proposal will best serve the interests of Metro, taking into account price as well as other considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under ORS 279B.110.

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. Advertising the procurement in a publication of general circulation and in as many other publications as may be appropriate.
 2. Printing copies of the solicitation, and upon request, making 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 addendum. 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 when 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 Metro by the date and time specified in the solicitation.
2. Metro is responsible for receiving, timestamping, and enforcing the submittal deadline for each proposal.
3. The Metro timestamp 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 below the small procurement threshold 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 below the intermediate procurement threshold 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.

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
Procurement Administrative Rules

SUBJECT:	Procurement Administrative Rules, Requirements, and Process for Equity in Contracting

PURPOSE:	To adopt administrative rules to advance and promote fair opportunities and equitable public contracting.

DEPARTMENT RESPONSIBLE:	Finance Department Procurement

DEPARTMENTS AFFECTED:	All Metro Departments

DATE:	July 16, 2026

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I. **POLICY STATEMENT**

Metro is committed to providing fair access to Metro contracting opportunities and contracting with equitably aware businesses. These Equity in Contracting Administrative Rules (these “Rules”) are intended to foster an environment where disadvantaged and small businesses in Oregon can fairly compete for Metro public contracting opportunities, thereby enhancing and strengthening the local, regional, and state economy.

II. **DEFINITIONS**

- A. **COBID Certified Business** - A business certified by the Business Oregon’s Certification Office for Business Inclusion and Diversity.
- B. **Department** - A Metro Department or any unit or staff within a Department that has responsibilities for procuring public contracts.
- C. **Electronic Procurement System** - The online procurement solicitation system utilized by Metro to issue procurement and contracting opportunities and information.
- D. **Procurement Officer** - The Metro Director of Finances and Regulatory Services, or the Procurement Manager as his/her delegate.

III. **PROGRAM ADMINISTRATION**

The Procurement Officer is responsible for administering and implementing these Rules on behalf of the Chief Operating Officer. The Procurement Officer shall advise all potential contractors that the State of Oregon, Certification Office for Business Inclusion and Diversity is the sole public agency that may certify enterprises and businesses as COBID Certified Businesses.

IV. **GENERAL PROGRAM ACTIVITIES**

The Procurement Officer shall engage in the following activities with the goal of increasing Metro business with small and disadvantaged businesses, including 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 for disadvantaged and small businesses.
- B. **Technical Assistance** - Provide technical assistance and information to interested third parties on feasible options for contract requirements, including bonding, insurance, certification, and other Metro procurement processes.
- C. **Internal Education** - Provide periodic training and continuing education to Departments to ensure awareness of Metro’s goal to advance and promote fair opportunities in public contracting.

V. SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC CONTRACTS OTHER THAN PUBLIC IMPROVEMENTS

- A. **Small Procurements** - For small procurements (\$25,000 and under), Departments are encouraged to review the COBID Certified Business 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), before soliciting any bids or proposals Departments are required to obtain from the Procurement Officer a list of COBID Certified Businesses that work in the category of work being solicited. Departments may elect to 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 small business, community-focused publication.
- D. **Proposal Scoring** - For Formal Procurements for goods and services or personal services procured by competitive Proposals, up to 15% of the total available scoring points will be based on the following criteria: equal opportunity and access in subcontracting, supportive employment practices, community involvement. The Chief Operating Officer may adjust this percentage if deemed appropriate given the nature and complexity of the services being procured, or if otherwise in Metro's best interest.
- E. **Exceptions to Requirements** - The solicitation and scoring requirements set forth in this Section V are not applicable to emergency procurements, sole source procurements, any other special procurements that allow for direct award of a contract without competitive solicitation.

VI. SOLICITATION AND SCORING REQUIREMENTS FOR PUBLIC IMPROVEMENT CONTRACTS

- A. **Small Procurements** - For procurements of small public improvement contracts (\$25,000 and under), Departments are encouraged to review the COBID Certified Business directory for firms in the category of work being solicited before directly awarding the contract.
- B. **Intermediate Procurements (Competitive Quotes)** - For intermediate procurement of public improvement contracts based off competitive quotes (exceeding \$25,000 but not exceeding \$100,000), before soliciting any competitive quotes Departments are required to obtain from the Procurement Officer a list of COBID Certified Businesses that work in the category of work being solicited. Departments may elect to 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 small business community-focused publication.
- D. **Proposal Scoring** - For public improvement contracts procured through alternative contracting methods and procured by competitive Proposals, up to 15% of the total

available scoring points will be based on the following criteria: equal opportunity and access in subcontracting, supportive employment practices, community involvement. The Chief Operating Officer may adjust this percentage if deemed appropriate given the nature and complexity of the public improvement project, or if otherwise in Metro's best interest.

- E. **Exceptions to Requirements** - The 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. SUBCONTRACTOR EQUITY PROGRAM FOR FORMAL PUBLIC IMPROVEMENTS

The purpose of the Subcontractor Equity Program is to provide fair opportunities for small and disadvantaged businesses to participate in subcontract opportunities created through Metro public improvement contracts.

For competitively bid public improvement contracts that exceed \$100,000, general 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 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 subcontractors 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 Businesses subcontractors, and does not without justifiable reason reject as unsatisfactory any bids or proposals received;
- G. Contractor advises and assists interested COBID Certified Businesses 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 small business community organizations, development groups, and governmental small business assistance offices to recruit COBID Certified Businesses for participation.

For public improvement contracts that exceed \$100,000 but are exempt from competitive bidding and solicited through a competitive proposal process, general contractors who intend to subcontract any portion of the project work are required to fulfill the actions listed above in subsections B-H after the award of the contract when hiring subcontractors for the project.

The Procurement Officer will determine whether the requirements of the Subcontractor Equity Program have been met. If the Subcontractor Equity Program documentation submitted by the offeror fails to substantially comply with the requirements of the solicitation document, the bidder/proposer may be deemed non-responsible.

VIII. 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 must meet with the Procurement Officer prior to releasing a solicitation to discuss activities to create fair access to the contract opportunity for small and disadvantaged firms.

STAFF REPORT

Date: July 16, 2026
Department: Finance

Prepared by: Gabriele Schuster,
Procurement Manager, 503-797-1577,
gabriele.schuster@oregonmetro.gov
Presenters: Gabriele Schuster
Length: 10 minutes

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 most recent substantial amendments to these rules were adopted in December 2023. Since that time, staff has monitored the rules' effectiveness across Metro procurements and has identified several areas where minor revisions are warranted. Of particular note, staff is recommending updating the Equity in Contracting Rules for compliance with the federal requirements.

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) over the past two years. The updates will also prioritize efficiency in Metro procurements while ensuring compliance with law.

ANALYSIS/INFORMATION

1. **Known Opposition.** None known.
2. **Legal Antecedents.** Oregon Revised Statutes Chapter 279A, B, C. . 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 law as well as increasing efficiencies.
4. **Budget Impacts.** None.

RECOMMENDED ACTION

Staff recommends adoption of the revised contracting and procurement administrative rules by the Metro Local Contract Review Board.



Metro

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

Agenda #: 4.2

File #: RES 26-5600

Agenda Date: 7/16/2026

Resolution No. 26-5600 For the Purpose of Amending Three I-5 Rose Quarter Projects to the 2024-2027 MTIP to Meet Federal Project Delivery Requirements

Gabriela Lopez, Senior Transportation Planner

Monica Blanchard, Interim Project Director, Oregon Department of Transportation

David Kim, Project Delivery Manager, Oregon Department of Transportation

BEFORE THE METRO COUNCIL

**FOR THE PURPOSE OF AMENDING
THREE I-5 ROSE QUARTER PROJECTS TO
THE 2024-27 MTIP TO MEET FEDERAL
PROJECT DELIVERY REQUIREMENTS**

) RESOLUTION NO. 26-5600
)
) Introduced by Chief Operating Officer
) Marissa Madrigal with concurrence of
) Council President Juan Carlos
) González

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 (USDOT) 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. 23-5335 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 USDOT 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, the I-5 Rose Quarter Improvement Project's purpose is to improve the safety and operations on I-5 between I-405 and I-84, at the Broadway/Weidler interchange, and on adjacent vicinity surface streets, and enhance multimodal facilities in the project area, and support improved local connectivity and multimodal access plus improve multimodal connections between neighborhoods east and west of I-5; and

WHEREAS, in March 2024, the USDOT awarded ODOT \$450 million from the Neighborhood Access and Equity (NAE) Grant Program, often referred to as Reconnecting Communities Grants, for the I-5 Rose Quarter Improvement Project; and

WHEREAS, in 2024, the I-5 Rose Quarter Improvement Project obligated \$67.5 million in NAE grant funds; and

WHEREAS, in summer 2025, Congress passed the One Big Beautiful Bill Act, which rescinded unobligated balances from dozens of projects awarded NAE grant funds; and

WHEREAS, in 2025, the USDOT rescinded \$382,250,000 million of unobligated NAE funds awarded to the I-5 Rose Quarter Improvement Project, leaving the \$67.5 million in NAE funds previously obligated available for preliminary engineering, right of way acquisition and utility relocation activities; and

WHEREAS, to reflect the changes to the project funding due to the rescinded funds, the formal amendment decreases the total programmed funding from \$872,091,997 to \$489,891,997; and

WHEREAS, the formal amendment amends the I-5 Rose Quarter Improvement Project to increase the Preliminary Engineering phase by \$3,000,000, decrease the Other phase by \$250,000, and move the Other phase from FFY 2026 to 2027; and

WHEREAS, the formal amendment amends the I-5 Rose Quarter: Phase 1A project to increase the Construction phase by \$18,000,000; and

WHEREAS, the formal amendment amends the I-5 Rose Quarter: Broadway to Weidler Phase 1 project to decrease the Construction phase by \$402,950,000, move the Construction phase from FFY 2026 to 2027, and change the project name and description; and

WHEREAS; Oregon Transportation Commission (OTC) approved to amend the funding in the Statewide Transportation Improvement Program (STIP) on May 7, 2026; and

WHEREAS, the programming updates to the three projects are stated in Exhibit A to this resolution; and

WHEREAS, on July 1 2026, Metro completed a 30-day public comment period, as summarized in Exhibit B to this resolution; and

WHEREAS, on July 10, 2026, Metro's Transportation Policy Alternatives Committee recommended that JPACT approve this resolution; and

WHEREAS, on July 16, 2026, JPACT approved and recommended that the Metro Council adopt this resolution; now therefore

BE IT RESOLVED that the Metro Council adopts this resolution to amend the three projects, as stated within Exhibit A, to the 2024-27 Metropolitan Transportation Improvement Program to meet federal project delivery requirements.

BE IT FURTHER RESOLVED that this resolution includes the requirement that if the Reconnecting Communities funding is not made available, or a major change in scope for Phase 1 becomes necessary, ODOT will return with an MTIP amendment for JPACT and Metro Council action.

ADOPTED by the Metro Council this 16th day of July 2026.

Juan Carlos González, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 70784 - I-5 Rose Quarter Improvement Project

ODOT Key 19071	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type Capital Project	Total Cost \$250,391,997

Project Description

The Rose Quarter investment will help reduce congestion, improve safety and traffic operations, and support economic growth in the Portland Metro region with multi-modal improvements that include ramp-to-ramp (auxiliary) lanes, highway shoulders and cover, new overcrossing, I-5 southbound ramp relocation, new bike and pedestrian crossing, and improved bike and pedestrian facilities. This specific project will: provide additional funds to project development and right of way efforts of the Broadway-Weidler facility plan and the N/NE Quadrant; relocate utilities in the cover grant and stormwater areas; acquire permanent VMS signs and software early in the project to support movement of traffic during cover construction. Subsequent projects will advance other elements of the Rose Quarter effort.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Local Match	\$12,867,498	\$0	\$0	\$0	\$0	\$0	\$12,867,498
Preliminary Engineering	NAE	\$0	\$0	\$30,000,000	\$0	\$0	\$0	\$30,000,000
Preliminary Engineering	NHFP	\$15,000,000	\$0	\$0	\$0	\$0	\$0	\$15,000,000
Preliminary Engineering	NHPP	\$137,524,499	\$0	\$0	\$0	\$0	\$0	\$137,524,499
Preliminary Engineering	Other	\$4,000,000	\$0	\$0	\$0	\$0	\$0	\$4,000,000
Preliminary Engineering	State	\$1,000,000	\$0	\$0	\$0	\$0	\$0	\$1,000,000
Total Preliminary Engineering		\$170,391,997	\$0	\$30,000,000	\$0	\$0	\$0	\$200,391,997
Right of Way	HB2017	\$10,144,200	\$0	\$0	\$0	\$0	\$0	\$10,144,200
Right of Way	Local Match	\$855,800	\$0	\$0	\$0	\$0	\$0	\$855,800
Right of Way	NAE	\$30,000,000	\$0	\$0	\$0	\$0	\$0	\$30,000,000
Total Right of Way		\$41,000,000	\$0	\$0	\$0	\$0	\$0	\$41,000,000
Utilities	Advance Construction	\$0	\$0	\$922,200	\$0	\$0	\$0	\$922,200
Utilities	Local Match	\$0	\$0	\$77,800	\$0	\$0	\$0	\$77,800
Utilities	NAE	\$0	\$0	\$7,500,000	\$0	\$0	\$0	\$7,500,000
Total Utilities		\$0	\$0	\$8,500,000	\$0	\$0	\$0	\$8,500,000
Other	Advance Construction	\$0	\$0	\$0	\$0	\$461,100	\$0	\$461,100
Other	Local Match	\$0	\$0	\$0	\$0	\$38,900	\$0	\$38,900
Total Other		\$0	\$0	\$0	\$0	\$500,000	\$0	\$500,000
Total Prior Costs		\$211,391,997	\$0	\$0	\$0	\$0	\$0	\$211,391,997
Total Programmed		\$211,391,997	\$0	\$38,500,000	\$0	\$500,000	\$0	\$250,391,997

Previously Approved Amendment: MTIP ID 70784 - I-5 Rose Quarter Improvement Project

ODOT Key 19071	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type Capital Project	Total Cost \$247,641,997

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Project Description

The Rose Quarter investment will help reduce congestion, improve safety and traffic operations, and support economic growth in the Portland Metro region with multi-modal improvements that include ramp-to-ramp (auxiliary) lanes, highway shoulders and cover, new overcrossing, I-5 southbound ramp relocation, new bike and pedestrian crossing, and improved bike and pedestrian facilities. This specific project will: provide additional funds to project development and right of way efforts of the Broadway-Weidler facility plan and the N/NE Quadrant; relocate utilities in the cover grant and stormwater areas; acquire permanent VMS signs and software early in the project to support movement of traffic during cover construction. Subsequent projects will advance other elements of the Rose Quarter effort.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Preliminary Engineering	Advance Construction	\$129,108,000	\$0	\$30,000,000	\$0	\$0	\$0	\$159,108,000
Preliminary Engineering	Local Match	\$12,634,098	\$0	\$0	\$0	\$0	\$0	\$12,634,098
Preliminary Engineering	NHFP	\$15,000,000	\$0	\$0	\$0	\$0	\$0	\$15,000,000
Preliminary Engineering	NHPP	\$5,649,899	\$0	\$0	\$0	\$0	\$0	\$5,649,899
Preliminary Engineering	Other	\$4,000,000	\$0	\$0	\$0	\$0	\$0	\$4,000,000
Preliminary Engineering	State	\$1,000,000	\$0	\$0	\$0	\$0	\$0	\$1,000,000
Total Preliminary Engineering		\$167,391,997	\$0	\$30,000,000	\$0	\$0	\$0	\$197,391,997
Right of Way	HB2017	\$10,144,200	\$0	\$0	\$0	\$0	\$0	\$10,144,200
Right of Way	Local Match	\$855,800	\$0	\$0	\$0	\$0	\$0	\$855,800
Right of Way	NAE	\$30,000,000	\$0	\$0	\$0	\$0	\$0	\$30,000,000
Total Right of Way		\$41,000,000	\$0	\$0	\$0	\$0	\$0	\$41,000,000
Utilities	Advance Construction	\$0	\$0	\$8,422,200	\$0	\$0	\$0	\$8,422,200
Utilities	Local Match	\$0	\$0	\$77,800	\$0	\$0	\$0	\$77,800
Total Utilities		\$0	\$0	\$8,500,000	\$0	\$0	\$0	\$8,500,000
Other	Advance Construction	\$0	\$0	\$0	\$711,100	\$0	\$0	\$711,100
Other	Local Match	\$0	\$0	\$0	\$38,900	\$0	\$0	\$38,900
Total Other		\$0	\$0	\$0	\$750,000	\$0	\$0	\$750,000
Total Prior Costs		\$208,391,997	\$0	\$0	\$0	\$0	\$0	\$208,391,997
Total Programmed		\$208,391,997	\$0	\$38,500,000	\$750,000	\$0	\$0	\$247,641,997

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Cost and Funding Increase - Major
PROJECT CHANGES	Plan Revision Name changed from "AM26-01-OCT1" to "FFY26-NO.10-JUL2" Federal Functional Class changed from "None" to "Interstates" FTA Conversion Code changed from "None" to "N/A" Flex Transfer to FTA changed from "None" to "No"
FUNDING CHANGES	NHPP + Increase funds in FY 2016 in PE from \$0 to \$131,874,600 Local Match + Increase funds in FY 2016 in PE from \$10,892,000 to \$11,125,400 Advance Construction - Decrease funds in FY 2025 in PE from \$30,000,000 to \$0 + Increase funds in FY 2025 in UR from \$0 to \$922,200 - Decrease funds in FY 2027 in PE from \$129,108,000 to \$0 + Increase funds in FY 2027 in OT from \$0 to \$461,100 - Decrease funds in FY 2025 in UR from \$7,500,000 to \$0 - Decrease funds in FY 2025 in UR from \$922,200 to \$0 - Decrease funds in FY 2026 in OT from \$711,100 to \$0 NAE + Increase funds in FY 2025 in PE from \$0 to \$30,000,000 - Decrease funds in FY 2025 in RW from \$30,000,000 to \$0 + Increase funds in FY 2020 in RW from \$0 to \$30,000,000 + Increase funds in FY 2025 in UR from \$0 to \$7,500,000
FEDERAL PROJECT COST	Decreased from \$188,891,199 to \$153,907,799 (-18.52%)
TOTAL PROJECT COST	Increased from \$247,641,997 to \$250,391,997 (1.11%)

Proposed Amendment: MTIP ID 71443 - I-5 Rose Quarter: Phase 1A

ODOT Key 23682	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type Capital Project	Total Cost \$93,000,000

Project Description

Construct stormwater facilities for the east end of Fremont Bridge and ramps to be in compliance with the Portland Harbor Settlement Agreement. Construct structural deck overlay, bridge rail upgrades and seismic retrofit on two bridges in the southern portion of the project area. Preliminary design activities have been completed under project key 19071 I-5 Rose Quarter Improvement Project.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Construction	Advance Construction	\$0	\$0	\$4,611,000	\$16,599,600	\$0	\$0	\$21,210,600
Construction	State	\$0	\$0	\$70,000,000	\$0	\$0	\$0	\$70,000,000
Construction	State Match	\$0	\$0	\$389,000	\$1,400,400	\$0	\$0	\$1,789,400
Total Construction		\$0	\$0	\$75,000,000	\$18,000,000	\$0	\$0	\$93,000,000
Total Programmed		\$0	\$0	\$75,000,000	\$18,000,000	\$0	\$0	\$93,000,000

Previously Approved Amendment: MTIP ID 71443 - I-5 Rose Quarter: Phase 1A

ODOT Key 23682	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type -	Total Cost \$75,000,000

Project Description

Construct stormwater facilities for the east end of Fremont Bridge and ramps to be in compliance with the Portland Harbor Settlement Agreement. Construct structural deck overlay, bridge rail upgrades and seismic retrofit on two bridges in the southern portion of the project area. Preliminary design activities have been completed under project key 19071 I-5 Rose Quarter Improvement Project.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Construction	Advance Construction	\$0	\$0	\$69,165,000	\$0	\$0	\$0	\$69,165,000
Construction	State Match	\$0	\$0	\$5,835,000	\$0	\$0	\$0	\$5,835,000
Total Construction		\$0	\$0	\$75,000,000	\$0	\$0	\$0	\$75,000,000
Total Programmed		\$0	\$0	\$75,000,000	\$0	\$0	\$0	\$75,000,000

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Cost and Funding Increase - Major
PROJECT CHANGES	Plan Revision Name changed from "AM25-24-JUL3" to "FFY26-NO.10-JUL2" Federal Functional Class changed from "None" to "Interstates"
FUNDING CHANGES	Advance Construction - Decrease funds in FY 2025 in CN from \$69,165,000 to \$4,611,000 + Increase funds in FY 2026 in CN from \$0 to \$16,599,600 State Match - Decrease funds in FY 2025 in CN from \$5,835,000 to \$389,000 + Increase funds in FY 2026 in CN from \$0 to \$1,400,400 State + Increase funds in FY 2025 in CN from \$0 to \$70,000,000
FEDERAL PROJECT COST	Decreased from \$69,165,000 to \$21,210,600 (-69.33%)
TOTAL PROJECT COST	Increased from \$75,000,000 to \$93,000,000 (24.00%)

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



Proposed Amendment: MTIP ID 71444 - I-5 Rose Quarter: Phase 1B

ODOT Key 23672	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type Capital Project	Total Cost \$146,500,000

Project Description

On I-5 between the Fremont Bridge and the Burnside Bridge, widen the Holladay/Hassalo bridge structure, construct structural deck overlay, replace bridge and median rail, provide seismic retrofit, reconstruct adjacent retaining wall and embankment, upgrade signage, and reconstruct impacted local street and light rail facilities. Preliminary design and right of way are programmed under project key 19071 I-5 Rose Quarter Improvement project.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Construction	Advance Construction	\$0	\$0	\$0	\$0	\$135,102,300	\$0	\$135,102,300
Construction	State Match	\$0	\$0	\$0	\$0	\$11,397,700	\$0	\$11,397,700
Total Construction		\$0	\$0	\$0	\$0	\$146,500,000	\$0	\$146,500,000
Total Programmed		\$0	\$0	\$0	\$0	\$146,500,000	\$0	\$146,500,000

Previously Approved Amendment: MTIP ID 71444 - I-5 Rose Quarter: Phase 1B

ODOT Key 23672	RTP ID 10867, 11176	RFFA ID -	Lead Agency Oregon DOT

Project Type Highway	System Investment Type -	Total Cost \$549,450,000

Project Description

Replace 3 of the 5 aging bridges over I-5 by constructing the central portion of the highway cover from Broadway to the southern end and beyond Weidler, and the facilities to support it; as well as performing construction work necessary to make this cover work forward compatible with follow-on construction packages. Construct portion of NB & SB auxiliary lanes. This will provide greater connectivity for the lower Albina neighborhood. Preliminary design and right of way are programmed under project key 19071 I-5 Rose Quarter Improvement project.

PHASE	FUND SOURCE	PRIOR	FY2024	FY2025	FY2026	FY2027	FUTURE	TOTAL
Construction	Advance Construction	\$0	\$0	\$0	\$154,191,840	\$0	\$0	\$154,191,840
Construction	NAE	\$0	\$0	\$0	\$382,250,000	\$0	\$0	\$382,250,000
Construction	State Match	\$0	\$0	\$0	\$13,008,160	\$0	\$0	\$13,008,160
Total Construction		\$0	\$0	\$0	\$549,450,000	\$0	\$0	\$549,450,000
Total Programmed		\$0	\$0	\$0	\$549,450,000	\$0	\$0	\$549,450,000

Exhibit A to Resolution 26-5600
2024-2027 Metropolitan Transportation Improvement Program (MTIP)



CURRENT CHANGE REASON	Schedule / Funding / Scope- Update Project Name Change (FA) - Cost Decrease - Major - Slip Phase (FA) - Scope Change - Major
PROJECT CHANGES	Title changed from "I-5 Rose Quarter: Broadway to Weidler Phase 1" to "I-5 Rose Quarter: Phase 1B" Description changed from "Replace 3 of the 5 aging bridges over I-5 by constructing the central portion of the highway cover from Broadway to the southern end and beyond Weidler, and the facilities to support it; as well as performing construction work necessary to make this cover work forward compatible with follow-on construction packages. Construct portion of NB & SB auxiliary lanes. This will provide greater connectivity for the lower Albina neighborhood. Preliminary design and right of way are programmed under project key 19071 I-5 Rose Quarter Improvement project." to "On I-5 between the Fremont Bridge and the Burnside Bridge, widen the Holladay/Hassalo bridge structure, construct structural deck overlay, replace bridge and median rail, provide seismic retrofit, reconstruct adjacent retaining wall and embankment, upgrade signage, and reconstruct impacted local street and light rail facilities. Preliminary design and right of way are programmed under project key 19071 I-5 Rose Quarter Improvement project." Plan Revision Name changed from "AM26-07-APR" to "FFY26-NO.10-JUL2"
FUNDING CHANGES	NAE - Decrease funds in FY 2026 in CN from \$382,250,000 to \$0 Advance Construction - Decrease funds in FY 2027 in CN from \$154,191,840 to \$135,102,300 State Match - Decrease funds in FY 2027 in CN from \$13,008,160 to \$11,397,700
FEDERAL PROJECT COST	Decreased from \$154,191,840 to \$135,102,300 (-12.38%)
TOTAL PROJECT COST	Decreased from \$549,450,000 to \$146,500,000 (-73.34%)

Exhibit B to Resolution 26-5600



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: July 2, 2026
To: JPACT, Metro Council, and Interested Parties
From: Gabriela Lopez, Senior Transportation Planner
Subject: **Public Comment Period Summary July FFY 2026 MTIP I-5 Rose Quarter Formal Amendment (FFY26-NO.10-JUL2)**

The July FFY 2026 Metropolitan Transportation Improvement Program (MTIP) Formal Amendment #2 proposes the following programming changes:

- Amends the I-5 Rose Quarter Improvement Project
- Amends the I-5 Rose Quarter: Phase 1A project
- Amends the I-5 Rose Quarter: Broadway to Weidler Phase 1 project

Public Comment Period Notice and Invitation to Participate

Between June 1, 2026 and July 1, 2026, Metro conducted a 30-day public comment period on the proposed MTIP formal amendment. The notice and invitation to participate was posted on the Metro website: <https://www.oregonmetro.gov/what-metro-does/transportation/metropolitan-transportation-improvement-program>

Comments were accepted via email to summer.blackhorse@oregonmetro.gov.

Metro received:

- Three written testimonies via email
- Testimony from two attendees at the JPACT meeting on June 18, 2026

Metro did not receive any mailed letters or voicemail comments.

Table 1 includes a summary of the comments received. Copies of the emails and transcripts of the testimony are attached.

Table 1: Summary of Comments received from June 1, 2026, through July 1, 2026

Number	Date	Name	Comment Type	Brief Summary of Comments
1	06/18/2026	Chris Smith, No More Freeways Campaign	Public Testimony at JPACT	Concerned about the lack of funding resulting in delivery of project not addressing community needs
2	06/18/2026	Sharon Nassett	Public Testimony at JPACT	Concerned about the change in Environmental Assessment to require a full Environmental Impact Statement (EIS) to be completed for the project
3	06/28/2026	Charles Ormsby	Written Testimony - Email	List of concerns about past freeway investments and upcoming challenges
4	06/29/2026	Chris Smith, No More Freeways Campaign	Written Testimony - Email	Concerned about the lack of funding and proposed design for Phase 1B not providing benefits for communities in the region
5	07/01/2026	Sharon Nassett	Written Testimony - Email	Concerned about Environmental Assessment not requiring a full EIS to ensure broad community involvement.

Attachments

1. JPACT meeting testimony transcript 06/18/2026
2. Charles Ormsby email 06/28/2026
3. Chris Smith email 06/29/2026
4. Sharon Nassett email 07/01/2026

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Page 35
Page 36
Page 40

Note - Rose Quarter Amendment comments begin on Page 8

WEBVTT

00:00:30.000 --> 00:00:31.000

>> CHAIR: It is 32 minutes after

00:00:31.000 --> 00:00:32.000

the hour.

00:00:32.000 --> 00:00:33.000

We have a quorum.

00:00:33.000 --> 00:00:35.000

Good morning.

00:00:35.000 --> 00:00:37.000

It is great to see all of you.

00:00:37.000 --> 00:00:40.000

I would like to begin with a

00:00:40.000 --> 00:00:41.000

roll call to show who's here.

00:00:41.000 --> 00:00:45.000

Commissioner Shannon Singleton?

00:00:45.000 --> 00:00:47.000

>> Present.

00:00:47.000 --> 00:00:49.000

>> Nafisa Fai?

00:00:49.000 --> 00:00:51.000

>> Present.>> Paul Savas?

00:00:51.000 --> 00:00:54.000

>> Here.

00:00:54.000 --> 00:00:55.000

>> Keith Wilson?

00:00:55.000 --> 00:00:56.000

>> Here.

00:00:56.000 --> 00:00:59.000

>> Travis SStovall?

00:00:59.000 --> 00:01:04.000

>> Present.

00:01:04.000 --> 00:01:05.000

>> Mayor Jef Dalin or mayor

00:01:05.000 --> 00:01:07.000
buben he can?

00:01:07.000 --> 00:01:11.000
>> Present.>> Mayor Joe buck?

00:01:11.000 --> 00:01:12.000
>> Present.

00:01:12.000 --> 00:01:15.000
>> Rian Windsheimer?

00:01:15.000 --> 00:01:17.000
>> Present.

00:01:17.000 --> 00:01:24.000
>> Sam Desue?

00:01:24.000 --> 00:01:28.000
>> Present.

00:01:28.000 --> 00:01:29.000
>> Ali Mirzakhilili?

00:01:29.000 --> 00:01:34.000
>> You got it, but it's Michael

00:01:34.000 --> 00:01:36.000
Orman.

00:01:36.000 --> 00:01:37.000
>> Councilor Rosenthal?

00:01:37.000 --> 00:01:38.000
>> Present.

00:01:38.000 --> 00:01:43.000
>> Ashton Simpson?

00:01:43.000 --> 00:01:44.000
>> Present.

00:01:44.000 --> 00:01:48.000
>> Devin Reck 1234.

00:01:48.000 --> 00:01:51.000
>> Here.

00:01:51.000 --> 00:02:01.000
>> Ann McEnerny-Ogle?

00:02:01.000 --> 00:02:05.000
>> Present.

00:02:05.000 --> 00:02:06.000
>> CHAIR: We're all here.

00:02:06.000 --> 00:02:07.000
Georgia, could you provide

00:02:07.000 --> 00:02:16.000
instructions for the public

00:02:16.000 --> 00:02:17.000
communications?

00:02:17.000 --> 00:02:20.000
>> Absolutely.

00:02:20.000 --> 00:02:21.000
If you are testifying in person,

00:02:21.000 --> 00:02:24.000
now is the time to do so.

00:02:24.000 --> 00:02:25.000
If you are in the room, please

00:02:25.000 --> 00:02:27.000
sign a blue card and bring it up

00:02:27.000 --> 00:02:30.000
to me.

00:02:30.000 --> 00:02:32.000
If you are on phone, use the

00:02:32.000 --> 00:02:33.000
raise hand function or by

00:02:33.000 --> 00:02:34.000
dialling star nine.

00:02:34.000 --> 00:02:36.000
When it is your turn to testify,

00:02:36.000 --> 00:02:37.000
I will call on your name or

00:02:37.000 --> 00:02:41.000
phone number.

00:02:41.000 --> 00:02:43.000
For those on zoom, click to be

00:02:43.000 --> 00:02:44.000
accepted as a panelist.

00:02:44.000 --> 00:02:45.000
You can turn on your camera if

00:02:45.000 --> 00:02:47.000
you like.

00:02:47.000 --> 00:02:48.000
Testimony is limited to 2:00

00:02:48.000 --> 00:02:50.000
minutes.

00:02:50.000 --> 00:02:51.000
The timer begins when you begin

00:02:51.000 --> 00:02:52.000
speaking.

00:02:52.000 --> 00:02:54.000
Please state your name for the

00:02:54.000 --> 00:02:56.000
record before testifying, you do

00:02:56.000 --> 00:02:57.000
not need to give your physical

00:02:57.000 --> 00:02:59.000
address.

00:02:59.000 --> 00:03:06.000
We have some folks who have

00:03:06.000 --> 00:03:08.000
signed up to testify.

00:03:08.000 --> 00:03:09.000
We will start first with Sam

00:03:09.000 --> 00:03:11.000
Kim.

00:03:11.000 --> 00:03:13.000
And you can go right over here.

00:03:13.000 --> 00:03:15.000
Thank you.

00:03:15.000 --> 00:03:16.000
>> CHAIR: Georgia, can you tell

00:03:16.000 --> 00:03:19.000
us who's next on deck?

00:03:19.000 --> 00:03:22.000
>> Yes, on deck is Chris Smith.

00:03:22.000 --> 00:03:24.000
>> My name is Sam Kim.

00:03:24.000 --> 00:03:25.000
I represent over 70,000 super

00:03:25.000 --> 00:03:30.000
commuters who have to cross the

00:03:30.000 --> 00:03:31.000
river every day, both directions

00:03:31.000 --> 00:03:34.000
and due to the gridlock.

00:03:34.000 --> 00:03:35.000
I'm going to quickly read my

00:03:35.000 --> 00:03:36.000
comments.

00:03:36.000 --> 00:03:41.000
I apologize for that.

00:03:41.000 --> 00:03:42.000
I urge you to vote yes for the

00:03:42.000 --> 00:03:43.000
interstate bridge replacement

00:03:43.000 --> 00:03:46.000
program.

00:03:46.000 --> 00:03:47.000
I come to you as a member of the

00:03:47.000 --> 00:03:50.000
IBR community advisory group for

00:03:50.000 --> 00:03:52.000
the last five years, so I have

00:03:52.000 --> 00:03:54.000
seen exhaustive care, public

00:03:54.000 --> 00:03:58.000
comments and rigorous revisions

00:03:58.000 --> 00:04:00.000
poured into this comment.

00:04:00.000 --> 00:04:01.000
SDR-IBR has noted historic

00:04:01.000 --> 00:04:04.000
project like this, will never

00:04:04.000 --> 00:04:06.000
meet 100% of everyone's

00:04:06.000 --> 00:04:10.000
expectations, but it represents

00:04:10.000 --> 00:04:11.000
the balance collaborative

00:04:11.000 --> 00:04:12.000
culmination of the community's

00:04:12.000 --> 00:04:13.000
Input.

00:04:13.000 --> 00:04:14.000
I've been on this board for five

00:04:14.000 --> 00:04:17.000
years.

00:04:17.000 --> 00:04:20.000
I speak to you as a former super

00:04:20.000 --> 00:04:23.000
commuter working at Hillsboro,

00:04:23.000 --> 00:04:24.000
and during that traffic jam,

00:04:24.000 --> 00:04:28.000
constantly, it is painful.

00:04:28.000 --> 00:04:32.000
The I-5 and I205 corridors are

00:04:32.000 --> 00:04:33.000
the lifelines of the Portland

00:04:33.000 --> 00:04:35.000
metropolis.

00:04:35.000 --> 00:04:39.000
We have both lived through it,

00:04:39.000 --> 00:04:40.000
when both bridges come to a

00:04:40.000 --> 00:04:42.000
standstill.

00:04:42.000 --> 00:04:44.000
We desperately need to modernize

00:04:44.000 --> 00:04:45.000
this ancient failing

00:04:45.000 --> 00:04:48.000
infrastructure.

00:04:48.000 --> 00:04:49.000
So it is seismically resilient,

00:04:49.000 --> 00:04:50.000
and safely accommodates all

00:04:50.000 --> 00:04:52.000
modes of transportation.

00:04:52.000 --> 00:04:53.000
At the end of the day, the best

00:04:53.000 --> 00:04:54.000
bridge is the one that gets

00:04:54.000 --> 00:04:56.000
built.

00:04:56.000 --> 00:04:58.000
We're at a critical historic

00:04:58.000 --> 00:05:03.000
junction, approving this request

00:05:03.000 --> 00:05:08.000
is mandatory,

00:05:08.000 --> 00:05:12.000
nonnegotiable step to unlock \$2

00:05:12.000 --> 00:05:14.000
million let's leverage these

00:05:14.000 --> 00:05:15.000
historic resources and begin

00:05:15.000 --> 00:05:17.000
construction the moment the

00:05:17.000 --> 00:05:19.000
record of decision is received.

00:05:19.000 --> 00:05:21.000
So let's stop delaying, and

00:05:21.000 --> 00:05:22.000
let's build this bridge.

00:05:22.000 --> 00:05:23.000
Thank you for your leadership

00:05:23.000 --> 00:05:24.000
and your time.

00:05:24.000 --> 00:05:29.000
>> CHAIR: Thank you.

00:05:29.000 --> 00:05:30.000
Chris Smith and who's next on

00:05:30.000 --> 00:05:32.000
deck?

00:05:32.000 --> 00:05:33.000
>> Malik Burke Nelson.

00:05:33.000 --> 00:05:36.000
>> I'm Chris Smith, representing

00:05:36.000 --> 00:05:38.000
the no more freeways campaign.

00:05:38.000 --> 00:05:40.000
I'm the variety act, I'm here to

00:05:40.000 --> 00:05:43.000
talk about rose quarter.

00:05:43.000 --> 00:05:44.000
Your next big amendment is rose

00:05:44.000 --> 00:05:46.000
quarter phase one B, you're

00:05:46.000 --> 00:05:47.000
doing a two touch process for

00:05:47.000 --> 00:05:55.000
that, you're getting briefed

00:05:55.000 --> 00:05:58.000
this month.

00:05:58.000 --> 00:06:00.000
Phase 1B is important for us.

00:06:00.000 --> 00:06:03.000
You received an email a chart

00:06:03.000 --> 00:06:04.000
from ODOT that shows what's

00:06:04.000 --> 00:06:06.000
built in each phase.

00:06:06.000 --> 00:06:07.000
There's a gatch where phase 1B

00:06:07.000 --> 00:06:08.000
should be.

00:06:08.000 --> 00:06:09.000
There's nothing useful that

00:06:09.000 --> 00:06:11.000
comes out of it.

00:06:11.000 --> 00:06:13.000
They will spend \$165 million of

00:06:13.000 --> 00:06:16.000
our scarce regional funds

00:06:16.000 --> 00:06:20.000
building half a lane that will

00:06:20.000 --> 00:06:22.000
run into the wideler overpass.

00:06:22.000 --> 00:06:23.000
Because they don't have the

00:06:23.000 --> 00:06:25.000
funds to tear it down and build

00:06:25.000 --> 00:06:27.000
it wider.

00:06:27.000 --> 00:06:29.000
I'm asking you to look at the

00:06:29.000 --> 00:06:31.000
wisdom to spend \$167 million,

00:06:31.000 --> 00:06:32.000
that only has useful unless

00:06:32.000 --> 00:06:34.000
unless we find hundreds of

00:06:34.000 --> 00:06:35.000
millions of dollars more to do

00:06:35.000 --> 00:06:37.000
other phases.

00:06:37.000 --> 00:06:43.000
It seems like a poor fiscal

00:06:43.000 --> 00:06:48.000
choice.

00:06:48.000 --> 00:06:54.000
We believe strongly where phase

00:06:54.000 --> 00:06:56.000
one should reach our needs not

00:06:56.000 --> 00:06:57.000
just an interstate.

00:06:57.000 --> 00:07:01.000
>> Thank you.

00:07:01.000 --> 00:07:05.000
Now we have Burke Nelson and on

00:07:05.000 --> 00:07:07.000
tech we have Khan Tran.

00:07:07.000 --> 00:07:09.000
>> Good morning, everyone, my

00:07:09.000 --> 00:07:12.000
name is Burke Nelson, I

00:07:12.000 --> 00:07:14.000
represent NAMAC Oregon.

00:07:14.000 --> 00:07:15.000
On behalf of national

00:07:15.000 --> 00:07:17.000
association of minority

00:07:17.000 --> 00:07:19.000
contractors, the Oregon chapter,

00:07:19.000 --> 00:07:21.000
we are pleased to express our

00:07:21.000 --> 00:07:23.000
strong support for the

00:07:23.000 --> 00:07:25.000
interstate bridge replacement

00:07:25.000 --> 00:07:26.000
program, and the upcoming

00:07:26.000 --> 00:07:29.000
Columbia river bridge project.

00:07:29.000 --> 00:07:30.000
The IBR program represents a

00:07:30.000 --> 00:07:32.000
once in a generation

00:07:32.000 --> 00:07:35.000
infrastructure that will improve

00:07:35.000 --> 00:07:37.000
regional mobility, safety,

00:07:37.000 --> 00:07:38.000
freight movement and economic

00:07:38.000 --> 00:07:40.000
competitiveness.

00:07:40.000 --> 00:07:42.000
It presents an historic

00:07:42.000 --> 00:07:44.000
opportunity to create lasting

00:07:44.000 --> 00:07:45.000
opportunity for disadvantaged

00:07:45.000 --> 00:07:46.000
businesses.

00:07:46.000 --> 00:07:47.000
Communities of colors and

00:07:47.000 --> 00:07:52.000
skilled workers throughout

00:07:52.000 --> 00:07:56.000
Oregon and Washington.

00:07:56.000 --> 00:07:58.000
We appreciate the commitment for

00:07:58.000 --> 00:07:59.000
the contracting community

00:07:59.000 --> 00:08:04.000
anticipated for the summer of

00:08:04.000 --> 00:08:06.000
2026 work.

00:08:06.000 --> 00:08:07.000
Creating a competitive

00:08:07.000 --> 00:08:08.000
procurement process.

00:08:08.000 --> 00:08:10.000
As the voice of contractors of

00:08:10.000 --> 00:08:13.000
color throughout Oregon, we

00:08:13.000 --> 00:08:16.000
encourage the IBR program to

00:08:16.000 --> 00:08:17.000
prioritize accountability,

00:08:17.000 --> 00:08:19.000
inclusion and immeasurable

00:08:19.000 --> 00:08:22.000
outlets.

00:08:22.000 --> 00:08:24.000
Create accessible opportunities

00:08:24.000 --> 00:08:25.000
for small businesses.

00:08:25.000 --> 00:08:28.000
Require early engagement by

00:08:28.000 --> 00:08:30.000
prime contractors.

00:08:30.000 --> 00:08:33.000
Investing capacity building,

00:08:33.000 --> 00:08:34.000
deliver workforce and maintain

00:08:34.000 --> 00:08:35.000
transparency and

00:08:35.000 --> 00:08:36.000
accountability.

00:08:36.000 --> 00:08:39.000
We appreciate your commitment

00:08:39.000 --> 00:08:41.000
and inclusion, and look forward

00:08:41.000 --> 00:08:42.000
to collaboration as the IBR

00:08:42.000 --> 00:08:43.000
program advances.

00:08:43.000 --> 00:08:46.000
Thank you.

00:08:46.000 --> 00:08:50.000
>> Thank you.

00:08:50.000 --> 00:08:54.000
I'm now promoting Khan Tran to a

00:08:54.000 --> 00:08:56.000
panelist, and next we have

00:08:56.000 --> 00:08:57.000
Zachary Louiston.

00:08:57.000 --> 00:08:58.000
>> Good morning, can you hear

00:08:58.000 --> 00:09:02.000
me, see me okay?

00:09:02.000 --> 00:09:04.000
>> Yes.

00:09:04.000 --> 00:09:06.000
>> I'm here in my capacity as

00:09:06.000 --> 00:09:07.000
director of policy and programs

00:09:07.000 --> 00:09:10.000
for Clark county.

00:09:10.000 --> 00:09:11.000
We're a business leaders group

00:09:11.000 --> 00:09:13.000
to serve economic vitality in

00:09:13.000 --> 00:09:14.000
Washington.

00:09:14.000 --> 00:09:18.000
I'm here to express support for

00:09:18.000 --> 00:09:19.000
the proposed resolution and the

00:09:19.000 --> 00:09:20.000
interstate replacement plan in

00:09:20.000 --> 00:09:22.000
general.

00:09:22.000 --> 00:09:24.000
We're closer than ever to

00:09:24.000 --> 00:09:26.000
deliver a modern crossing that

00:09:26.000 --> 00:09:31.000
will serve our generations for

00:09:31.000 --> 00:09:33.000
decades to come.

00:09:33.000 --> 00:09:36.000
Maintain momentum is critical.

00:09:36.000 --> 00:09:37.000
The actions before you today are

00:09:37.000 --> 00:09:38.000
administrative, but they

00:09:38.000 --> 00:09:40.000
represent important steps in

00:09:40.000 --> 00:09:42.000
keeping the project on schedule,

00:09:42.000 --> 00:09:44.000
and ensuring that funding

00:09:44.000 --> 00:09:45.000
delivery requirements continue

00:09:45.000 --> 00:09:47.000
to be met.

00:09:47.000 --> 00:09:49.000
Advancng these policies help

00:09:49.000 --> 00:09:52.000
move the program toward

00:09:52.000 --> 00:09:53.000
planning, implementation and

00:09:53.000 --> 00:09:54.000
construction.

00:09:54.000 --> 00:09:56.000
The IBR is much more about

00:09:56.000 --> 00:09:59.000
replacing aging infrastructure.

00:09:59.000 --> 00:10:00.000
It's been strengthening regional

00:10:00.000 --> 00:10:03.000
Connectivity and freight

00:10:03.000 --> 00:10:04.000
mobility along the entire west

00:10:04.000 --> 00:10:05.000
coast.

00:10:05.000 --> 00:10:06.000
And creating a transportation

00:10:06.000 --> 00:10:07.000
system that is safer and more

00:10:07.000 --> 00:10:08.000
resilient for future

00:10:08.000 --> 00:10:11.000
generations.

00:10:11.000 --> 00:10:18.000
The project will inevitably

00:10:18.000 --> 00:10:22.000
revolve, and there will be

00:10:22.000 --> 00:10:26.000
programs as this moves forward.

00:10:26.000 --> 00:10:29.000
I would like to thank JPACT

00:10:29.000 --> 00:10:31.000
members, Metro staff and the IBR

00:10:31.000 --> 00:10:32.000
team and the many local,

00:10:32.000 --> 00:10:34.000
regional and state partners that

00:10:34.000 --> 00:10:35.000
have helped bring this effort to

00:10:35.000 --> 00:10:36.000
this point.

00:10:36.000 --> 00:10:37.000
We appreciate your leadership

00:10:37.000 --> 00:10:38.000
and service, thank you for your

00:10:38.000 --> 00:10:44.000
time.

00:10:44.000 --> 00:10:45.000
>> Thank you.

00:10:45.000 --> 00:10:46.000
>> CHAIR: I think there's a tech

00:10:46.000 --> 00:10:49.000
challenge on the volume.

00:10:49.000 --> 00:10:52.000
>> Yes, if the folks in the back

00:10:52.000 --> 00:10:53.000
want to raise the volume if

00:10:53.000 --> 00:10:54.000
possible.

00:10:54.000 --> 00:10:55.000
Our captions should be up as

00:10:55.000 --> 00:10:57.000
soon as possible, as well as

00:10:57.000 --> 00:11:01.000
gallery view.

00:11:01.000 --> 00:11:05.000
I'm now promoting Zachary

00:11:05.000 --> 00:11:07.000

00:11:07.000 --> 00:11:08.000
Lurtzen.

00:11:08.000 --> 00:11:10.000
>> I heard the mic was a little

00:11:10.000 --> 00:11:12.000
low.

00:11:12.000 --> 00:11:15.000
>> CHAIR: Actually, Zachary,

00:11:15.000 --> 00:11:17.000
talk louder, please.

00:11:17.000 --> 00:11:18.000
>> How about now.

00:11:18.000 --> 00:11:20.000
>> That's worse.

00:11:20.000 --> 00:11:23.000
>> I can tell you a joke and see

00:11:23.000 --> 00:11:27.000
if you can hear it.

00:11:27.000 --> 00:11:28.000
>> CHAIR: It's going the wrong

00:11:28.000 --> 00:11:29.000
way.

00:11:29.000 --> 00:11:30.000
You all hear about the

00:11:30.000 --> 00:11:32.000
kidnapping in the park, don't

00:11:32.000 --> 00:11:36.000
worry, you woke up. Better?

00:11:36.000 --> 00:11:37.000
>> CHAIR: No.

00:11:37.000 --> 00:11:41.000
You want me to continue or let

00:11:41.000 --> 00:11:42.000
you all work on it a

00:11:42.000 --> 00:11:46.000
little bit?

00:11:46.000 --> 00:11:47.000
>> CHAIR: Can we get one

00:11:47.000 --> 00:11:50.000
moment.

00:11:50.000 --> 00:11:51.000
Ivan, if you can move the dial

00:11:51.000 --> 00:11:52.000
up.

00:11:52.000 --> 00:11:54.000
>> It's up.

00:11:54.000 --> 00:11:56.000
Zachary, one more time.

00:11:56.000 --> 00:12:00.000
>> 1, 2, 3, 4.

00:12:00.000 --> 00:12:06.000
>> You are good to go.

00:12:06.000 --> 00:12:07.000
>> I'm Zachary

00:12:07.000 --> 00:12:08.000
Lauritzen.

00:12:08.000 --> 00:12:10.000
I live in a neighborhood that

00:12:10.000 --> 00:12:12.000
straddles sandy boulevard.

00:12:12.000 --> 00:12:13.000
It's already a freeway bypass,

00:12:13.000 --> 00:12:15.000
why is that important?

00:12:15.000 --> 00:12:19.000
Because when tolling is turned

00:12:19.000 --> 00:12:20.000
on, the IBR in 2028, the

00:12:20.000 --> 00:12:22.000
investment grade analysis tells

00:12:22.000 --> 00:12:25.000
us trips will drop from 130,000

00:12:25.000 --> 00:12:27.000
a day down to 80,000.

00:12:27.000 --> 00:12:29.000
Some will disappear, the vast

00:12:29.000 --> 00:12:31.000
majority of one other option, is

00:12:31.000 --> 00:12:32.000
the Glenn Jackson bridge.

00:12:32.000 --> 00:12:36.000
They are going to disburse on

00:12:36.000 --> 00:12:38.000
roads all across east Vancouver

00:12:38.000 --> 00:12:40.000
and east Portland, sandy,

00:12:40.000 --> 00:12:42.000
Powell, Stafford, 99E.

00:12:42.000 --> 00:12:45.000
And you're likely going to see a

00:12:45.000 --> 00:12:47.000
slide today from the IBR team

00:12:47.000 --> 00:12:49.000
that says by 2045, diversion is

00:12:49.000 --> 00:12:52.000
going to even out, trust us,

00:12:52.000 --> 00:12:54.000
it's not going to be too bad.

00:12:54.000 --> 00:12:56.000
That's 17 years, almost a

00:12:56.000 --> 00:12:57.000
generation, to hear, just don't

00:12:57.000 --> 00:12:59.000
worry about it.

00:12:59.000 --> 00:13:00.000
That's why I'm here today

00:13:00.000 --> 00:13:01.000
wearing my neighborhood

00:13:01.000 --> 00:13:03.000
association will.

00:13:03.000 --> 00:13:05.000
I'm a dad, and we almost never

00:13:05.000 --> 00:13:07.000
go to sandy businesses because

00:13:07.000 --> 00:13:08.000
it's already treated as a

00:13:08.000 --> 00:13:10.000
freeway by pass.

00:13:10.000 --> 00:13:14.000
When I hear, IBR say, don't wait

00:13:14.000 --> 00:13:16.000
about it, wait until 2045 it

00:13:16.000 --> 00:13:18.000
will balance out.

00:13:18.000 --> 00:13:19.000
It feels dismissive of people

00:13:19.000 --> 00:13:21.000
who live up and down that

00:13:21.000 --> 00:13:23.000
corridor of I-205.

00:13:23.000 --> 00:13:26.000
I hope you will have staff list

00:13:26.000 --> 00:13:28.000
the interventions we can adopt,

00:13:28.000 --> 00:13:31.000
to address that diversion, and

00:13:31.000 --> 00:13:33.000
bring it back to JPACT for

00:13:33.000 --> 00:13:34.000
consideration in a couple

00:13:34.000 --> 00:13:35.000
months.

00:13:35.000 --> 00:13:38.000
I am desperately hoping for the

00:13:38.000 --> 00:13:39.000
best, that the IBR is right,

00:13:39.000 --> 00:13:40.000
their team is right, that

00:13:40.000 --> 00:13:41.000
diversion is not going to be

00:13:41.000 --> 00:13:43.000
that bad.

00:13:43.000 --> 00:13:45.000
But that's literally only half

00:13:45.000 --> 00:13:46.000
of the saying, the whole

00:13:46.000 --> 00:13:48.000
saying, you hope for the best,

00:13:48.000 --> 00:13:49.000
and you plan for the worst, and

00:13:49.000 --> 00:13:51.000
that's what I think we owe to

00:13:51.000 --> 00:13:54.000
the tens of thousands of people

00:13:54.000 --> 00:13:58.000
who live in east Portland, the

00:13:58.000 --> 00:13:59.000
port of Portland, east

00:13:59.000 --> 00:14:00.000
Vancouver and Clackamas

00:14:00.000 --> 00:14:01.000
County.

00:14:01.000 --> 00:14:02.000
We hope for the best, but plan

00:14:02.000 --> 00:14:04.000
for the worst.

00:14:04.000 --> 00:14:05.000
Trust the investment great

00:14:05.000 --> 00:14:06.000
analysis, and make an

00:14:06.000 --> 00:14:08.000
intentional set of decisions on

00:14:08.000 --> 00:14:09.000
how to address the diversion

00:14:09.000 --> 00:14:13.000
that's going to happen when

00:14:13.000 --> 00:14:14.000
tolling is turned on to IBR.

00:14:14.000 --> 00:14:16.000
Thank you very much.

00:14:16.000 --> 00:14:23.000
>> Thank you.

00:14:23.000 --> 00:14:24.000
Now promoting indy Okun.

00:14:24.000 --> 00:14:26.000
Next on deck, we have Renee

00:14:26.000 --> 00:14:28.000
Gonzalez.

00:14:28.000 --> 00:14:29.000
>> Good morning chair Lewis,

00:14:29.000 --> 00:14:31.000
members of the committee, thank

00:14:31.000 --> 00:14:32.000
you for the opportunity to speak

00:14:32.000 --> 00:14:34.000
this morning.

00:14:34.000 --> 00:14:38.000
I'm on, right?

00:14:38.000 --> 00:14:41.000
My name is

00:14:41.000 --> 00:14:43.000
Indi, I'm speaking about the

00:14:43.000 --> 00:14:46.000
interstate bridge replacement

00:14:46.000 --> 00:14:49.000
amendments before you today.

00:14:49.000 --> 00:14:51.000
When the investment grade became

00:14:51.000 --> 00:14:56.000
available, I began hearing

00:14:56.000 --> 00:14:57.000
concern about where those 50,000

00:14:57.000 --> 00:14:58.000
vehicles a day will go.

00:14:58.000 --> 00:15:00.000
Especially if the initial

00:15:00.000 --> 00:15:01.000
construction package doesn't

00:15:01.000 --> 00:15:03.000
include light rail or active

00:15:03.000 --> 00:15:05.000
transportation or anything that

00:15:05.000 --> 00:15:08.000
could offer an alternative to

00:15:08.000 --> 00:15:12.000
those drivers.

00:15:12.000 --> 00:15:14.000
I205 collective boulevards,

00:15:14.000 --> 00:15:17.000
82nd, 122nd would be the path of

00:15:17.000 --> 00:15:20.000
least resistance for trips, that

00:15:20.000 --> 00:15:21.000
would fail to evaporate in

00:15:21.000 --> 00:15:22.000
2028.

00:15:22.000 --> 00:15:25.000
Communities like ours already

00:15:25.000 --> 00:15:27.000
see a large burden of injuries,

00:15:27.000 --> 00:15:29.000
fatalities, noise congestion.

00:15:29.000 --> 00:15:31.000
Without mitigation, our burden

00:15:31.000 --> 00:15:33.000
is set up to get heavier.

00:15:33.000 --> 00:15:34.000
I'm sure Washington communities

00:15:34.000 --> 00:15:35.000
in the path of diversion share

00:15:35.000 --> 00:15:39.000
these concerns.

00:15:39.000 --> 00:15:40.000
We can wait for this problem to

00:15:40.000 --> 00:15:41.000
materialize before consideration

00:15:41.000 --> 00:15:44.000
how to address it.

00:15:44.000 --> 00:15:45.000
The region can walk and chew gum

00:15:45.000 --> 00:15:47.000
at the same time.

00:15:47.000 --> 00:15:49.000
Because the idea and the scale

00:15:49.000 --> 00:15:52.000
of these impacts only became

00:15:52.000 --> 00:15:57.000
available close to our TPACT, we

00:15:57.000 --> 00:15:59.000
only had limited time to act.

00:15:59.000 --> 00:16:00.000
We being community

00:16:00.000 --> 00:16:02.000
representatives, introduced

00:16:02.000 --> 00:16:04.000
amendment language that would

00:16:04.000 --> 00:16:05.000
begin an investigation for

00:16:05.000 --> 00:16:07.000
managing this looming problem,

00:16:07.000 --> 00:16:08.000
and make a plan prior to Day One

00:16:08.000 --> 00:16:10.000
of tolling.

00:16:10.000 --> 00:16:12.000
It currently needed more work

00:16:12.000 --> 00:16:13.000
than the time line allowed for.

00:16:13.000 --> 00:16:15.000
That work can happen outside of

00:16:15.000 --> 00:16:18.000
the time line, and bring in new

00:16:18.000 --> 00:16:20.000
recommendations for TPACT.

00:16:20.000 --> 00:16:23.000
This wouldn't delay funding on

00:16:23.000 --> 00:16:25.000
the table, but would allow our

00:16:25.000 --> 00:16:26.000
region to create a plan before

00:16:26.000 --> 00:16:28.000
construction begins.

00:16:28.000 --> 00:16:30.000
The communities we work with are

00:16:30.000 --> 00:16:33.000
in the line of fire, if someone

00:16:33.000 --> 00:16:34.000
doesn't step up to make a plan

00:16:34.000 --> 00:16:35.000
to protect them.

00:16:35.000 --> 00:16:37.000
As you move these amendments

00:16:37.000 --> 00:16:38.000
forward today, send clear

00:16:38.000 --> 00:16:39.000
direction back to Metro staff,

00:16:39.000 --> 00:16:41.000
that would allow us to bring the

00:16:41.000 --> 00:16:42.000
time and work in to bring a

00:16:42.000 --> 00:16:45.000
stronger proposal back to you,

00:16:45.000 --> 00:16:47.000
thank you.

00:16:47.000 --> 00:16:50.000
>> Thank you.

00:16:50.000 --> 00:16:53.000
Now promoting Renee Gonzalez.

00:16:53.000 --> 00:16:54.000
And next on deck is Sharon.

00:16:54.000 --> 00:16:55.000
I will promote you a little

00:16:55.000 --> 00:16:56.000
early so you can get your tech

00:16:56.000 --> 00:17:17.000
sorted.

00:17:17.000 --> 00:17:20.000
Thank you.

00:17:20.000 --> 00:17:21.000
>> Good morning all, can you

00:17:21.000 --> 00:17:22.000
hear me?

00:17:22.000 --> 00:17:25.000
>> We hear you.

00:17:25.000 --> 00:17:28.000
>> Rene Gonzalez.

00:17:28.000 --> 00:17:31.000
We were founded in 1952, over

00:17:31.000 --> 00:17:33.000
250 employees, headquarters in

00:17:33.000 --> 00:17:34.000
north Portland, right by the

00:17:34.000 --> 00:17:35.000
bridge.

00:17:35.000 --> 00:17:37.000
We've been on the cutting edge

00:17:37.000 --> 00:17:39.000
of providing alternatives to

00:17:39.000 --> 00:17:42.000
petroleum fuel in the region

00:17:42.000 --> 00:17:45.000
while ensuring stable supply for

00:17:45.000 --> 00:17:46.000
the trucking and construction

00:17:46.000 --> 00:17:47.000
industries.

00:17:47.000 --> 00:17:48.000
I'm sitting here as I stand in

00:17:48.000 --> 00:17:49.000
for the Columbia corridor

00:17:49.000 --> 00:17:51.000
association, that represents

00:17:51.000 --> 00:17:53.000
3500 businesses primarily in

00:17:53.000 --> 00:17:54.000
north Portland and over 75,000

00:17:54.000 --> 00:17:56.000
employees.

00:17:56.000 --> 00:17:57.000
I want to speak from about three

00:17:57.000 --> 00:17:59.000
different dimensions today,

00:17:59.000 --> 00:18:00.000
about what we see in north

00:18:00.000 --> 00:18:02.000
Portland every day.

00:18:02.000 --> 00:18:04.000
Retail is badly struggling, we

00:18:04.000 --> 00:18:06.000
don't have as many visitors to

00:18:06.000 --> 00:18:08.000
north Portland as we once did.

00:18:08.000 --> 00:18:09.000
That feels like a systemic

00:18:09.000 --> 00:18:13.000
challenge in our area.

00:18:13.000 --> 00:18:15.000
At the same time, we're having

00:18:15.000 --> 00:18:16.000
tremendous success to

00:18:16.000 --> 00:18:17.000
consolidate the transportation

00:18:17.000 --> 00:18:19.000
industry in north port land.

00:18:19.000 --> 00:18:21.000
We are at hub, that is crucial

00:18:21.000 --> 00:18:22.000
for delivering supplies

00:18:22.000 --> 00:18:24.000
throughout our region, and we

00:18:24.000 --> 00:18:25.000
hope we can double and triple

00:18:25.000 --> 00:18:27.000
down on that.

00:18:27.000 --> 00:18:31.000
One last point on the status

00:18:31.000 --> 00:18:34.000
quo, apps repeatedly take

00:18:34.000 --> 00:18:35.000
commuters and truckers on the

00:18:35.000 --> 00:18:38.000
interstate because of traffic.

00:18:38.000 --> 00:18:39.000
I speak in favor of the IBR

00:18:39.000 --> 00:18:40.000
replacement amendments before

00:18:40.000 --> 00:18:43.000
you, let's get those federal

00:18:43.000 --> 00:18:44.000
funds released, let's generate

00:18:44.000 --> 00:18:46.000
thousands of family wage

00:18:46.000 --> 00:18:47.000
construction jobs and keep

00:18:47.000 --> 00:18:48.000
Portland, Oregon and the region

00:18:48.000 --> 00:18:49.000
moving.

00:18:49.000 --> 00:18:52.000
Thank you so much.

00:18:52.000 --> 00:18:56.000
>> Thank you.

00:18:56.000 --> 00:18:57.000
Now we have Sharon

00:18:57.000 --> 00:18:58.000
Nasset.

00:18:58.000 --> 00:18:59.000
Can we hear you?

00:18:59.000 --> 00:19:06.000
>> Yes.

00:19:06.000 --> 00:19:08.000
>> Perfect, we can hear you.

00:19:08.000 --> 00:19:11.000
>> I live so close to the

00:19:11.000 --> 00:19:12.000
freeway that it has problems.

00:19:12.000 --> 00:19:15.000
>> Sharon, you may want to turn

00:19:15.000 --> 00:19:18.000
your phone sound off.

00:19:18.000 --> 00:19:23.000
>> I'm Sharon Nasset.

00:19:23.000 --> 00:19:24.000
I had sent a foyer into several

00:19:24.000 --> 00:19:25.000
organizations in response for

00:19:25.000 --> 00:19:26.000
our role in promoting the

00:19:26.000 --> 00:19:29.000
projects.

00:19:29.000 --> 00:19:33.000
The federal highway did come

00:19:33.000 --> 00:19:36.000
back with an accepted

00:19:36.000 --> 00:19:37.000
FOIA, including what needs to be

00:19:37.000 --> 00:19:39.000
repaired and the cost.

00:19:39.000 --> 00:19:41.000
Something the community has been

00:19:41.000 --> 00:19:44.000
asking for since 2005.

00:19:44.000 --> 00:19:48.000
And as you know --

00:19:48.000 --> 00:19:49.000
[Dogs

00:19:49.000 --> 00:19:52.000
barking]

00:19:52.000 --> 00:19:53.000
I have been asked for a FOIA on

00:19:53.000 --> 00:19:55.000
that.

00:19:55.000 --> 00:19:56.000
I wanted to talk about the rose

00:19:56.000 --> 00:19:58.000
quarter.

00:19:58.000 --> 00:20:02.000
The I-5 partnership, they said

00:20:02.000 --> 00:20:06.000
we needed an EIS for it, because

00:20:06.000 --> 00:20:10.000
it is so important in the center

00:20:10.000 --> 00:20:12.000
of town.

00:20:12.000 --> 00:20:14.000
I had a project accepted in that

00:20:14.000 --> 00:20:18.000
was removed because of that.

00:20:18.000 --> 00:20:21.000
I also had in the rose quarter

00:20:21.000 --> 00:20:22.000
project, the rose quarter has

00:20:22.000 --> 00:20:26.000
40,000 seats.

00:20:26.000 --> 00:20:29.000
20 in rose Gord ing, 12 in

00:20:29.000 --> 00:20:30.000
the memorial coliseum, and then

00:20:30.000 --> 00:20:35.000
all the vendors and all the

00:20:35.000 --> 00:20:37.000
people and

00:20:37.000 --> 00:20:38.000
things, it's about 65,000 for

00:20:38.000 --> 00:20:41.000
events.

00:20:41.000 --> 00:20:42.000
It needs it's own on and off

00:20:42.000 --> 00:20:44.000
ramps.

00:20:44.000 --> 00:20:45.000
The CRC, they said it needed to

00:20:45.000 --> 00:20:47.000
be an environmental impact, so

00:20:47.000 --> 00:20:48.000
they did not keep it.

00:20:48.000 --> 00:20:50.000
All of a sudden they come

00:20:50.000 --> 00:20:53.000
forward and say, no, we don't

00:20:53.000 --> 00:20:55.000
need a full EIS, just an

00:20:55.000 --> 00:20:56.000
assessment, and would not accept

00:20:56.000 --> 00:21:00.000
in the project.

00:21:00.000 --> 00:21:01.000
So I put it in to all of the

00:21:01.000 --> 00:21:02.000
communication.

00:21:02.000 --> 00:21:03.000
All the communication which is

00:21:03.000 --> 00:21:05.000
several pages, they've removed

00:21:05.000 --> 00:21:07.000
all the attachments, you can't

00:21:07.000 --> 00:21:09.000
read what anyone said, see any

00:21:09.000 --> 00:21:10.000
of my maps or anything, or any

00:21:10.000 --> 00:21:17.000
of the other communications.

00:21:17.000 --> 00:21:19.000
That EIS, every attachment on

00:21:19.000 --> 00:21:20.000
every citizen comment does not

00:21:20.000 --> 00:21:21.000
go through while this project is

00:21:21.000 --> 00:21:25.000
still on.

00:21:25.000 --> 00:21:26.000
Please address that, and sorry

00:21:26.000 --> 00:21:28.000
for the dogs.

00:21:28.000 --> 00:21:29.000
We'll be finding out if the

00:21:29.000 --> 00:21:34.000
bridge needs to be removed at

00:21:34.000 --> 00:21:39.000
the next meeting, because they

00:21:39.000 --> 00:21:40.000
have said that they are

00:21:40.000 --> 00:21:41.000
directing actively the Oregon

00:21:41.000 --> 00:21:43.000
federal highway to give us that

00:21:43.000 --> 00:21:48.000
information.

00:21:48.000 --> 00:21:49.000
>> CHAIR: Thank you, could you

00:21:49.000 --> 00:21:50.000
wrap, please?

00:21:50.000 --> 00:21:51.000
>> Thank you very much, chair

00:21:51.000 --> 00:21:52.000
Lewis, we do not have anyone

00:21:52.000 --> 00:21:54.000
else who is signed up to

00:21:54.000 --> 00:21:55.000
testify.

00:21:55.000 --> 00:21:57.000
In person or on zoom.

00:21:57.000 --> 00:21:59.000
>> CHAIR: Okay.

00:21:59.000 --> 00:22:01.000
Seeing no one else, seeing no

00:22:01.000 --> 00:22:04.000
further testimony, I will close

00:22:04.000 --> 00:22:08.000
public communications.

Georgia Langer

From: Charles Ormsby <sentinelskip@gmail.com>
Sent: Sunday, June 28, 2026 12:45 PM
To: Birdshill CPO/NA
Cc: Charles Ormsby
Subject: [External sender]YT/BeyondTheExit 2026 Jun 28 Sun | Watch "The 100-Foot Mistake That Changed Phoenix Forever" on YouTube

CAUTION: This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

2026 Jun 28 Sunday
 12:30 U / 12:30 PM PT+AZ

Lessons to be learned for Portland Oregon
 freeway fantasies.

1. Start with 1960 proposed alignments for
 I-205 through Lake Oswego and Oak Grove Lodge
2. Codify into early pre CRAG and Metro transportation
 system plan. Plus periodic updates.
3. Continue with mistakes of trench for I-405 Stadium Fwy
 and contemplated Mt. Hood Freeway.
4. Add the mess of I-5 alignment on east side of
 Willamette River. Plus Columbia River crossing to
 Vancouver WA.
5. Shake well with Cascadia Subduction Zone evolution.
6. Finally add sprinkles of High Speed Rail alignments
 through Portland OR metropolitan area.
7. Grovel before taxpayers and Feds for at least
 \$ 75,000,000,000 to clean up mess.
 In an devolving local socialist radiant future.

Good Luck!

<https://youtu.be/RUrn0Xe7sFE?is=rl8-RKzK2sBvmHYk>



Date: June 29, 2026

To: Metro Council
Joint Policy Advisory Committee on Transportation (JPACT)
Transportation Policy Alternatives Committee (TPAC)
MTIP Comment Record

From: Chris Smith, No More Freeways

Subject: **Comments on MTIP FFY 2026 Formal Amendment Bundle for Resolution 26-5600**

*"Some highway engineers have a mentality ... that would run an eight-lane freeway through the Taj Mahal. That is our problem."
– Oregon Governor Tom McCall, 1970*

We have serious concerns about the programming of approximately \$167M for Rose Quarter Phase 1B.

While we appreciate that this reconciles the rescinded Reconnecting Communities grant funding, it is clear that the proposed expenditure has no benefit to the traveling public, or to the surrounding community, until and unless 100s of Millions of Dollars are later allocated to this freeway expansion.

We are attaching a graphic developed for the Rose Quarter Project Management Group. It shows the addition of freeway elements (primarily additional lanes) for the full project and for each currently contemplated phase. The glaringly missing element from the chart is Phase 1B - because Phase 1B completes no lane improvements.

Rather Phase 1B builds a set of disconnected elements (shown in the "Alignment" attachment) that will not have public benefit until later and more expensive phases of the project have been funded and built.

This is clearly an effort to keep every available cent flowing to this project even though we have many other pressing unfunded needs in the region, including closing a funding gap on the critical 82nd Avenue project, and at the same time that TriMet is being forced to cut service.

Please stop the madness!

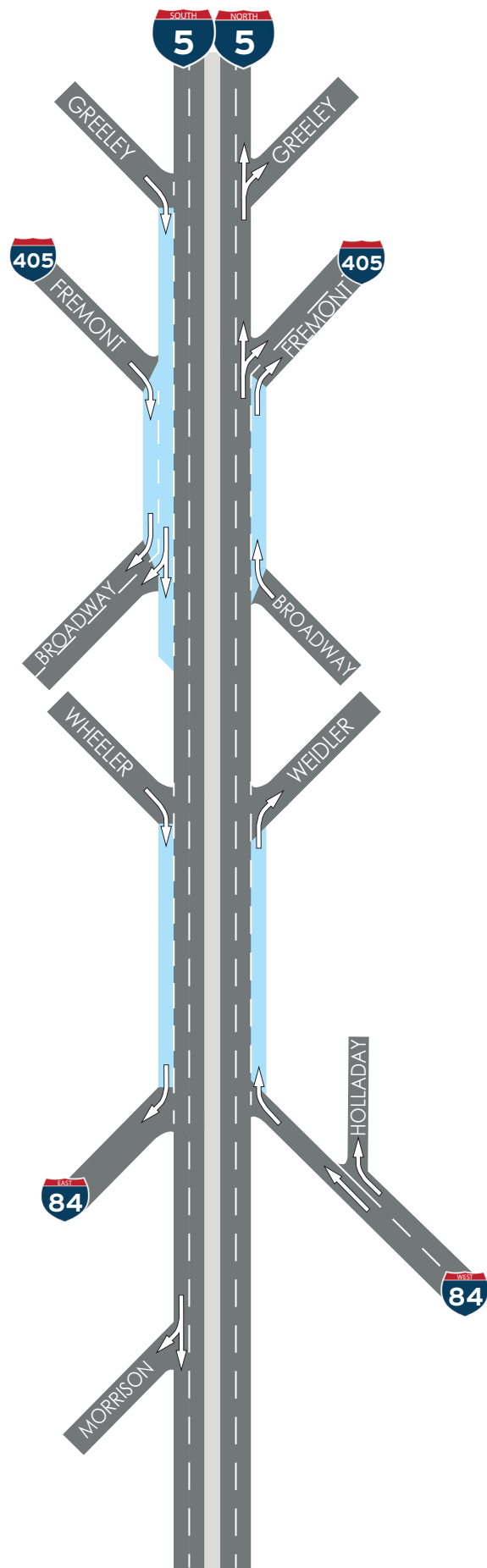


It's also important to comprehend where this \$167M came from. ODOT shows the "color" of this money as being from HB2017. But let's remember how the finance plan was developed. ODOT deferred several projects, including repainting the Fremont Bridge and rebuilding a bridge on the North Coast, in order to generate \$250M in match for a Federal INFRA grant. A grant ODOT did not receive.

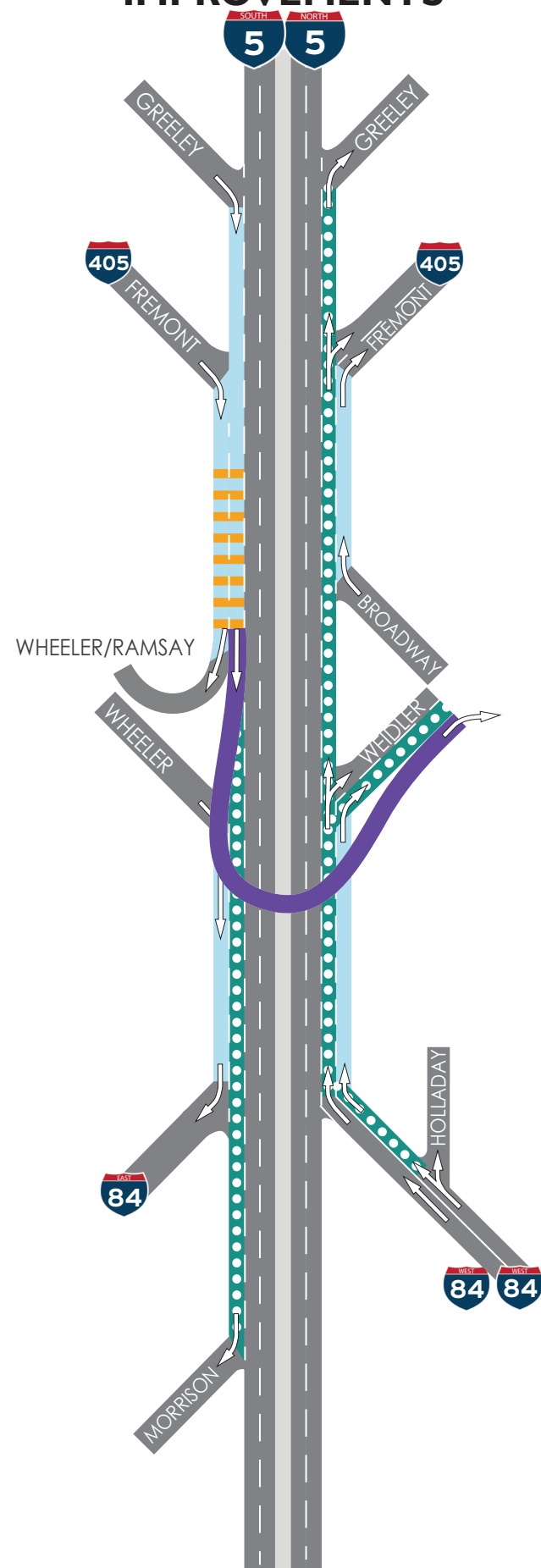
Did ODOT reinstate those deferred projects? No, the funds stayed in the Rose Quarter finance plan, and what remains of them are what you are being asked to program with these amendments.

Rose Quarter and Abernethy Bridge will long be remembered as the projects that ate the STIP. Freeway megaprojects will not solve urban mobility!

EXISTING CONDITIONS

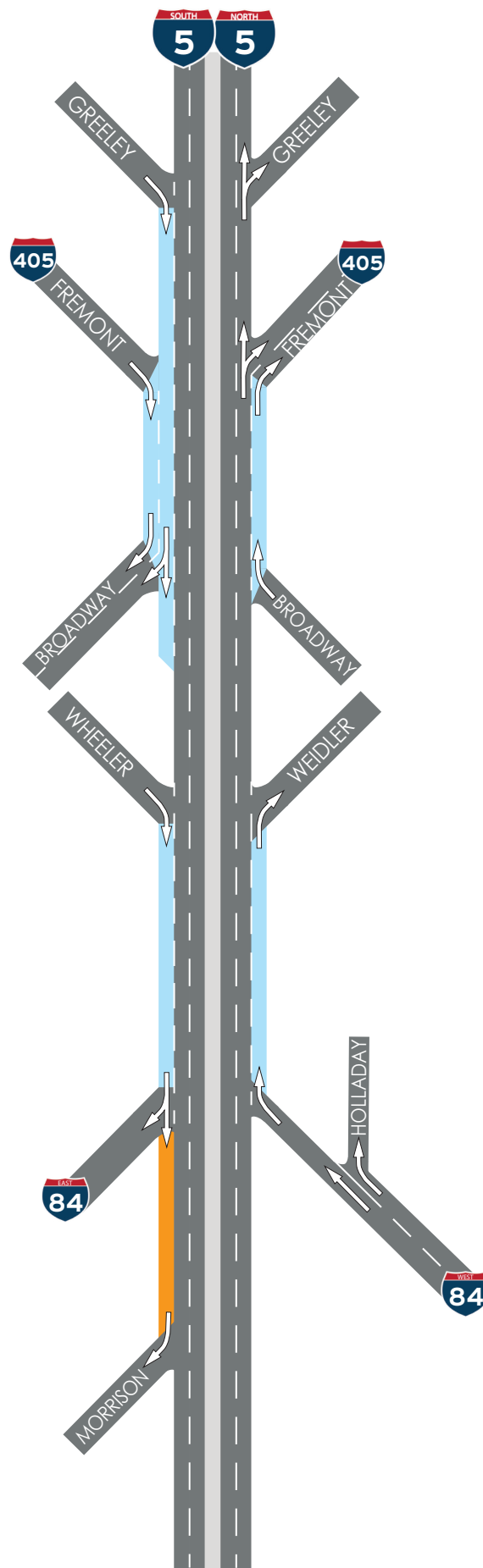


PROPOSED IMPROVEMENTS

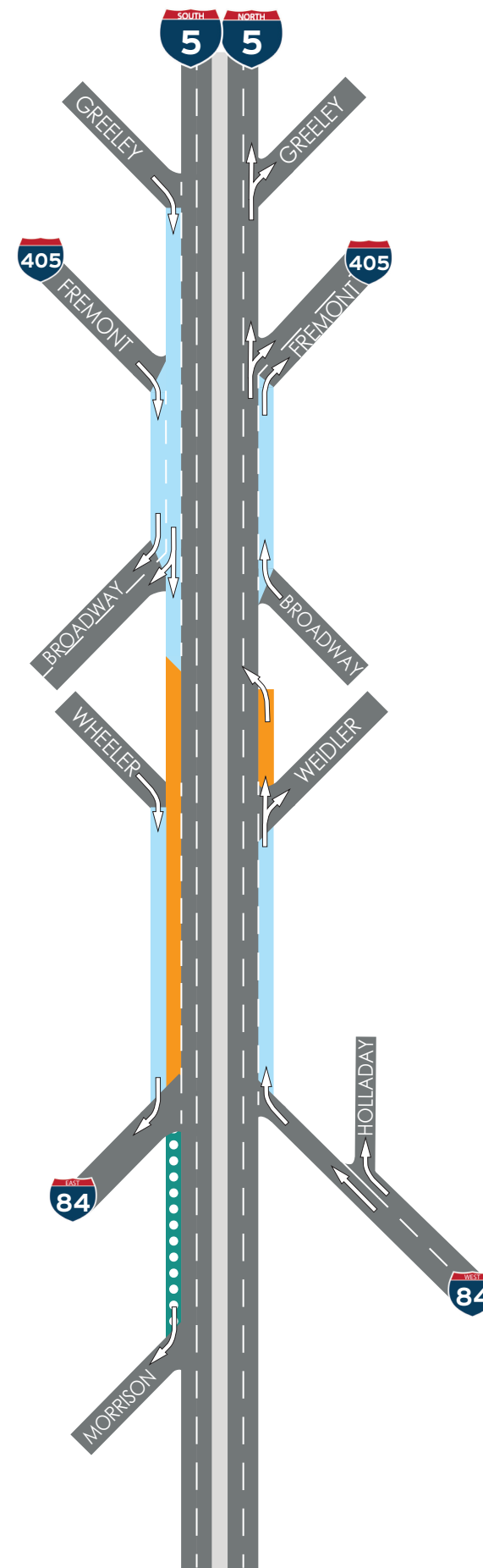


PHASE 1A

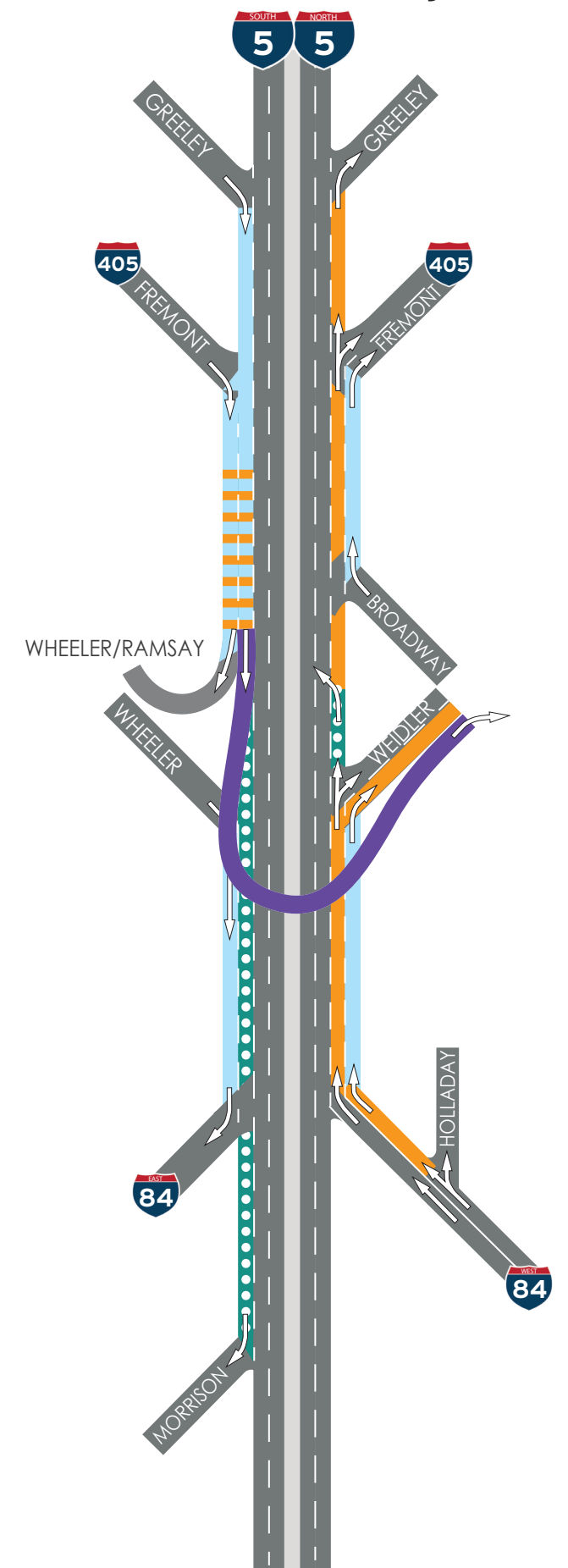
EXHIBIT B TO RESOLUTION 26-5599 ATTACHMENTS



PHASE 1C



FUTURE PHASES – COMPLETED PROJECT



Legend: Existing I-5 Travel Lanes Existing Auxiliary Lanes New Auxiliary Lanes New Flyover Extension of Existing Auxiliary Lane and Shoulders Portion built in this phase



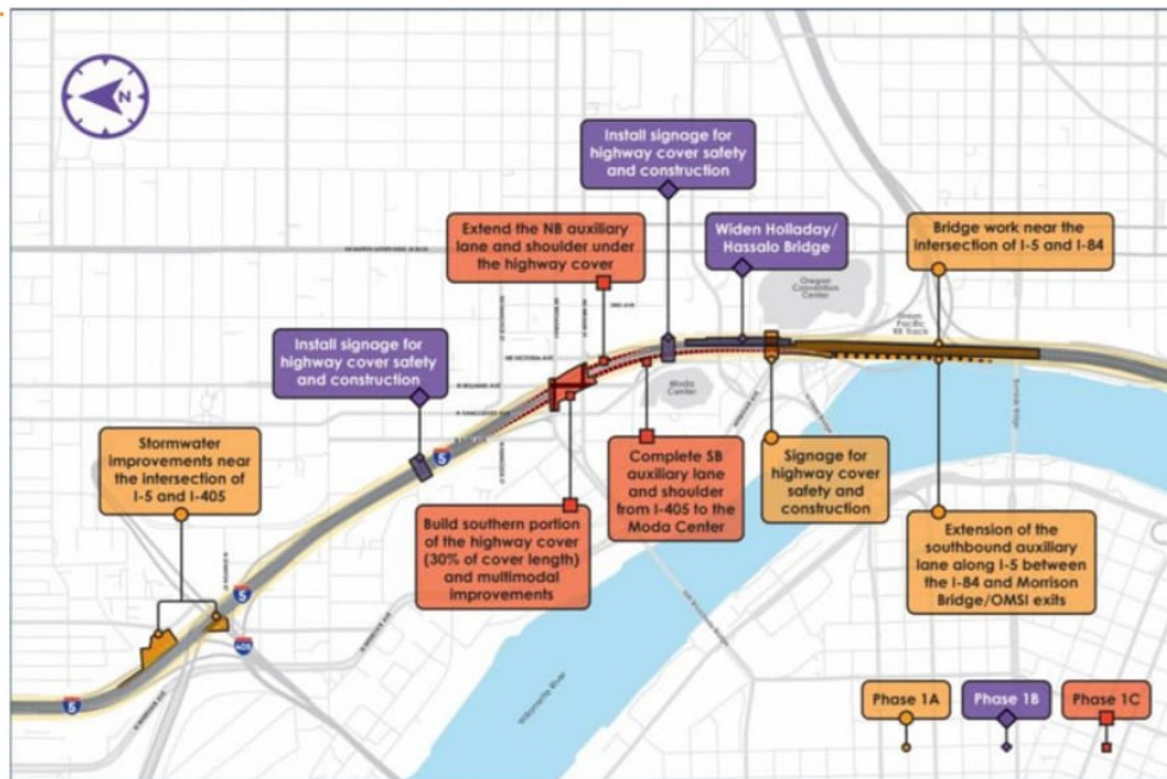
Alignment on Scope for Phase 1B

Major Elements:

- ▶ Widen Holladay/Hassalo bridge, seismic upgrades, resurface bridge deck
- ▶ Reconstruct transitions providing improved shoulder width on I-5
- ▶ Reconstruct impacted infrastructure below I-5
- ▶ Install new sign structures and variable message signs

Add:

- ▶ Early ROW acquisition using \$30M RCN funding



Georgia Langer

From: Sharonnasset <sharonnasset@aol.com>
Sent: Wednesday, July 1, 2026 12:18 PM
To: Georgia Langer; Wren Helzer-Florer; Anne Buzzini
Subject: [External sender]Metro hearing July 2 2026 Realignment of the I-84 and I-5 Rose Quarter process
Attachments: Metro Citizen Comment July 2026 I-84 Realignment.pdf; #1 new Right Of Way Picture.pdf; #2 I-84 realignment in picture form in ROW `3.pdf; #3 Rose Quarter Brief YES ~~2.pdf; #4 The Project3 area.pdf; #5 Congratulation I-5 and I-84 freeway realignment Full.pdf; #6 Ped Plaza.pdf; #7 I-84 Rose Quarter Improvement Project Environmental Assessment Comments (name begins with S) - S_I5RQ_EAComments. only Sharon Nasset CAN T open links.pdf

CAUTION: This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Metro Council July 1, 2026

Citizen Comment

July 2, 2026

AS Metropolitan Planning Organization

You are the Decision-Makers at every point decision-points in the Rose Quarter Project TriMet is not getting involved even though it is a transit center for the region.

Today Metro Councilors, I asking you to step up and require that the Rose Quarter take the information it has and turn the current process into a full Environmental Impact Statement (EIS). The involvement to the community includes affecting schools, residential, and commercial changes with impact and benefits that have not be explored.

You must require that we have a real voice, attention for the people who live here, live with the outcome, and pay for it too, to be heard Not allowing us to have our alternatives considered in the process and to choose the lowest standard of evaluation.

Do better by upgrading us to a full EIS, please.

In 2000 during NEPA Scoping Process the I-5 Partnership brought alternatives from the communities for the bridges crossing the Columbia River and ideas to deal with the congestion at the Rose Quarter. As NEPA requires. I had authored two projects that were both accepted in as alternatives one #8 the West Arterial and the other a realignment of I-5 and I-84. Mayor Katz stated that the Rose Quarter was too large of an area with complex issues of communities, residential, retail, events center, Emanuel medical center, waterfront development and traffic from two interstates freeway it has to have an Environmental Impact Statement (EIS) of it's own. At that all conversation on realignment alternatives stopped and the focus became the Bridge Influence Area.

In 2005 during NEPA Scoping Process the Columbia River Crossing (CRC) brought both River Crossing 14 (RC-14) Bi-State Industrial Freeway Corridor (Third Bridge Now) and a realignment of I-5 and I-84 in a alternatives.

** Then it was decided that the CRC would only focus on the Bridge Influence Area and that the Rose Quarter Area must have it's own EIS because of all the complexities.

The realignment alternative of I-5 and I-84 met the qualification to be brought in during formal NEPA Scoping Process twice during two different NEPA EIS's

Alternatives were removed for the "future" EIS at the Rose Quarter. Now they are not going to do an EIS Process at the Rose Quarter it will only be an Environmental Assessment (EA) so it doesn't have show the NEPA list of benefits and impacts of the project through construction and operations. It also does not do NEPA Scoping and does not have to accept alternatives from the

community! What HAS BEEN ACCEPT BEFORE, twice in NEPA Scoping would not be in this process.

The information on the realignment alternatives was placed into the Rose Quarter citizen comment during the EA and again at different comment periods. The Citizen Comments have had the information removed and the links not working. Right now and most of the time what I have sent in can not be accessed.

WHY are you the current Metro Council Members allowing an Environmental Assessment the lowest evaluation to take place when for twenty years it has been stated as needing a full evaluation? What is driving you to the point that you would accept that as good representation?

A full thorough and equal study of alternatives adjacent to each other. Why are they afraid of an open and fair process showing community alternatives?

It is a range of alternatives thoroughly and equally otherwise they can't say their stuff is the best if they didn't take the test.....

Or

Sit down, shut up, and take it. Do what's right! Give us the upgrade.

I am attaching the information I sent to the project Metro has oversight.

Peace,

Sharon

Metro Council July 1, 2026

Citizen Comment

July 2, 2026

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Peace,
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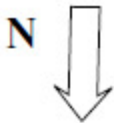
I-5 Freeway at Lloyd

N↑

This picture shows the Right Of Way



New Entrance to I-84



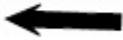
I-5 freeway looking south adjacent to the Lloyd Center exit. New entrance for I-84 freeway tunneling under Vancouver and Williams Avenue overpasses, inside of the Right Of Way



Lloyd Center exit
2-lanes of traffic.



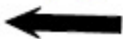
Tunnel under overpasses



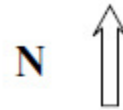
New I-84 exit 1-lane



I-5 freeway 3-lanes
merging into 2-lanes



New Entrance to I-84



New entrance I-84 lane adjacent to I-5 freeway south bound between overpasses. In side the current Right Of Way, new lane remove traffic off of the I-5 freeway.

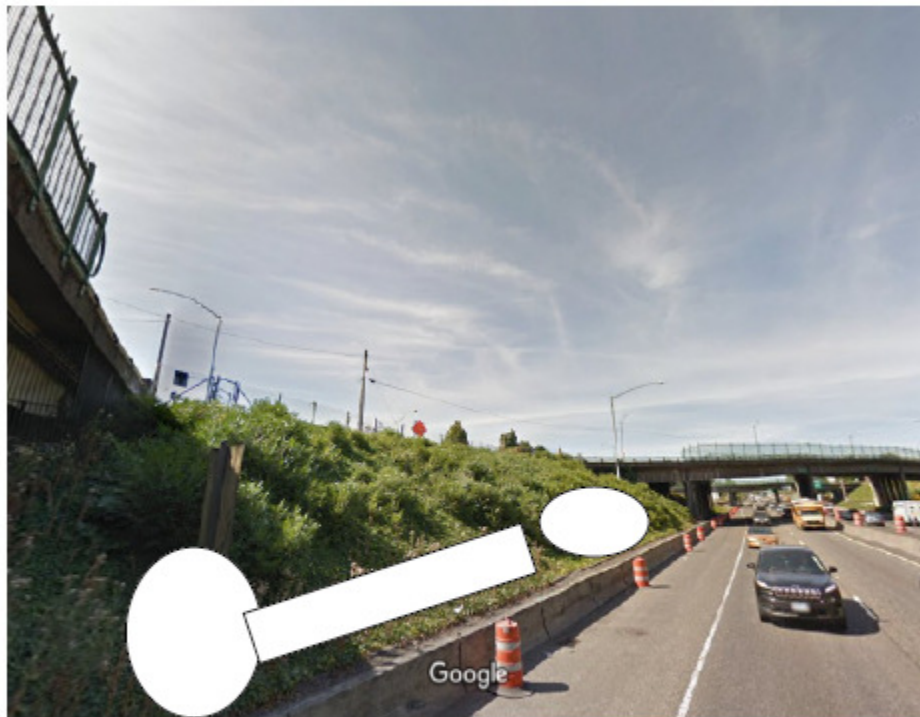


Image capture: Sep 2017 © 2018 Google

New Entrance to I-84

2-lane viaduct adjacent to I-5 freeway and crossing over entrance onto I 5 freeway from Rose Quarter inside Right Of Way.

N

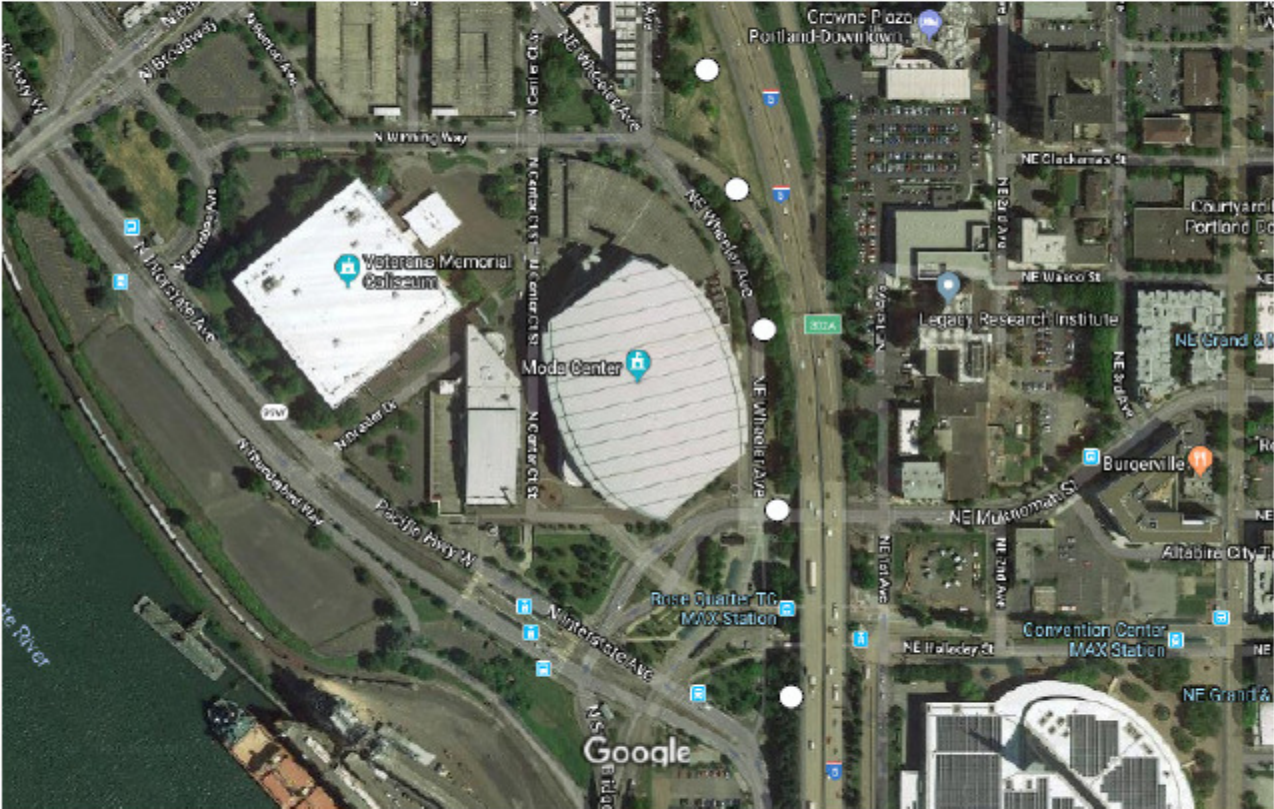


Second New Entrances to I-84 East

New I-84 entrances 2-lane viaduct freeway crossing over the entrance to the I-5 freeway. A second new entrance to I-84 freeway from surface level street connecting with viaduct provides access without having to enter I-5 freeway. The I-5 freeway south entrance pictured below is the only way to get to I-84 surface level is to go onto the I-5 freeway system and then exit off the one exit going east from I-5 south.



Piers for the new I-84 freeway on ramp, adjacent to the I-5 freeway.



New I-84 Exit ~ New City Center Exist Alignment



New I-84 east viaduct connection to existing I-84 exit. The former I-84 east exit is the new viaduct exit to the Portland City Center and Morrison St Bridge inside of ROW



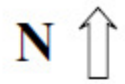
New exit ramp for City Center and Morrison St Bridge



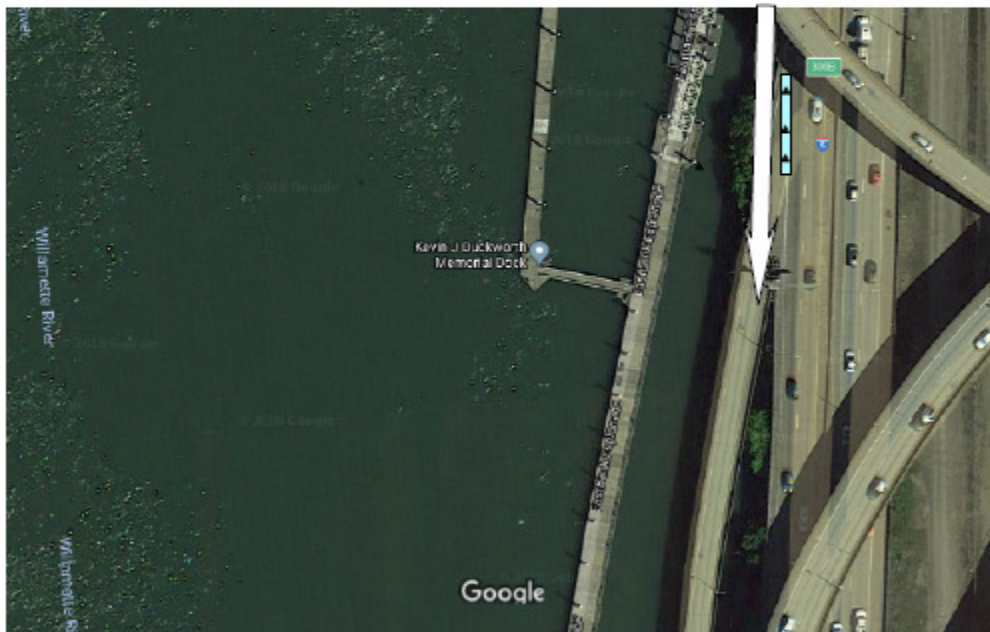
New exit ramp for City Center and Morrison St Bridge connect to existing ramp providing a longer lane exiting



New City Center Exit Alignment



New viaduct from former I-84 exit connecting to the existing City Center and Morrison St. exit adjacent to I-5 freeway. The former exit to the City Center is closed.



New access viaduct to Oregon Convention Center and Lloyd Center District exit



Widening at Morrison St entrance onto I-5 freeway constructing a viaduct on the right side between I-5 and I-84 freeways as new 2-lane exit. Accessing Lloyd Center, Coliseum, Mode Center, Oregon Convention Center, and SE Industrial area using existing Oregon Convention Center exit viaduct from I-84 east.. Traffic exiting off before the hill and I-84 east's merge onto I-5 freeway.

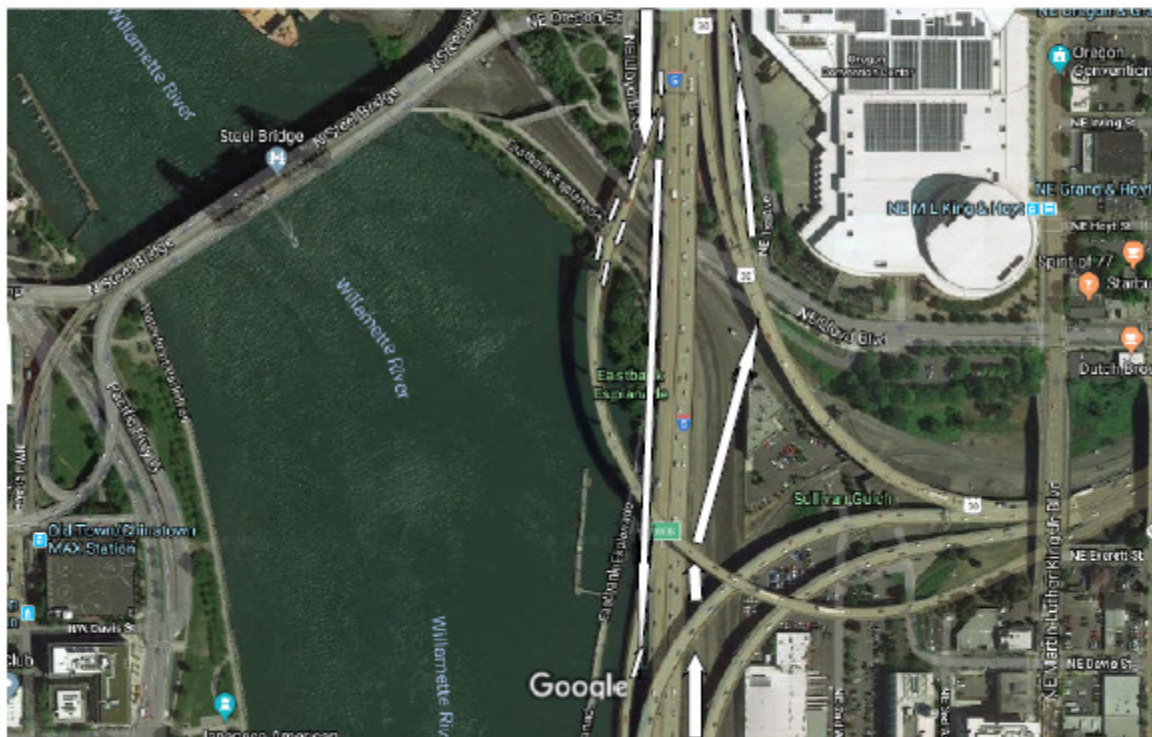


Overview # 3 Project Map I-5 Middle Area

Realign I-84 ~ City Center ~ Morrison Bridge exits

New access from I-5 to current Oregon Convention Center exit New I-84 exit connection to existing I-84 ramp east

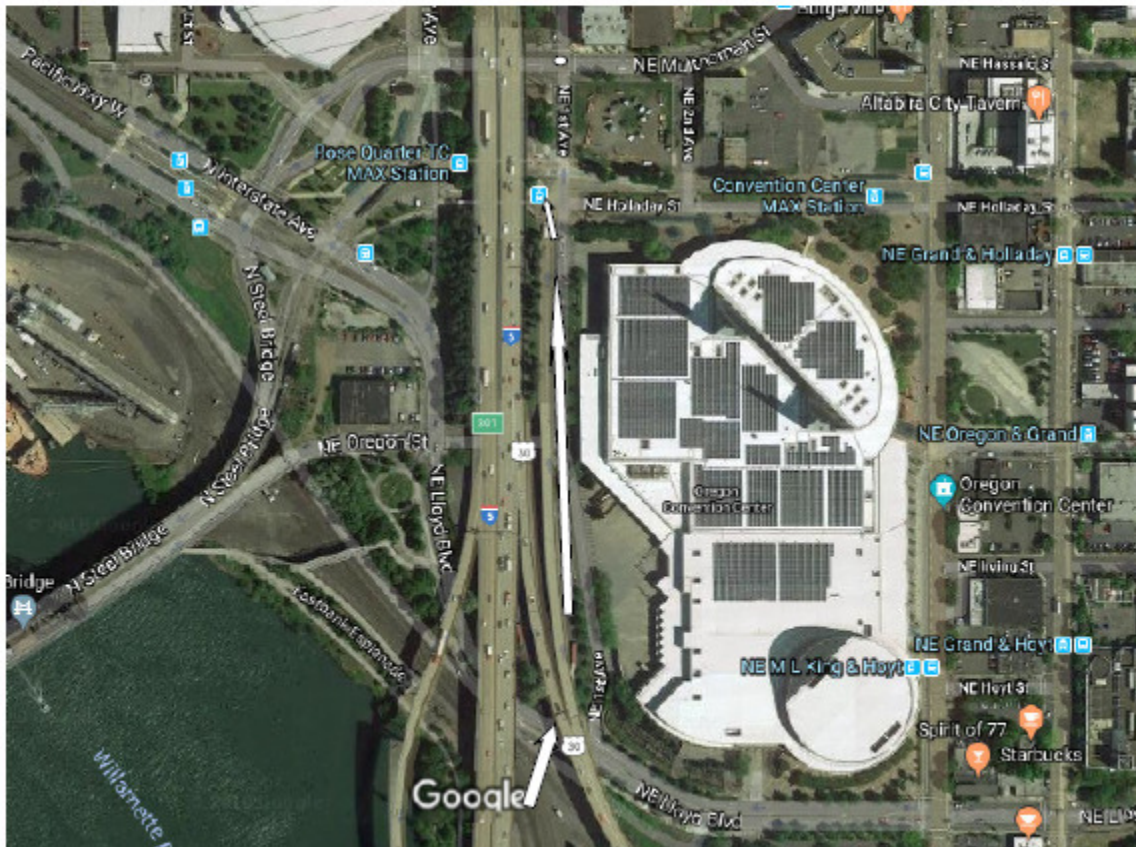
New City Center and Morrison Bridge extended exit from I-5 south to existing exits.



New exit from I-5 north to Lloyd Center District



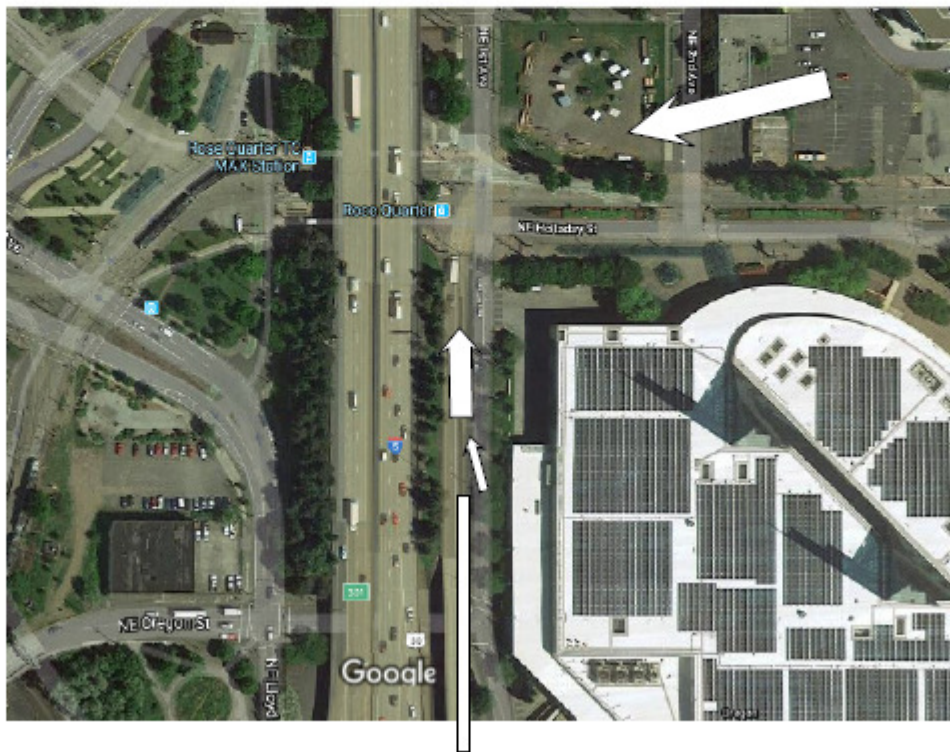
New 2-lane viaduct from I-5 north starting at the Morrison St. entrance to I-5 freeway at a low grade under the I-84 west to I-5 freeway connecting to the Oregon Convention Center viaduct. The viaduct is inside ROW between I-5 and I-84 freeways above the SE heavy rail train yard in Sullivan's Gulch.



Second exit from I-5 north to Lloyd



Additional exit from I-5 to access the convention center area. Connecting to the I-84 freeway events center, Convention, and Lloyd District exit. lower grade truck friendly ramps using existing exit leaves I-5 before I-84 freeway connection.



I-5 Freeway at Lloyd

This picture shows the Right Of Way



Rose Quarter Brief

Vehicle Flow

Traffic congestion is a **non-linear function**, meaning that a small reduction in peak traffic volume can cause a proportionally larger reduction in delay. For example, a 5% reduction in traffic volumes on a congested highway (perhaps from 2,000 to 1,900 vehicles per hour) may cause a 10-30% increase in average vehicle speeds (increasing traffic speeds from 35 to 45 MPH.) As a result, even relatively small changes in traffic volume or capacity on congested roads can provide relatively large reductions in traffic delays.

Traffic performance

Vehicle and pedestrian safety issues address, less accidents, weaving, pollution, noise, and congestion inside the Right Of Way at the Rose Quarter area

Project Description

I-84 freeway and I-5 freeway realignment and additions inside the Right Of Way, removing traffic weaves, short lanes, and lack of access without changing the local area above the freeway. This project includes addressing problem issues with the freeway, event center, mass pedestrian access, and transit center.

Freeway

I-5 freeway south

1. Realign I-84 exit with longer access lanes
2. New access to I-84 without entering I-5 freeway
3. Realign downtown SW SE with longer access lanes

I-5 freeway north

1. Realign Morrison Bridge I-5 access with longer merge lane
2. New access from I-5 freeway to existing Oregon Convention Center exit from I-84 freeway

Pedestrian

Transit center for light rail and buses

1. Construct pedestrian plaza removing vehicles from pedestrian area.

Event management with mass attendees

1. Sky walks between parking lots separating pedestrians from crossing streets
2. Shuttle and buses drop off area
3. Special service attendees drop off area

Local benefits

1. Remove traffic off of local surface streets with direct access into event center from the south and for deliveries to the event center area
2. Additional surface level access to I-84 removes long lines of vehicle off of surface streets adjacent to the I-5 freeway.
3. Shuttle services to events from locations in the region will lessen the use of individual vehicles to the event center.
4. Fewer vehicles in the area parking on the streets for hours during events helps local restaurants and businesses service their clients better.

The Project #3

The I-5 Freeway, I-84 Interchange And City Center Area.

Inside of Right Of Way (ROW) approximately 2- miles of additional lanes from realignment of entrances and exits ~ lane and additional access

Construction in ROW adjacent to the I-5 freeway with little construction interruption

A. New Entrance To I-84 From I-5 South At The Lloyd Center Area

1. New I-84 east exit entrance starts just north of Vancouver Avenue overpass between the I-5 freeway and Lloyd Center exit, trenching a new lane and tunneling under overpasses. (Pictures A 1-2)
2. The 1-lane comes out of the tunneling, raising as a viaduct adjacent to I-5 freeway becoming a 2-lane entrance ramp to I-84. (Picture A-3)
3. The 2-lane viaduct ramp raises over I-5 freeway entrance and continues west and south connecting with I-84 existing ramp. The distances is approximately .5-miles construction completion with 2-lanes is approximately 1-lane mile addition. (Pictures A 4-5).

B. New Second Entrance To I-84 East For Lloyd Center Area

1. A second new entrance to I-84 freeway east from the street level connects with the new viaduct. The second entrance provides access to I-84 east without having to enter the I-5 freeway. This removes the weave entrance to I-84 from I-5 freeway for added safety. (Picture 6)
2. Pier alignment for new 2-lane viaduct adjacent to the I-5 freeway. (Picture 7)

C. Realignment And Lengthening Of The Portland City Center And Morrison St. Bridge Exit.

1. The former I-84 exit lane on the I-5 freeway becomes the new City Center and Morrison St. Bridge exit. The former I-84 exit is extend as a viaduct adjacent to the I-5 freeway connecting to the existing exit which is off to the right of the I-5 freeway. (Pictures 8-9)

2. The new entrance to the exit starting at the top of the hill separating from the I-5 main stream traffic is safer, than current short exit having to stop to exit off the freeway hard right. (Picture 10)
3. The addition of the new City Center exit has the I-5 freeway full 2-lanes functioning has high capacity the entire length from the I-405 freeway to the Marquam Bridge.

D. New Additional Exit From The I-5 Freeway North To Oregon Convention Center Area.

1. New exit viaduct connecting to the existing Oregon Convention Center exit.
2. New 1-lane then 2-lane viaduct from I-5 north starting at the Morrison St. entrance to I-5 freeway at a low grade. The viaduct travels under the I-84 ramps connecting to the existing Oregon Convention Center viaduct from I-84 west ramp. The viaduct is inside ROW between I-5 and I-84 freeways above the SE heavy rail train yard in Sullivan's Gulch. The new exit is at low-grade level then current Lloyd Center exit from I-5 north. this provides a second access without having to climb the hill and before I-84 east entrance I-5 freeway north at the Lloyd Center District. (Pictures 11-14)

Summary

The above information concerning the Lloyd Center District in Portland Oregon and smoothing out of the I-5 freeway in the area. This information is all inside current ROW or Easement for City of Portland or Oregon Department of Transportation. This uses existing infrastructure to tie into I-5 and other ramps without traffic interruptions. In the approximate 2-miles of lane added moving hopeful 1500-2000 an hour more through the area. Remove dangerous overcrowding, lane weaving, short on and off ramps, lack of access to the entertainment area, lower grade for freight access to the area. The NEPA process would be easier and faster because of staying in ROW. The congestion relief, added access and safety for \$150 - \$200 – million dollars and the changes would not in anyway impede, future changes or developments with any new design of the area. I



sharonnasset@aol.com/InboxYour Contest Entry is Qualified

Jul 3 at 7:54 AM

Create the Future Design Contest <info@createthefuturecontest.com>

To: Sharon Nasset <sharonnasset@aol.com>

Dear Sharon,

Congratulations! Your entry "I-5 and I-84 freeway realignment and additional access " has been qualified by the review team as meeting the requirements for the Create the Future Design Contest.

View your submission here:

<https://contest.techbriefs.com/2023/entries/automotive-transportation/12433>

Voting on entries is now under way, so share this link with colleagues to build your page views and vote totals. The top ten entries receiving the most votes from site registrants will win valuable prizes.

Good luck in the contest! Winners will be announced in September.

- Contest Administrators

The I-5 and I-84 Realignment and Additional Access into the Area

The I-5 and I-84 interchange in Portland Oregon is the worse congested and most accidents for the state. The I-5 converts to one lane through the area with several weaves to access I-5 and I-84.

The Rose Quarter and Lloyd Center is an event center and shopping center. The events centers are the Memorial Coliseum 8,000, the Rose Quarter 20,000 and the Oregon Convention Center 12,000. The combined 40,000 venue, employees, and road members use the same exit and entrance on to I-5 and I-84 as in the 1960's with no additions to accommodate event traffic

Within the Right Of Way of the I-5 freeway and the City of Portland with almost no flaggers on the I-5 freeway needed for construction. The weaves are removed, almost a mile of freeway access to I-84 is constructed, access to I-84 without having to go onto the I-5 freeway from street surface level, new entrance to south I-5, and new access off of I-5 before I-84 reenters the I-5 freeway.

The traffic coming from I-5 south will be able to access the area without having to climb to the top of the hill where the exit is now. Only to have to drive down the hill once off of the I-5 freeway to access the event centers.

The new access on and off of I-5 freeway will remove the extreme congestion and confusing in the area and the pollution level from idling traffic every day.

This new alignment is the cheapest project suggested for the area, shortest construction time, stays totally inside the current Right Of Way, and with little freeway change it does not affect any new designs the area may want in the future.

The project is part of Third Bridge Now. www.ThirdBridgeNow.org
New Freeway Corridor connecting the ports of Portland, Vancouver, Rivergate and Swan Island with HWY-30

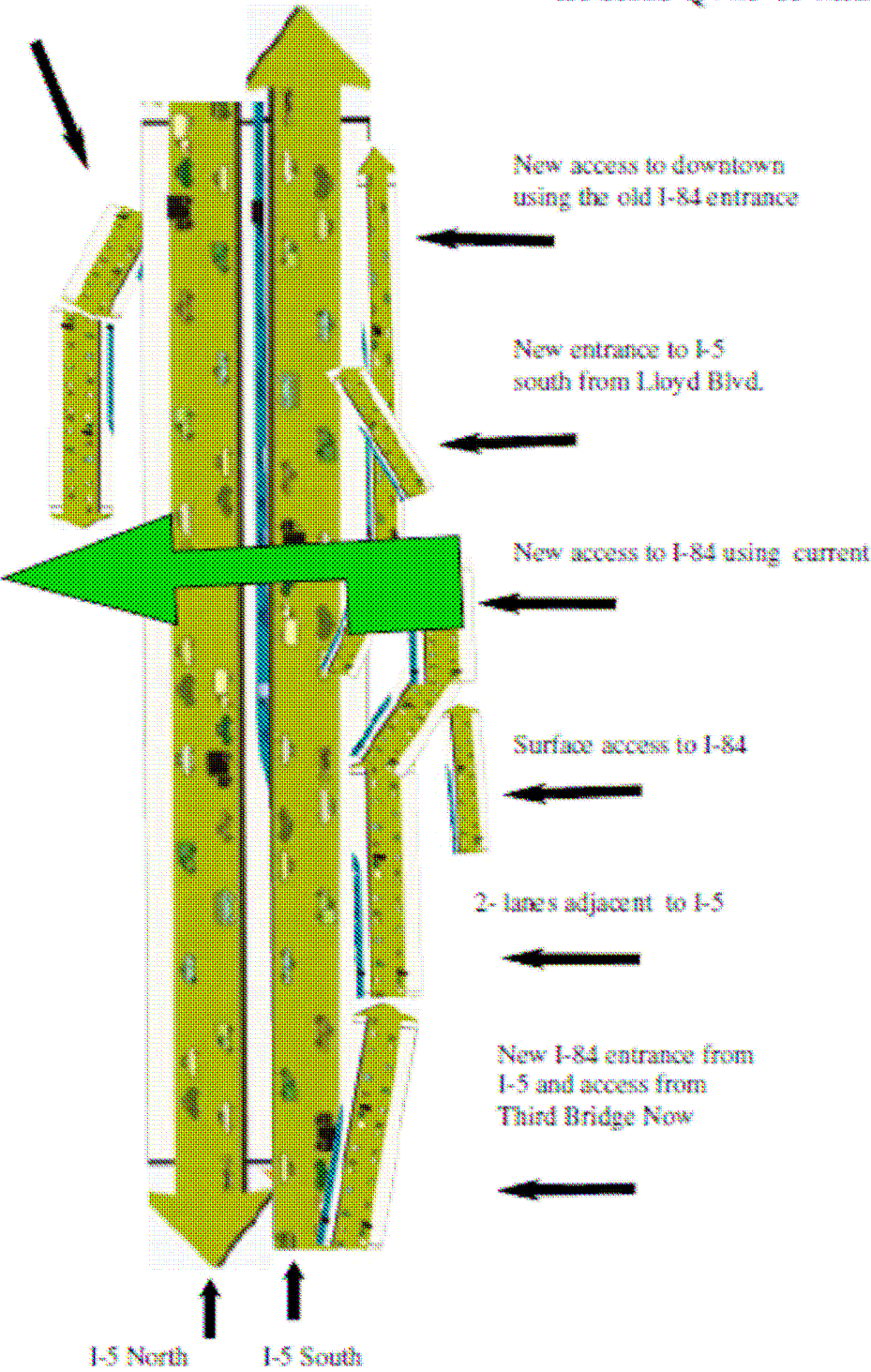
The project is paid and infrastructure impact fee in the industrial areas to pay back a 30 year bond of \$5-billion Oregon portion of the project.

The current Rose Quarter Project by the Oregon Transportation Project is not supported by the people and our project is supported by the community and has been keep out of the current AE and EIS Please help us.

Peace,
Sharon Nasset
503.283.9585

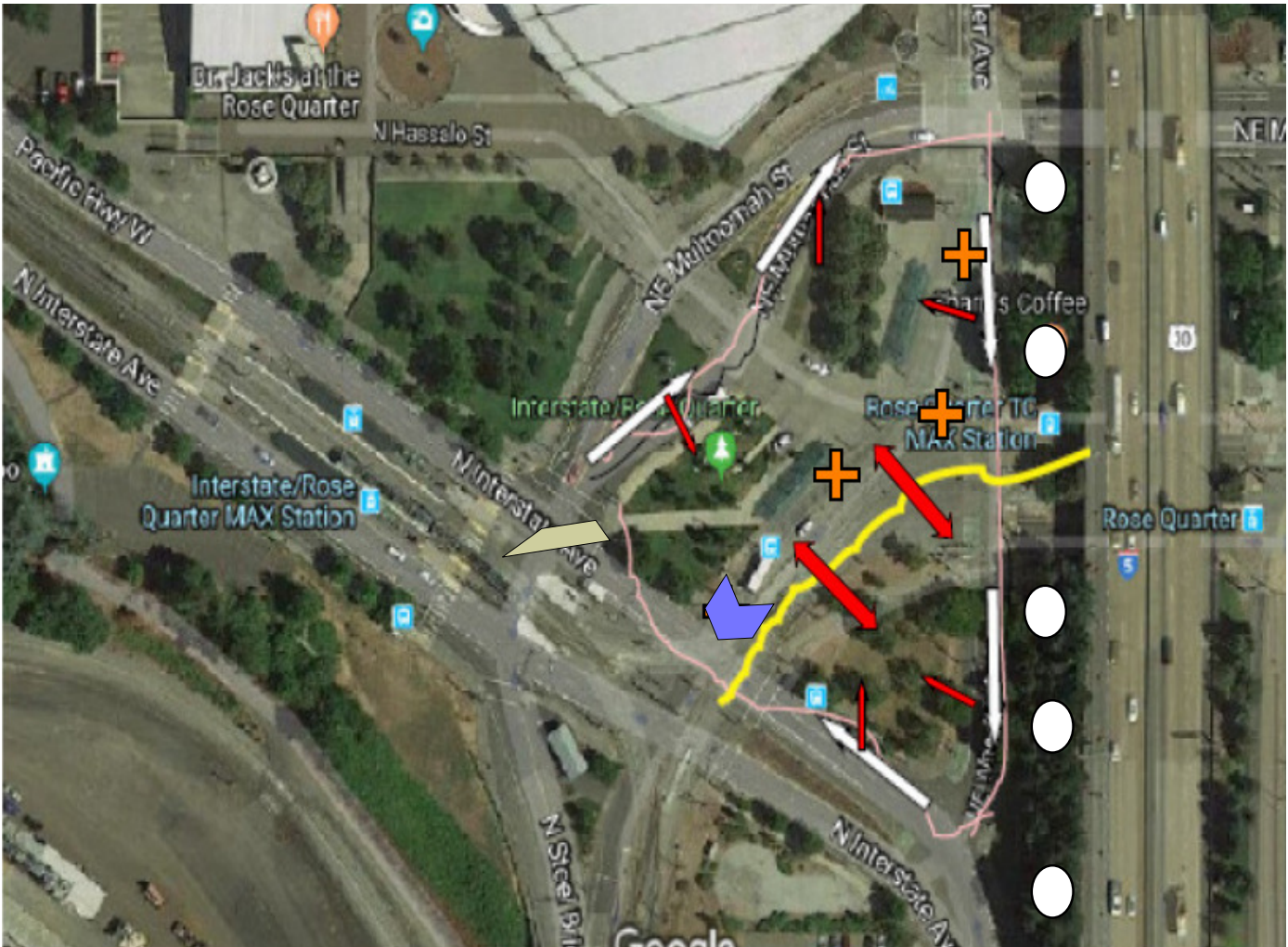
New 2-lane exit to the Rose Quarter Lloyd Center using the Oregon convention center current access

**Realignment of the I-5 and I-84
freeways and new entrance and exit to
the Rose Quarter and Lloyd Center**



Pedestrian and Transit Plaza

At the Rose Quarter Area



Vehicle free Pedestrian and Transit Plaza adding safety to transit center area

Buses circling the outer edge of the plaza allow riders to access plaza with no need to cross vehicle traffic to access transit alternative in the plaza. (White arrows)

Light rail east/west line stop moved further west on line into the plaza allowing access to light rail line and bus access without crossing vehicle traffic. (Yellow and red arrows)

Vacate street for buses running through center of plaza (Orange xx's)

Drop pickup area at west end of vacated street (Blue badge)

Angled crosswalk connection the pedestrian plaza and north/south light rail line. (Brown)



I-5 ROSE QUARTER
IMPROVEMENT PROJECT

Environmental Assessment Comments

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Ordered by first name

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2019 0329 Sabolch Horvat

Comment: Dear I-5 Rose Quarter Improvement Project Committee, ODOT, and City of Portland,

I oppose the current plan for the I-5 Rose Quarter Improvement Project,

Although I appreciate the effort so far in creating the i5rosequarter.org site, the open houses, and the public dialogue, I do not believe that the public input has been duly considered for the project.

I've read through many PDF attachments from the plan and I went entirely through the more recent online open house, but I do not feel that the materials released online are in a way that is easy to read for the average reader (or even to find which documents are relevant) in the amount of time provided for public comment. A few questions that arose for me which I did not find an answer to are:

(1) I did not find any reference for earthquake resilience requirements for the highway cover. This is worrisome as there may be many community activities planned on the new space. If the likely event of an earthquake does occur in our lifetime, the consequences would be devastating if this is not considered in the design.

(2) The noise mitigations mentioned, including barrier walls, seem insufficient as proposed. The planned noise mitigations for those living near I-5 appear to be suggested at the minimally accepted levels. A proposal that would gain support from the community should require specific higher standards, rather than the simple idea that "barrier walls could be added".

(3) The air pollution already exceeds allowable limits and endangers some of the most vulnerable people- school children whom attend schools near I-5. The projections of how the air pollution would continue over the years are not acceptable. When spending 500 million dollars to increase the comfort and safety of drivers, students should not a tertiary consideration. Let's do right for our future generations.

There are many more reasons why I oppose this project as it is currently planned.

There are better ways to spend \$500,000,000 ODOT funds which still qualify for the intended use of the funds. For example, No More Freeways PDX suggests, "\$500 million could build a lot of sidewalks in East Portland, bus rapid transit lines across town, or be a solid down payment towards the proposed underground light rail tunnel. And unlike a freeway widening, all of those investments would be better for air quality, carbon emissions, public health, and congestion relief."

I hope that we can all learn from the proposed I-5 Rose Quarter Improvement Project. Some of the designs can certainly be utilized for future projects, and the learnings from how to engage a community in circa 2019 can be applied so that projects benefit the communities they impact.

I urge you to focus on safety improvements that do not require adding auxiliary lanes in this day and age.

Sincerely,

7 | May 29, 2019

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Sabolch Horvat

Attachments: N/A

2019 0327 Sabrina Gogol 2

Comment: I have two comments on the EA. 1. I request that ODOT conduct another EA, this time without the expanded version of the CRC in it, to determine what the actual improvements are to safety. I read this article from OPB and I feel like it points out why the current EIS for this project needs to be redone with better condition assumptions.

<https://www.opb.org/news/article/odot-used-long-dead-i-5-bridge-replacement-to-plan-rose-quarter-upgrade/> 2. I request that ODOT implement decongestion pricing on I-5 before any further study or work to expand the Rose Quarter Freeway is conducted. Thank you for your attention to these requests.

Attachments: N/A

2019 0327 Sabrina Gogol

Portland Bus Lane Project

Comment: I-5 Rose Quarter Improvement Project

Members of ODOT's I-5 Rose Quarter Improvement Project team,

We all recognize that our region's population growth has meant more private automobiles on the road and that

this congestion threatens our region's economic competitiveness and quality of life. Adding capacity on the the

Rose Quarter segment of the I-5 freeway is neither a short-term nor a long-term solution. Freeway expansion

has never solved traffic congestion--not in any city in North America over the last sixty years--and has often

made congestion worse at exorbitant and unnecessary cost.

Construction of the proposed auxiliary lanes will subject the region to years of congestion-inducing construction

in the Rose Quarter that will ripple outward--causing delays and detours across the region for bus riders,

pedestrians, and bicyclists. The very groups who are already making the choices needed to reduce congestion

will be severely and extensively impacted by the construction of this auto-centric project.

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In response to the I-5 Rose Quarter Improvement Project Environmental Assessment published by ODOT for

public comment on February 15th, 2019 and in recognition that the proposed project significantly affects the

quality of the human environment, the Portland Bus Lane Project requests that ODOT perform a full

Environmental Impact Statement (EIS) that includes analysis of meaningful alternatives to auto-centric

approaches. Prioritization of single-occupancy vehicles has significant adverse impacts on Oregon's ability to

meet carbon reduction goals enshrined in state law, as well as significant adverse impacts on public health in the

the local community. A full EIS should honestly assess and mitigate the potential negative, disparate impacts this

project may bring to the surrounding Albina neighborhood and the region as a whole. The methodology and

outcomes of these revisions should be made available for public review and comment.

The Portland Bus Lane Project asks ODOT to remove the addition of auxiliary lanes on I-5 from the I-5 Rose

Quarter plan and instead pursue the following two solutions:

1. Work with municipal, regional, business and community partners to implement decongestion pricing

on I-5 before any further study or work to expand the Rose Quarter Freeway is conducted. HB 2017

mandated that the Oregon Department of Transportation move forward with decongestion pricing

initiatives on I-5 and I-205. With overwhelming research indicating that decongestion pricing is the only

successful method of eliminating metropolitan traffic congestion, it is only sensible to move forward with

decongestion pricing first before spending nearly a half billion dollars on the Rose Quarter Freeway

Expansion. Our state's tight budget, our local neighborhood's air quality, our initiatives to combat carbon

emissions are reason enough for ODOT to demonstrate leadership and implement decongestion pricing

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before spending at least half a billion dollars on freeway expansion.

2. Work with municipal, regional, and transit agency partners to construct continuous dedicated bus

lanes, protected bike lanes, and high-quality pedestrian environments on all roadways within ODOT

jurisdiction in the Metro region. Many of these ODOT-controlled roads have significant safety problems

and contribute significantly to regional congestion. ODOT has the opportunity to apply \$500 million to

address congestion systemically rather than applying an expensive and ineffective spot solution. Money

contributed by regional taxpayers must be spent on the most cost-effective infrastructure, infrastructure

proven to reduce congestion, air pollution, and carbon emissions. Given that, nationally, gold-standard

BRT lines cost approximately \$50 million a mile, our region would be better served by 10 miles of BRT on

our most congested corridors.

Combining these two recommendations provides significant opportunity to reduce congestion, emissions, and

public health threats, while improving safety on the region's streets and providing more equitable access.

Congestion pricing can create additional revenue that could be used to implement transit-priority improvements

and to construct dedicated lanes for existing and new bus lines and the Portland Streetcar. This project as

currently outlined in the Environmental Assessment document actually slows public transit through the

neighborhood, an unacceptable outcome for a \$500 million investment in transportation infrastructure.

The Environmental Assessment document, as provided, is inadequate. Our organization calls on ODOT to

recognize address this inadequacy with real solutions for the region's challenges. Should you wish to discuss the

destructive impacts of the proposed auxiliary lanes and how to implement the efficient solutions offered in this

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letter, please contact our lead authors identified below.

Sincerely,

PORTLAND BUS LANE PROJECT

Sabrina Gogol, Sabrina.j.gogol@gmail.com

Jessie Maran, jessiemaran@mac.com

Attachments: [2019 0327 Sabrina Gogol ATT](#)

2019 0402 Sabrina Louise

Comment: Seriously. Please stop. No more freeways. No more expansion towards things that aren't sustainable. The future already looks grim. Let's promote light rail, mass transit, bike riding, streetcars. Let's recognize that WE MUST CHANGE, and freeway expansion is not the direction for change. Let's approve action and expansion for what's good for our air, our livelihood, our kids. NOT freeways.

Attachments: N/A

2019 0215 Sally Ridenour

ODOT

Comment: Just testing the form

Attachments: N/A

2019 0312 Sam Balto

Comment: Hi, my name is Sam Balto. I'm a PE teacher in north Portland. I've actually taught lo at King Elementary, so I'm very proud of her. Every day I ride my bike from northeast to north Portland. I go over the I-5 bridge and I ride Rosa Parks, and I'm incredibly grateful for the protected bike lane. I don't know if that was done by ODOT or the City of Portland, but it makes my life and my ride with my son who is one much more appreciative. So at my school we do safe routes to school. And it's an amazing program. And I often wonder why as a phys ed teacher am I so interested in infrastructure. And if you take a moment and think about PE when you were a kid, phys ed is all about getting children of different abilities to move in a space safely. And that is transportation infrastructure. How do we move cars, bikes, buses, light rail, pedestrians moving through the space of our city safely and appropriately? If we have student who is disruptive, off task, bullies and doesn't follow the rules, I equate that to cars. Why would we incentivize the mode of transport that does the most harm and damage to our community, to our children, to our families? So I'm very concerned because lo is my former student and my wife teaches at Tubman. She is a teacher who gets to look at all that exhaust that comes up. And with our new son, I'm incredibly concerned because she comes home telling me how she's lost her sense of smell. How she constantly has a sore nose. And so what are we doing

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expanding this even closer to her office? I think money can be better used with safe routes to school funds, making it safer, and thank you for your time.

Attachments: N/A

2019 0331 Sam Balto

Comment: I can't stress enough how much I am against the entire I5 Rose Quarter project. As a Portland resident I am furious with this whole process and the injustice that ODOT has kept information has been kept from its citizens. Oregon DOT does not value the lives and interest of resident of Portland. If they did they would put their funds to improving 82nd and N Lombard St which have caused the injury and deaths of many residents. No motorist has died in over decade from this section of I-5 but somehow we are putting our time and resources into drivers being able to drive fast which will cause more deaths.

On February 24th 2019 a high school student from Madison Park was severely hit on 82nd ODOTs managed street. Her family was able to raise \$3,533 with a gofundme page for her medical expenses. Why do we not value her life and the right to move as much as you value white Clark County, Washington residents right to drive as freely as they want on Oregon roads. We can easily solve this issue of congestion with a Congestion Pricing Toll on the I-5 & 205 bridge. Watch how quickly the Proud Boys stay out of Portland and keep their hatred and violence in Washington. You are supporting white supremacy and white nationalism by valuing white lives over everyone's right to live.

The fact that ODOT is about to spend over a half a billion dollars and have not completed an Environmental Impact Statement is disgusting and insulting. How have you not put time into making sure that the students and staff at the Harriet Tubman Middle School will be safe & healthy by this project. My wife is a teacher there and I can tell you that she has lost her sense of taste since she started working at the Tubman in August 2018. Other staff have also reported negative impacts as well. The burden of air quality should not fall on PPS. This is caused by ODOT, so ODOT should solve and pay for it.

I am also a teacher for Portland Public Schools in North Portland. I am the SRTS champion and I have the privilege to work with the students and families to encourage them to chose active transportation options to school. It is sad to see how poor the conditions are for my students to walk and bike to school while schools all across the state fight over scraps of SRTS funds. How is a student in a wheelchair suppose to get to school when none of the sidewalks are ADA compliant??

There are so many better ways to spend this money. Here is a list: new sidewalk, ADA compliant curbcuts, make transit free, provide a tax deduction for people who buy bikes or E-bikes (like you do for electric cars), create new protected bike lanes, dedicated bus lanes and fund all SRTS improvements across the state.

To conclude, highway widening projects like this have never solved congestion and Black Lives Matter.

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Sam Balto

Attachments: N/A

2019 0312 Sam Chase

Metro

Comment: I'll just -- so people can see a little bit. I want to start with thanking you, for having the opportunity to be able to speak to you today. I want to start -- and so my name is Sam Chase. I'm a metro councilor. I'm the elected representative representing this area as well as the surrounding neighborhoods. And I want to start with acknowledging with the history of institutional racism that is a part of this community. It is something that a lot of us have been a part of.

Metro certainly has been a part of that in building the Convention Center hotel -- or not the hotel, the Convention Center originally. The federal government, the state government, ODOT, City of Portland have all been part of the process of really taking this community and transforming it into something else and displacing the residents that were here, the African-American community especially that was a part of this community. And so now we are faced with a project and moving forward a project in an area that is very -- it's a critical part of our economy in our region. It's a critical part of our livability of our region. The Rose Quarter is a transportation hub, a transit hub for the entire region. It's a place that people go to recreate, but it's also a developing job driver. The Lloyd District has seen incredible growth. It is a model for how you take a commercial district and turn it into a 24-hour residential district and it's growing and developing. And the livability of the community is critical to creating that job infrastructure. And so as we develop this project, as this moves forward, I think it's -- one of the lessons we've learned is we can't just focus on isolated objectives. We can't just focus on moving people through this part of the region quickly in their cars. We can't just even focus on the excellent advancements around a bike infrastructure. You know, we have to ask are we doing everything we can to improve opportunity to create a more livable community. To improve the opportunity for economic development; to improve the affordable housing opportunities that are incredibly abundant in this area and can take advantage of metro and other dollars that are out there to further those incredible needs. Are we addressing the air quality issues as robustly as we can. Are we addressing diesel particulates in the construction and in the long-term traffic impacts. And finally, are we addressing and doing everything we can to mitigate institutional and systematic racism that was a part of the creation of this. And, I guess in closing, I would also say that we really should be evaluating our congestion pricing strategies in the long term. What kind of congestion are we going to see if we do see advancements in tolling and congestion and value pricing. What is that going to do to our infrastructure and how will that change. And I know that Metro, for one, would be happy to stand up as a partner in evaluating those opportunities moving forward. And thank you again for your time.

Attachments: N/A

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2019 0331 Sam Fader

Comment: I am writing in opposition to the I-5 widening project - because that's what it is, a widening of an arterial that already cuts down the middle of what vibrant neighborhoods. There are so many things wrong with the project.

I write as a resident of inner NE Portland but also as someone worried about the future of the planet and our future generations' ability to enjoy this beautiful city. I honestly believe we're all on the same page here, but there's some misguided intention leading you to believe that this freeway project is needed right now.

You've heard all these points, but I will make them again:

- * Induced demand is a real thing. This expanded freeway will simply be congested again in a few years. That's basically a guarantee and has been proven over and over and over again. It's easy to trick yourself into expanding a freeway for perceived short term gain, but it won't last very long.

- * The argument that air pollution will decrease because cars will be driving faster and thus less starting/stopping seems so flawed, but the freeway will be bumper to bumper again soon as you pull individuals from buses, bikes, and carpools since travel time will temporarily decrease. Again, induced demand. The fact is: more cars will be on the road if this happens.

- * The misinformation and way you all are hiding data has been really upsetting. See this recent Twitter thread that sums it up way better than I ever could:
<https://twitter.com/maccoinnich/status/1107070933158653952>

You are losing a ton of credibility and withering respect for your organization through this misinformation campaign. It is tough to watch.

- * Please listen to the organizations that have spoken out against the expansion, such as PPS and Albina Vision.

- * I will never support a project that decreases the quality of bike infrastructure:
<https://t.co/ca49RFHkkl>

- * It's so disheartening to see that you haven't done a full Environmental Impact Statement - the one you released just is not the full thing and does not cover all potential impacts.

- * Slipping in that you are modeling traffic based on an eventual larger I-5 bridge between Vancouver and Portland in a footnote is slick. It's clear you know this project will not be supported by the community.

Please listen.

Sam Fader

Attachments: N/A

Environmental Assessment Comments

First Name Begins with S



2019 0224 Sam Friedenber

Comment: As a 32 year resident of inner NE Portland, avid bicycle rider and I-5 commuter, I would like to add the following to the public record.

The arguments that the DOT promotes in favor of the Project seem inadequate for the spending of \$500 million, regardless of the federal component.

The speed of the commute will be very, very marginally affected. One or two minutes does not promote or hinder commuting.

The advantage to cyclists will be non-existent. Any cyclist can use alternate routes without physical risk. No new bridge is necessary.

The fact that many small accidents occur at the I-5 and I-84 merge is not a safety issue compared to the many other places where dangerous accidents occur.

I am disturbed about the spending of \$500 million on something that is just not necessary. In the meanwhile, there are many other projects that could use funding such as better bicycle and pedestrian infrastructure (roundabouts, bump outs, bike lanes, etc.), better public transportation options (for me to get to work in John's Landing on bus or street car is a nightmare) and parks, pools, rutted out streets, etc.

Thank you.

Sam

When someone says something, don't ask yourself if its true. Ask yourself what it might be true of. Danny Kahnemann

Attachments: N/A

2019 0225 Sam Grover

Comment: I'm a citizen residing in Portland, Oregon. I love this city and oppose the I-5 expansion.

Expanding the I-5 freeway does not address the issues of congestion. It is also counter productive to the urgent need to develop sustainable solutions for transportation that don't further contribute to climate change. I mean, it is literally going to become a highway to hell.

I urge you to move forward with the plans for improving the Rose Quarter without expanding I-5.

Thank you for taking my comments into consideration.

Attachments: N/A

Environmental Assessment Comments

First Name Begins with S



2019 0326 Sameer Moudgil

Comment: I am an Oregonian, a husband, a concerned citizen and a member of the strong working middle class that this country is lucky to have. I am worried about our future, worried about the next generation and our impact on the present day environment. I want to make sure that I leave this planet in a better shape than when I arrived here.

Driving long distances every day in a polluting, sound proofed metal cabin with 4 wheels is not going to address any of my concerns above. This is not a life I lead on a daily basis and I wish more people had opportunities to break this cycle and think outside the box. With this project in discussion, we're being asked not to think forward but to look behind us and continue with business as usual. ODOT is asking us to shut up and let them take care of things while they spend half a billion dollars cementing the foreseeable future with a dying technology. This project will ensure that our next generation will inherit a dying civilization inhabiting a hostile environment made possible by their forefathers.

Have you read the 2018 Biennial report from the Oregon Global Warming Commission to the state legislature? It mentions that drought, flooding, heat, sea level rise and public health effects have arrived in Oregon. Guess which sector is the leading contributor to the state's greenhouse gas emissions - Transportation.

We need to treat transportation related emissions in this state as an emergency and work on resolving the problem until we see improvements. I want my tax dollars to be spent on these efforts rather than the highway boondoggle project that ODOT is hawking.

Please have ODOT submit a detailed Environmental Impact Statement and provide the data for public review. The average Oregonian needs all the data and plenty of time to make an informed decision on this issue.

Attachments: N/A

2019 0326 Sameer Moudgil 2

Comment: This project is a highway boondoggle. There is tremendous amount of greenwashing of the data presented by ODOT here in this online open house. The agency seems to focus only on the multi-modal "improvements" that will result from this project while trying to hide their true intentions and goals. Let's be clear on one thing - this project is only designed to improve access for automobile drivers driving through the heart of the city of Portland. This project is nothing more and nothing less. Please do not paint the newly designed areas over the highway in green color to imply that we're creating a park. Please refrain from putting fake trees in your drawings when you yourself admit that your highway "lids" cannot support any landscape or building structures. This project is a colossal waste of money to improve access to a dying technology that doesn't work in dense urban centers. Imagine how many smaller projects can be financed with the half a billion dollars that we're planning to burn on this mistake of an urban interstate highway. Please consider the input from the residents that

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used to live in these neighborhoods that were razed down to create this eyesore through a bustling city. We need to close this highway down and re-connect the city fabric, not widen it and invite more people to drive through. In the short term, please complete a thorough Environmental Impact Statement for this project and provide the data for public review. The current process of a rushed Environmental Assessment with missing details, short comment window and hidden ODOT agenda amounts to lying to the taxpayer and trying to cheat the general public. The only people this is going to benefit is ODOT staffers, private building contractors and people driving automobiles looking to race through downtown at 60mph as if it is a wasteland.

Attachments: N/A

2019 0329 Sameer Moudgil

Comment: Why spend 500 billion dollars on this project when it only provides minimal improvements? What are the other options you've looked at that has us spend lesser money and still achieve bottleneck relief?

What about the construction period disruption? What are your mitigating strategies for the 5-10 years of construction activity?

All things considered, this whole project seems to be a very poor undertaking when you think about the return-on-investment.

Attachments: N/A

2019 0401 Sandra Carlson

Comment: No expansion of the freeways!

Attachments: N/A

2019 0311 Sandra Joos

Comment: I am strongly opposed to the Rose Quarter freeway expansion! According to ODOT's own consultants, it won't improve congestion. But it definitely would increase air pollution right in the backyard of the Harriet Tubbs middle school! This flies in the face of goals to reduce carbon emissions and reverse climate change. Decongestion pricing should be implemented before any further thought is given to freeway expansion. ODOT needs to release all pertinent data for public scrutiny, listen to the community that opposes this project, and abandon this misguided approach.

Attachments: N/A

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2019 0402 Sandy Hickey

Comment: I do not believe that expansion is the route to take. We need to decrease traffic by alternative means. IE - max expansion, more bike lanes, maybe elevated bike paths over existing freeways, also the interruption of the east side esplanade is unacceptable as so many people use that as a current safe route to and from work.

Attachments: N/A

2019 0326 Sandy McDonald

Comment: My name is Sandy McDonald, I have only lived here since 1975. I have watched the many changes happen to Portland. Some are positive some not. Certainly traffic has increased exponentially. But I do not support this action is absolutely going in the wrong direction. Given the significant threat of climate change...there are so many better ways to spend \$500 million dollars.

ODOT's own data does not support the safety concerns or the long term environmental decreases in emissions. Please perform an environmental impact study vs just an environmental assessment.

Lastly give the tremendous issues surrounding homelessness and affordable housing it is difficult to support this expenditure.

Attachments: N/A

2019 0304 Santiago

Comment: I do not believe that this stretch of road deserves \$450 million. There are more fatalities on roads such as 82nd (owned by ODOT) and ODOT could not care less about them. The recent deaths on this stretch of road are due to people with mental issues wandering into the freeway; a simple fence could solve this issue. It angers me that ODOT has misrepresented these facts just to bulldoze our city while wasting half a billion dollars while they are at it.

<https://www.wweek.com/news/city/2017/10/11/state-officials-say-i-5-in-the-rose-quarter-poses-a-deadly-danger-police-reports-undercut-that-claim/>

Attachments: N/A

2019 0402 Sara Bahmanyar

Comment: This project definitely puts the needs of car users over all other members of the community. Increasing freeway traffic near any middle school is irresponsible at best and malicious at worst, especially when that middle school services children from disadvantaged communities. The money that would be spent on this project should be spent on improving public

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transit and encouraging walkability not increasing the number of cars. We should be doing everything in our power to decrease driving not increase it.

Attachments: N/A

2019 0329 Sara Cochron

Comment: I am extremely concerned by the impact on the Eastbank Esplanade. The additional details and drawings I have reviewed indicate MAJOR impacts for this important greenspace. In addition to the simple fact that the 'closure' information is very vague, the additional noise and air quality impacts will be huge regardless of if it remains open the full way for all of construction. Lastly, the long-term impact of the I-5 expansion was based on a new CRC which is NOT HAPPENING anytime soon. I do not approve of undergoing a project of this magnitude when the overall positive impact will be minimal and the negative impact appears high.

Attachments: N/A

2019 0329 Sara Rudolph

Comment: Nobody wants this who isn't making money off of it. Stop using the poor of Portland as funders for your pet projects. Full environmental impact statement please and focus on supporting non-petroleum based infrastructure.

Attachments: N/A

2019 0401 Sara Ryan

Comment: Expanding the I-5 so close to Harriet Tubman Middle School would worsen the already-poor air quality students must contend with. This is an environmental justice issue. Freeway expansion is not the solution to Portland's traffic congestion.

Attachments: N/A

2019 0329 Sara Walker

Comment: I want to voice my strong opposition to any project that expands existing freeways in the Portland community. Climate change is having and will continue to have life-limiting and life-altering effects on the health and mental health of our neighbors. We desperately need to limit, not expand, the single occupancy cars driven in our community. The exorbitant funds that would be allocated to this project could be much more productively spent on existing under-maintained roads and public transportation options. Portland and Oregon have an abysmal history of racist policy and practice, including those related to transportation justice and prior I-5 expansions. Marginalized communities are additionally burdened by disproportionate health and other effects of climate change. It is telling that communities of color (e.g., NAACP), as well as other health experts (e.g., Oregon Physicians for Social Responsibility) are opposed to this project. We **need** to listen to the communities that will be disproportionately negatively affected by proposals such as this and listen to expert advocates.

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**Attachments:** N/A

2019 0329 Sarah

Comment: I strongly oppose expansion of the I-5 Freeway near the Rose Quarter. The enormous amount of money does little, if anything, to curb congestion and reduce traffic, like all freeway expansions. It's simple illogical math: build more capacity and that capacity gets filled. \$500M could transform Portland's bike and pedestrian network, as well as create viable enhancements to transit to move more people more efficiently throughout the city while making a positive impact on our climate. We don't need to move more single occupancy vehicles a mere mile? Less than a mile? Really? And for \$500M? You really have to ask yourself if this makes any logical sense. Let's move more people in ways that don't negatively impact the environment. Thank you.

Attachments: N/A

2019 0311 Sarah Bachman

Comment: I don't support the expansion of I-5 through the Rose Quarter.

It won't improve congestion, according to your own analysts. Why not try congestion pricing first?

Attachments: N/A

2019 0329 Sarah Cinnamon

Comment: I think it's a great idea! Especially if we can make electric cars more accessible and affordable. I'm not a bike person so I'm all for this.

Thanks,

Sarah

Attachments: N/A

2019 0326 Sarah Deumling

Comment: There are so many reason that the proposed freeway expansion is a bad idea. Instead of listing them all I will say that I am absolutely sure that climate change is the biggest threat we face and fossil fuel guzzling vehicles are a huge part of the problem. I badly want a livable planet for future generations and reducing our dependence on driving is a straight forward way to combat CO2 emissions which cause climate change. Let's do all we can with all

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our collective creativity and imagination to encourage each other to get along happily without cars rather than asking for more cars and VMT with a freeway expansion.

Sincerely,

Sarah Deumling

Attachments: N/A

2019 0326 Sarah Deumling 2

Comment: I think this proposed freeway expansion is very misguided and urge you not to proceed with it. Climate Change is by far our biggest threat to a livable future. The only way we can hope to manage (if not stop) climate change is to stop burning fossil fuels - yesterday! which means getting out of our cars and off our freeways and using alternative modes of transportation, many of which are much more healthy. If there is money to invest in transportation please use it for encouraging various non-fossil fuel modes of transportation.

Thank you.

Sincerely,

Sarah Deumling

Attachments: N/A

2019 0313 Sarah Felix

Comment: This ill-conceived project should be stopped. There is evidence of possible adverse environmental impacts on vulnerable communities in the neighborhood and surrounding areas through increased auto traffic. This project adversely impacts an area that is historically minority population, and which has already been devastated by "urban renewal" projects and gentrification. There is no evidence that this project will reduce traffic congestion or accidents. The evidence is to the contrary. The project will expend an enormous amount of money that could be better spent elsewhere on greener solutions to Portland's traffic congestion issues. The impacts on Harriet Tubman Middle School alone are enough to stop this project. Other projects in Portland and elsewhere that have used this freeway expansion model have failed to achieve the goals of the project. I urge you to stop this project. Please withhold my address, email, etc. from the public record. You may use my name, and that I am a resident of the nearby Irvington neighborhood. Thank you very much.

Attachments: N/A

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2019 0402 Sarah Gregorio

Comment: I am a resident of the Eliot neighborhood and I strongly encourage you to stop the freeway expansion project. We have a responsibility to try all other options first, especially congestion pricing. It is also unfair to the largely minority and disadvantaged youth attending harriett Tubman Elementary school. Finally, we have learned so much about the unsustainability of our current practices and need to think proactively about how to help the earth support us and cut down significantly on car traffic and fossil fuel use.

Please reconsider, stop the freeway expansion and work with the community to find more environmentally responsible ways to manage our transportation needs.

Thank you for your consideration.

Respectfully,

Attachments: N/A

2019 0401 Sarah Iannarone

City of Portland Bicycle Advisory Committee

Comment: Dear Project Leaders and Policymakers,

Attached please find my comments on the Interstate 5 (I-5) Rose Quarter Improvement Project Environmental Assessment. I wholeheartedly request that you support our community by calling for an in-depth EIS process from ODOT and FHA.

Further, knowing what we know about the relationship between transportation and global warming, no 21st C. city leader who claims to value equity or climate action should in good faith support freeway widening in urban areas.

Respectfully submitted,

Sarah Iannarone

Portland, OR, 97206

Attachments: [Sarah Iannarone ATT](#)

2019 0401 Sarah Iannarone

City of Portland Bicycle Advisory Committee

Comment: Dear Ms. Channell, ODOT Staff, and policymakers on my behalf:

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The “Environmental Assessment of the I-5 Rose Quarter Improvement Project” (RQIP) provided to the public for review on February 15, 2019, is an incomplete and inaccurate evaluation of the potential impacts of ODOT’s proposed expansion of a freeway through Portland’s Central City. As such, I must stand with the numerous professionals, engaged community members, neighborhoods, and organizations who have worked diligently and highlighted extensively the flaws in your methodology, findings, and public process in insisting that ODOT proceed to a more rigorous and thorough accounting of RQIP impacts by preparing a full Environmental Impact Statement followed by a valid public review and comment period .

Contrary to your findings in the EA, public review of the RQIP has made abundantly clear that ODOT’s proposed action to widen an urban freeway through a historically disenfranchised community (Lower Albina), adjacent to a middle school (Harriet Tubman), and above a waterfront multiuse path (Willamette River & Vera Katz Esplanade) will not achieve its stated goals but will negatively affect the quality of the human and natural environment in the project area. The people of Portland deserve deeper, more reliable analyses of project impacts based on complete, relevant, and accurate variables and data sets; the opportunity to thoroughly understand and comment on any potential project impacts via a comprehensive, transparent engagement process; and the ability to shape alternative mitigation and remediation strategies currently lacking in your Environmental Assessment including but not limited to:

1. Implementing equitable congestion pricing with transit subsidies before undertaking urban freeway expansion projects, including RQIP. Traffic is worsening as our region grows, affecting our economy, environment, and quality of life. However, the phenomenon known as induced demand means that widening I-5 as proposed will not alleviate congestion near that interchange (or in our region); it will only increase congestion, pollution, and sprawl. Thus, it is imperative that ODOT collaborate with municipal, regional, business, and community partners to thoroughly implement and evaluate congestion pricing on this stretch of I-5 prior to further consideration of the RQIP. The RQIP should be considered only as a last resort once congestion pricing has been demonstrably proven inadequate to solve congestion and improve transit service. The EA dismisses analysis of a congestion pricing alternative on the basis that it will be considered at a future time. Such an excuse is antithetical to NEPA, which requires

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reasonable forecasting and consideration of all reasonable alternatives.

2. Closing on-ramps to reduce fender-benders and ease congestion. Both PBOT and ODOT have acknowledged that given the principle of induced demand, the RQIP is not a project that can actually relieve congestion as proposed, so ODOT has shifted its marketing to emphasize safety concerns, noting accurately that there are a lot of fender-benders at the interchanges near Lower Albina and that reduction of these fender-benders would dramatically ease backups in the area. If reducing fender-benders and easing backup for the convenience of through-traffic is truly the problem for which we are trying to solve, a simple (much cheaper) solution is to reduce the number of cars merging onto I-5 in that area by closing adjacent onramps.

Ramp closures have been used to reduce congestion in other cities, yet the agencies overseeing this project have failed to fully evaluate this alternative in the EA.

3. Reallocating resources away from central city freeway expansion to high crash network intersections and orphaned highways across Portland in addition to 100% build-out of the city's bicycle and pedestrian networks. If ODOT truly cares about traffic safety and reducing the loss of life on thoroughfares in the Portland area, they would redirect the half-billion dollars allocated to this project toward safety infrastructure in places where serious injuries and loss of life to traffic violence is highest and work with PBOT on a fully-funded jurisdictional transfer of state "orphaned" highways to local control, where "Vision Zero" is the prevailing policy framework. The City of Portland's Bicycle Advisory Committee has strongly recommended the No-Build Alternative for I-5 RQIP (based on diligent analysis of very limited information provided in the EA), noting that the Build Alternative would fail to achieve the stated project goals and objectives, especially in critical areas related to bicycling, but also including the resulting conditions for walking and transit, local connectivity, safety, equity, and climate outcomes in direct conflict with city planning goals.

4. Removal of I-5 freeway ("decommissioning") as the best option for local communities, regional prosperity, and climate action. Although the EA highlights a pattern of environmental injustice, racist policymaking, and displacement in lower Albina, it proposes nothing to adequately remediate the situation as it currently exists. In fact, it is likely to exacerbate dangerously poor air quality conditions adjacent to Harriet Tubman Middle School, a historically Black school that currently has a 40 percent African American student population,

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according to Portland Public Schools (PPS) data. As Rukaiyah Adams of the Albina Vision Trust in her comments to you on this EA points out, only “remediation is remediation.” The buildable highway covers (“caps”) as currently proposed are insufficient to achieve the Albina Vision. Adams’ observation is supported by other engineering and design experts in our community who have pointed out that the caps as proposed are wholly inadequate to support housing, quality parks and green spaces, or improved air quality. The people of Lower Albina deserve far better than window dressing; the residents of Lower Albina (past, present, and future) deserve the very best remediation efforts physically possible in support of their vision for a vibrant, prosperous neighborhood between the Willamette River and Lloyd District. Mounting evidence from freeway removal projects around the world suggests that many of the fears involved with removing freeways are unwarranted; when considered alongside the many positive impacts of freeway removal, it’s clear that freeway removal has very little downside for cities. At this critical time in human and climate history, and given the history of inequity in Lower Albina, it is essential that ODOT consider the highest quality freeway removal option possible in an Environmental Impact Statement.

In conclusion:

It’s clear that the public is correct in demanding an EIS process from ODOT and FHA on the proposed RQIP. But we need to think beyond that: freeway widening projects like this one do not actually reduce congestion and/or improve safety. As a state, region, and city our priorities should be providing increased mobility options and improving street safety through investments in transit, walking, and bicycling. With the resources currently allocated to freeway expansion, the City of Portland could make investments that would result in substantial progress toward ensuring our city’s streets are safer, air cleaner, neighborhoods healthier, and giving people more affordable travel alternatives to driving alone.

In the last few months, many decision-makers have reminded our local community that the money earmarked for the I-5 Rose Quarter freeway expansion project is “ODOT’s money,” the result of the HB 2017 transportation package of taxes and fees intended to “Keep Oregon Moving” that was widely hailed as a successful measure to reduce congestion, maintain and improve infrastructure, and increase transit access statewide. Unfortunately for Portlanders, this bill was flawed for more than its regressive bike tax: no city in the 21st Century that

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claims to care about the health of its people, place, or prosperity can in good faith sanction freeway building through its urban core, especially in the name of “safety” and “congestion relief.” HB 2017 includes not one, but three, urban highway expansion projects.

Portland’s Transportation Commissioner asserted at a public hearing recently (March 12, 2019, at Oregon Convention Center) in response to overwhelming opposition to the project as proposed and the EA as submitted: “This isn’t a PBOT project, this is an ODOT project. This money is from the Highway Trust Fund. As much as I’d like to spend half a billion dollars elsewhere. It’s not my money, and it can only be spent on highways. We can’t take this money and spend it on Vision Zero city streets.”

With all due respect, I heartily disagree: telling ODOT that we will not permit freeway expansions in our urban areas is precisely what Portland can and should do.

Portlanders like me who care about climate action and environmental justice stand ready to reprise our Freeway Revolts of the 1960s and 70s, insisting that our local policymakers withdraw municipal and regional support of the RQIP and negotiate with state and federal governments for more racially just, operationally effective, and environmentally sound allocation of transportation resources than those currently proposed in the EA. This political about-face is necessary to ensure Portland meets its economic, equity, climate action, and transportation safety goals in the near term and for future generations.

Respectfully submitted,

Sarah Iannarone

Member, City of Portland Bicycle Advisory Committee

Resident, Mt. Scott-Arleta Neighborhood, Portland, OR 97206

Attachments: N/A

2019 0331 Sarah Jesudason

Comment: This project cannot be approved until the EIS is made fully public.

No pixels were harmed in the creation of this email.

Attachments: N/A

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2019 0312 Sarah Jurgensen

Comment: Oregon needs fewer cars on the road, not more. As a lifelong Oregonian, I do not want any of my tax dollars spent on freeway expansion. We know that higher speeds equal higher fatalities. If a freeway seems more convenient to use, it will increase usage and thus pollution, and will negatively effect the health of those of us living near this freeway. Globally we need fewer emissions and projects that support alternative transportation, such as tolls, mass transit, and safe places to ride bicycles without having to dodge cars. Oregon needs to stop giving incentives for driving, limit speeds of driving, and provide support for people to make different choices. Oregon needs to lead by example and act in a way that reduces climate change and planetary environmental breakdown. Too much driving has an obvious negative impact on Portland and the world. Oregon needs to do things differently.

Attachments: N/A

2019 0331 Sarah Kincaid

Comment: Please do not widen I-5 in Portland. Please do not spend \$500M on roads that will significantly degrade public transit and public spaces.

This is NOT innovative, it's destructive and the opposite of the direction our city needs to move. More green options, more mass transit, more rewards for using it. NOT MORE FREEWAY.

Please, as a lifelong Portlander, as a parent, as someone who wants to live in a city that makes POSITIVE change, I ask that you reconsider this backwards plan that will do nothing to help us going forward.

Sarah Kincaid

Portland, OR

Attachments: N/A

2019 0401 Sarah Lind

Comment: I am opposing the Rose Quarter freeway expansion for a variety of reasons.

1. It isn't going to help traffic congestion.
2. I live in the neighborhood - I use this part of the freeway on a regular basis - BUT I do not want an increase in air pollution and disruption of regular traffic flows/public transit/bike lanes. We need to be looking at alternatives to just driving where possible to make this a more livable city. A bigger freeway smack dab in the middle of town will make Portland less livable.
3. It doesn't serve the interests of those who live in the area - potentially only the folks who commute through, but even then, it's not really serving their interests because it won't help congestion!

So please, for the sake of the community, neighborhood, commuters, and the environment, do not expand the freeway there.

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Thank you.

Attachments: N/A

2019 0228 Sarah McKenzie

Comment: Bad idea!

Additional highway lanes does not relieve congestion. Do your homework.

The additional lanes and their construction would be harmful to students at Tubman, who already have more than their fair share of pollution.

NO HIGHWAY EXPANSION AS PLANNED!!!

Attachments: N/A

2019 0331 Sarah McLeod-Martinez

Comment: Please do not widen I-5 in Portland. I rely on public transit and would appreciate \$500,000,000 was not spent on roads that would significantly lower my quality of life.

Attachments: N/A

2019 0219 Sara Mirk

Comment: I live in North Portland and am writing in with a public comment on the Rose Quarter Freeway Expansion Project. I'm against the expansion because I think it's a misuse of money that is not the right priority for Portland's future. The biggest reason I'm against the expansion is the growing climate crisis. We need to transform the way we get around and use way less fossil fuels, otherwise the next generation will have to deal with environmental disaster. Instead of spending money to expand freeways, we need to be investing in ways to get around without cars and to make it possible for every Oregonian to feel safe biking, walking, and taking transit instead of driving.

Attachments: N/A

2019 0331 Sarah Pearlman

Comment: I am especially excited about the proposed waterfront park as well as the care taken to acknowledge the historical displacement of past Albina residents. I am curious about the building that would be included on the cap. I would like to see some priority given to low-income or houseless residents as opposed to more multimillion dollar condos. I know Albina Vision's,

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Rukaiyah Adams talked about including mix-income housing and it would be great to see that become a reality for this new space. I am also hopeful that this lid could mean greater access to public transit and hope to see an expansion of the MAX, either on this freeway lid or separately. I am curious what this project could mean for future advancements in public transportation. Would it be able to support a highspeed rail? Or does it need to? Finally, if there is priority for low-income housing, will there also be new supermarkets (like a Winco?) built? I'm sure you have all taken these things into account and I'm beyond excited for this project!!

Attachments: N/A

2019 0330 Satya Vayu

Comment: I am writing to urge you to reject the freeway expansion proposal. In this time of climate emergency we must be choosing solutions that reduce car traffic and fossil fuel use as quickly as possible, not encouraging more of it. And there are many other reasons that freeway expansion is a bad idea.

Freeway expansion has never solved traffic congestion, in any North American city, anywhere. Ever! ODOT's own hired consultants admit that this project won't address recurring traffic congestion on this corridor. There are numerous examples of induced demand across the country, including most recently in Los Angeles, who spent \$1.6 BILLION on a "freeway bottleneck" widening project only to find it made traffic *worse.*

This expansion will also increase in air pollution. The project proposes to expand a freeway into the backyard of Harriet Tubman Middle School, where air pollution is already so bad that PSU's researchers recommended that students forgo outdoor recess. This is an environmental justice issue – 40% of Tubman's students are Black, and 73% are identified by PPS as vulnerable populations.

Most crucially, freeway expansion is Climate Denialism. 40% of Oregon's carbon emissions come from transportation – as a recent Oregonian article pointed out, Oregon simply cannot decarbonize our transportation sector without driving a lot less. If we are going to spend \$500,000,000 on a transportation project that addresses the urgent existential threat that climate change represents, this money should be spent on improving and prioritizing public transportation and building walkable communities.

ODOT claims that this project will benefit the community, but continues to hide the data such benefits are supposedly based on, and makes it impossible for community groups to verify.

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Despite ODOT's claims that this project "reconnects the community," there are numerous concerns about the surface-level bicycle and pedestrian facilities currently proposed. ODOT intends to remove the Flint Avenue crossing (one of the city's most popular bike commuting routes), the proposed "lids" over the freeway won't be strong enough to support buildings like the Albina Vision is proposing, and is opposed by all major bike/ped groups and local neighborhood organizations).

Road pricing is the only policy actually proven to reduce traffic congestion; it's also proven to improve air quality and reduce carbon emissions as well. Why is ODOT moving forward with a \$500 million boondoggle investment without first instituting congestion pricing to see if that mechanism wouldn't solve the traffic problems on the corridor *without* sinking half a billion dollars into the expansion? ODOT's studies of traffic patterns of the proposed freeway expansion *completely* ignore the reality that the state is mandated with moving forward with decongestion pricing, which will enormously impact how many people choose to drive on the corridor and greatly reduce congestion.

Finally, ODOT's truncated Environmental Assessment document simply isn't focused enough on the significant impacts to health and public safety this project represents. ODOT must study much more fully the more sensible alternatives (including decongestion pricing!) to this expansion with a full Environmental Impact Statement.

Thank you,

Satya Vayu

Portland, OR

Attachments: N/A

2019 0331 Saul Jones

Comment: To who it may concern,

Please do not expand 1-5. Every study I've seen indicates this will make traffic worse, not better. Furthermore, the damage it will do to the environment is not something we can accept at a point in history where climate change is the biggest existential threat facing humanity. Portland prides itself on its liberal views, but an expansion of 1-5 would go against the image we try to present of being environmentally conscious and will harm communities of color disproportionately with the extra pollution from traffic.

Saul Jones

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Portland, OR

Attachments: N/A

2019 0327 Saumya Kini

Comment: Freeway expansion has NEVER solved traffic congestion--not in any city in North America over the last sixty years. In fact, it has often made congestion WORSE at exorbitant and unnecessary cost. Construction of the proposed auxiliary lanes will subject the region to years of congestion-inducing construction in the Rose Quarter that will ripple outward--causing delays and detours across the region for bus riders, pedestrians, and bicyclists. The very groups who are already making the choices needed to reduce congestion will be severely and extensively impacted by the construction of this auto-centric project. In response to the I-5 Rose Quarter Improvement Project Environmental Assessment published by ODOT for public comment on February 15th, 2019 and in recognition that the proposed project significantly affects the quality of the human environment, I implore ODOT to perform a full Environmental Impact Statement (EIS) that includes analysis of meaningful alternatives to auto-centric approaches. Prioritization of single-occupancy vehicles has significant adverse impacts on Oregon's ability to meet carbon reduction goals enshrined in state law, as well as significant adverse impacts on public health in the the local community. A full EIS should honestly assess and mitigate the potential negative, disparate impacts this project may bring to the surrounding Albina neighborhood and the region as a whole. The methodology and outcomes of these revisions should be made available for public review and comment. The time has passed for creating more of the same infrastructure that got our cities into this mess in the first place. Do the right thing for future generations--do NOT widen I-5. Instead, put the same money toward fixing and improving unsafe or uncomfortable pedestrian and cyclist routes, or toward better transit service. If you're tempted to write this suggestion off as idealistic, remember--the future is human, not vehicular. Now is the time to be courageous and continue to set an example for the rest of the country. Thank you for reading.

Attachments: N/A

2019 0329 Saundra Schlesinger

Comment: All previous data show that building and expanding highways brings more traffic, not less. If congestion is the problem, then expansion is not the solution. A congestion tax is the only way to reduce congestion. People will not stop using the highway until they have to directly pay to use it. I understand that this puts a burden on those using the highway for transportation, so to ease that burden we must have effective alternatives in place, namely public transportation and safe cycling and pedestrian pathways. People stuck in traffic today will not be any less stuck in traffic after the expansion. If the goal is to cut congestion, then congestion needs to be addressed directly.

Attachments: N/A

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2019 0401 Scott Biersdorff

Comment: I'm disappointment after reading the Environmental Assessment for Rose Quarter project. Specifically the EA fails to properly evaluate the project in two ways:

It does not properly analyze the no-build option. By including traffic projects for the project under the assumption that the Columbia River Crossing project has been completed it cannot truly asses the project's effects. It is hard not to conclude that this was done make the project capacity improvements seem more necessary – just like this project will be used to justify any future CRC proposal. This is a very serious mistake and will lead ODOT on a binge of freeway widening – each project hoping to address a new bottleneck created by the increased traffic funneled into it from the last project.

It does not consider the anticipated congestion pricing of I-5. Unlike a potential CRC project (around which there is no consensus and which lacks funding) congestion pricing is authorized by the State and could be implement much more quickly. Including a highly speculative project (CRC) but not a resonantly anticipated one (congestion pricing) fatally biases this report. I can only conclude this was done to make this project seem more worthwhile than it would in an unbiased analysis of the alternatives, as the completion of the CRC project would increase congestion in the project area where as congestion pricing would reduce it.

These two grave omission from the report negates any conclusion it makes about the impact of this project on either traffic patterns, CO2, or local pollution levels. Oregonians deserve better from ODOT, and I urge it revalue this project and advance an alternative that reduces CO2 regionally compared to the status quo (not some hypothetical future where this region has already greatly expanded its freeways), aligns with the city of Portland and Metro's mode share goals and wins the support of Portland's bike and pedestrian committees.

Attachments: N/A

2019 0401 Scott Clyburn

Comment: Dear ODOT,

Portland has the opportunity to grow as a city in climate-conscious ways – unlike Los Angeles or even Seattle. Expanding a major freeway through the heart of our city is antithetical to not only this vision, but to the raw data.

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To pursue this project against the sentiment of the community, in lieu of a full Environmental Impact Statement, and in the absence of a close look at alternatives like decongestion pricing, is reckless and corrupt.

I urge you to reconsider.

Yours,

Scott Clyburn

Resident, Taxpayer, and Small Business Owner

Attachments: N/A

2019 0311 Scott Cohen

Comment: I have serious reservations about the Environmental Assessment, since it does not account for future congestion pricing. Considering that the EA uses all of the projects in the region's transportation plan to project trips in the future, why couldn't the impact of congestion pricing - an ODOT initiative that will significantly impact this stretch of I-5 - be included in the assessment? Without including the single most effective tool at mitigating congestion and thus air quality and vehicle miles traveled, the EA has completely failed to accurately determine the impact and need of this project. Go back and include congestion pricing in the EA and let the public know how that impacts the need for the project.

Attachments: N/A

2019 0000 Scott F. Kocher

Forum Law Group

Comment: Some people have said this is a "bottleneck" where the freeway "slams down to two lanes" each way. In fact, north-south freeway capacity balloons through Portland because 1-5 operates together with 1-205 and 1-405 for a total of seven through lanes each direction for through and commercial traffic plus auxiliary lanes. How many is enough?

This project would tear up 1-5, causing years of delays. By the time that's done, changes in vehicle technology, private vehicle use and ownership, and commuting habits will have changed. Anyone who pretends to know what the "demand" for freeway travel in 10 or 20 years will be is kidding themselves, or us. The people who pretend to know are the ones who make income from expanding freeways.

I run a law firm, which is an employer small business in Portland downtown. We generate revenue and attract lawyers who are specialists who serve the entire state. This national talent doesn't come to Portland because we have big freeways. Portland's competitive advantage is clean air, forests, beaches and snow. ODOT's agenda to keep expanding freeways is a threat to our communities and natural environment that make Portland a valued place.

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ODOT calls this an "improvement" project and promotes it with a web site that has a .org designation (i5RoseQuarter.org), suggesting it is somehow a non-profit. The web site features pictures of pedestrians and bicycles. This is greenwashing, and it confirms for many that ODOT is manipulating the process to promote a pre-determined agenda that is rooted in a 20th century freeway-building mindset. We know better than that.

Please hear us loud and clear. No more freeways.

Attachments: N/A

2019 0312 Scott F Kocher

FORum Law Group

Comment: As a second generation Oregonian, Portland business owner, and person who cares about our future, I urge ODOT to proceed promptly with tolling and not to expand 1-5 through the Rose Quarter. Here's why:

There is no safety basis for this project. There is no history of serious crashes on 1-5 in the Rose Quarter. ODOT has not tried basic safety measures to reduce the minor crashes that have occurred, such as advisory speeds or video radar to reduce top end speeding. Our safety dollars are better spent elsewhere on ODOT's network, such as SE 82nd Avenue, SE Powell Boulevard and the other high crash corridors that ODOT operates within Portland.

As for reliability, fender benders will slow the freeway even if ODOT adds more lanes. Unreliability due to minor crashes is inherent to freeways, and a reason we need other ways to bring workers to central Portland, such as light rail and bus transit, and pedestrian and bicycle corridors that are safe and comfortable for everyone. Advisory speeds and automated enforcement are proven to eliminate the top end speeding and the speed differentials that contribute to fender benders. We simply can't jump to spending this kind of money for a marginal improvement in freeway reliability.

Some people who support this project think it is for capacity. ODOT acknowledges that capacity won't significantly add capacity. And if it does, that's not good. We know that adding capacity will induce demand, and nobody will get there faster. Adding capacity for private vehicles to come onto P01iland' s surface streets is not the future we want.

ODOT has a lot of pictures of lids and trees to make this project look nice. Nobody is going to use the small, noisy, smelly lids for anything. They're a waste of space and money.

There is no reason to tie surface street improvements to the freeway expansion. If ODOT says we can't have surface street improvements unless we agree to the freeway expansion that we don't want, that's a false choice and ODOT should be ashamed.

Attachments: N/A

2019 0402 Scott Hillson

Comment: No more freeway expansions! Find other ways to reduce congestion (effective,

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comprehensive, and fair tolling)

Attachments: N/A

2019 0402 Scott Hillson

Comment: No more freeway expansions! Find other ways to reduce congestion (effective, comprehensive, and fair tolling)

Attachments: N/A

2019 0219 Scott Kocher

Comment: This is a freeway expansion. Stop pretending the surface street improvements are wanted. hey are just greenwashing. Toll to generate revenue and provide freight and transit priority. Don't waste our \$0.5 billion on this backward-looking boondoggle. The EA is incorrect in assuming no induced demand. What is the impact when 700 plans for that?

Attachments: N/A

2019 0219 Scott Kocher 2

Comment: Thank you for asking for public comments on the Rose Quarter freeway expansion. I think it is a bad idea and should be scrapped because:

Tolling and better speed enforcement would solve all the problems you claim to be trying to address. Instead of costing \$500 million, tolling would generate revenue that we can use to help the people who are hard hit by current transportation inequities, and invest in our future.

We know that by the time you've finished digging up the freeway (years of disruptions) the transportation landscape will have changed. If you're honest you can't claim to know how it will have changed. What we actually need then may well not be more freeway lanes to bring private automobiles into central Portland.

You need to include I-405 and I-205 when you talk about how many north-south freeway lanes we already have.

Freeway expansion encourages people to drive farther and drive more. The extra lanes you want to use my tax dollars to build are just going to fill up.

We need the money for other things. So many other things.

By tying ped/bike improvements to this project and claiming "environmental benefits" you are not fooling anyone.

ODOT has a terrible reputation in Portland. This is only making it worse.

Scott

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Attachments: N/A

2019 0401 Scott Lieuallen

Comment: If you expand I-5 through the Rose Quarter, the great likelihood is that within a few years or even sooner, the freeway will be as congested as it is now. Do we really have a half a BILLION dollars to spend on a fantasy? We should at least try to improve our prospects for the future by managing traffic with congestion pricing and investment in public transit before we spend \$500,000,000 on something that hasn't worked anywhere else.

Attachments: N/A

2019 0401 Scot Scott Mizée

Comment: April 1, 2019

Ms. Megan Channell

Major Project Manager Oregon Dept. of Transportation

Ms. Emily Cline, Acting Environmental Manager

Federal Highway Administration

RE: Comments in Opposition to Rose Quarter 'Expansion' Project and
Environmental Assessment dated February 15, 2019

Dear Ms. Channell and Ms. Cline,

I stand firm in my belief that the Rose Quarter Improvement I am a North Portland Resident of more than 15 years. I have traveled through and commuted to work through this corridor nearly daily for much of that 15 year period.

I am deeply troubled by the results of the EA and the way ODOT is conducting itself as it marches onward over the people of Portland to push this project forward. The reasons I oppose this project are too numerous to mention here and I know others are already providing specifics that I do not need to repeat here.

This project does not achieve the goals it purports to pursue. It has negative effects on our city, our children, our public transportation system and our walking and biking infrastructure. I support the Albina Vision and this project does not in any way make it easier to move that

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vision forward into reality.

This project does not recognize the proven reality of induced demand and is a waste of our taxpayers time and money.

Please bring it to a stop now without going further.

I conclude my comments below with one final quote from a woman who is directly effected negatively by this project with her personal property.

Sincerely,

Scott Mizée

Portland, OR 97203

mizees+NOI5RQ@gmail.com

And Betsy Reese feels like ODOT didn't fulfill their end of the bargain when it came to promises made around the I-5 Rose Quarter project:

"My husband and I own the property known as Paramount Parking that is being taken by ODOT to create the new Hancock/Dixon.

My decades of bicycle and pedestrian safety advocacy, much of it specifically surrounding the notoriously dangerous

Broadway/Flint/Wheeler intersection, apparently made us an easy mark for cooperation in the original design phase of this project. Allowing a bicycle and pedestrian ROW to be acquired through our property was represented as the fix to one of the most dangerous intersections in the city for bikes and peds.

Several aspects of the project that we were led to believe would improve our city are now missing or negatively altered on the current plan.

The new bike infrastructure was to be two-fold, promising:

– 1. The new Hancock-Dixon street that would run through our property would provide a safer, lower-stress route from N. Portland to the Broadway Bridge.

Instead, the new Hancock-Dixon St. will be an auto thoroughfare

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with painted bike lanes at a 10% grade that is now acknowledged by ODOT as likely being so unappealing to and unused by cyclists that they are not even indicating it on the maps they use in presenting active transportation infrastructure upgrades.

– 2. Additionally, the original plan showed two new MUPS running on ODOT property connected by the new Hancock/Dixon lid over I-5 that would effectively replace Flint Ave. The new off-street bike/ped paths were to connect the stubbed-off Flint at Tillamook to Broadway west of I-5.

Instead, of the two proper MUPS, one is completely missing, although ODOT said at March 4th meeting that it is still a “possibility”, and the other is not a MUP, but what I call BS. – BS stands for Bikes on Sidewalk – what engineers do when they can’t figure out what to do with bikes. This one is an elaborate and cramped 5%-grade switch-back MUP that will pit pedestrians and bicyclists against each other, and that few cyclists will use more than once.

This plan of passing through our property was represented as the solution to the need for a safer more comfortable bicycle route from North Portland to the Broadway Bridge.

Instead, it’s, ‘No. Sorry. It’s the Vancouver/Broadway/I-5 Freeway intersection for you, bicycle riders.’

– Yes – this is the route we are left with that most bicycle commuters will opt for. It includes a shift of the bike lane from the right side to the left side of the Vancouver, funneling cyclists into a “jug-handle” staging area for a right turn from Vancouver to Broadway across the freeway off-ramps. Given the number of daily bike commuters on this route – the highest in the city – I think it highly unlikely that the 90-degree turn into the jughandle and waiting for the light in the staging area will feel like

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an improvement over the right turn onto Broadway from Flint that we have now.”

Source: BikePortland.org

Attachments: [2019 0401 Scot Scott Mizée ATT](#)

2019 0401 Scott Murray

Comment: I fully support modernizing and streamlining our existing road infrastructure for efficiency, but please- do not move ahead with any *expansions* of existing roadways. Let's first eliminate existing bottlenecks.

Thank you,

Scott Murray

Attachments: N/A

2019 0401 Scott Simpson

Comment: Pave the roads we have. 82nd Ave us full of potholes. This city has horrible roads and we want to expand a highway? Vancouver BC has the same population as Portland but has expanded faster and have less cars entering the downtown core than in the late 1960s. I lived there for 4 years and found that it was quite easy to get around despite no highways through town. Highway expansions just add more cars and pollution and does little to abate congestion. Build it cars will fill it. Waste of my money!

Attachments: N/A

2019 0312 Scott Strickland

Operating Engineers Local 701 union; Columbia Pacific Building Trades union

Comment: Hello, my name is Scott

19 Strickland. I was a proud resident of Portland for
20 about six years until I moved to Estacada recently.
21 I am here in behalf if the Operating Engineers Local
22 701, as well as the Columbia Pacific Building Trades
23 unions. The building trades unions are a coalition
24 of building construction trade unions representing
25 workers all over the state of Oregon and some in
southwest Washington, and we have a dedicated

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2 interest in this project. Not just because of jobs
 3 but the impact that it can have on our communities,
 4 both through people having family wage jobs and
 5 availability to that, to build careers to bring
 6 self-determination back into their communities, but
 7 also for the environmental concerns and other
 8 concerns.
 9 When I see 2.5 million hours a year, I see
 10 that as more time spent at home with your kids, more
 11 time spent on your life with your projects, and it
 12 is improvement to the lives of the working people in
 13 the state of Oregon that we are interested in. I
 14 think that this process is wonderful and that we're
 15 bringing in all manner of people to address the
 16 injustices of the past and look at the needs of the
 17 community in the future, and that this ticks all of
 18 those boxes; environmental concerns, transportation
 19 concerns, growth concerns, the housing crisis. It's
 20 sort of an important first step in solving the nexus
 21 of all of these issues. So out of respect for the
 22 community members, I yield the rest of my time.

Attachments: N/A

2019 0401 Scott Simpson

Comment:

Hello, my name is Scott¹⁹ Strickland. I was a proud resident of Portland for²⁰ about six years until I moved to Estacada recently.²¹ I am here in behalf if the Operating Engineers Local²² 701, as well as the Columbia Pacific Building Trades²³ unions. The building trades unions are a coalition²⁴ of building construction trade unions representing²⁵ workers all over the state of Oregon and some in southwest Washington, and we have a dedicated² interest in this project. Not just because of jobs³ but the impact that it can have on our communities,⁴ both through people having family wage jobs and⁵ availability to that, to build careers to bring⁶ self-determination back into their communities, but⁷ also for the environmental concerns and other⁸

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concerns.⁹ When I see 2.5 million hours a year, I see¹⁰ that as more time spent at home with your kids, more¹¹ time spent on your life with your projects, and it¹² is improvement to the lives of the working people in¹³ the state of Oregon that we are interested in. I¹⁴ think that this process is wonderful and that we're¹⁵ bringing in all manner of people to address the¹⁶ injustices of the past and look at the needs of the¹⁷ community in the future, and that this ticks all of¹⁸ those boxes; environmental concerns, transportation¹⁹ concerns, growth concerns, the housing crisis. It's²⁰ sort of an important first step in solving the nexus²¹ of all of these issues. So out of respect for the²² community members, I yield the rest of my time.

Attachments: N/A

2019 0226 Sean

Comment: Please do not follow through with this plan. As a community member I see nothing to gain here and so much to loose.

Environmental concerns are on the top of some many citizens priorities and investing in infrastructure for fossil fuels is not something we support.

Attachments: N/A

2019 0226 Sean Abplanalp

Comment: Hi Megan, I just wanted to say thank you for helping to make the Rose Quarter Exit a better place. Traffic's been so bad these last years, it will be nice to see the change. Thank you! Sean Abplanalp

Attachments: [2019 0226 Sean Abplanalp ATT](#)

2019 0325 Sean Clearley

Comment: The freeway expansion is a paltry smokescreen for someone getting paid off. There is no available data to say it will work, there is no community that wants it to happen, and there is no reason that ODOT should HIDE the rest of the data that is not available.

The only reason that all of these would be in place, and the freeway continues, is because of graft. Is this wrong? Is this slanderous? Don't care. Much more is at stake than someone's face-saving CYA shuffle because of some payoff.

The freeway expansion is grim, the freeway expansion is not wanted by ANY citizens of the state, and the freeway expansion will destroy our environment.

Take your bribes, your freeway expansion is killing your children. Quite a trade.

Attachments: N/A

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2019 0331 Sean Crowe

Comment: Good morning,

Strong evidence suggests that increasing road capacity causes a commensurate increase in traffic,

negating the effects of the expansion. Do not expand the I-5. Spend the money on biking and public

transit. There is still a lot of work to be done on the city's bike infrastructure.

Thank you,

Sean Crowe

Attachments: N/A

2019 0401 Sean Hellebusch

Comment: I feel this project is irresponsible and will only further our current issues. We should be putting out money in sustainable urban mobility, not additional lanes. Not to mention that this project has used statistics that involve the Columbia River expansion that was squashed many years ago. That kind of misinformation is irresponsible. Please stop misinforming the public.

Attachments: N/A

2019 0401 Sean Malone

Comment: Please find attached testimony for the I-5 Rose Quarter Draft Environmental Assessment. Please

place the testimony and attachments into the record. Please respond and indicate that testimony

and attachments have been received and placed into the record.

I have also had the vast majority of my attachments submitted physically on a thumb drive by Chris

Smith. The file located on the thumb drive is labeled "SM."

Thank you,

Sean Malone

Attorney at Law

Attachments: [2019 0401 Sean Malone ATT 1](#); [2019 0401 Sean Malone ATT 2](#); [2019 0401 Sean Malone ATT 3](#); [2019 0401 Sean Malone ATT 4](#)

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2019 0401 Sean Sean McClintock

Comment: The Environmental Assessment is not sufficient. I call upon ODOT and the City of Portland to undertake a full Environmental Impact Study. We need to fully explore alternatives to freeway expansion -- which this project certainly is despite any protestations to the contrary -- including how the implementation of congestion pricing would impact traffic patterns. Not to mention the fact that the model used in the current assessment is woefully incorrect, using traffic data from a non-existent Columbia Crossing bridge! We need a massive overhaul of the Oregon Transportation Commission and the Oregon Department of Transportation. Highways should be the project of last-choice given our need to shift away from carbon-based transportation solutions. That half a BILLION dollars (and likely more as few projects come in at budget) should be spent on other forms of transit. I-5 through Portland should be shut down, reclaimed, and all traffic routed down the I-205 bypass. And I say that, living right next to I-205. Yes, it will greatly impact my ability to drive my car, but it is a sacrifice we all need to make. Along with shifting land use regulations to add Missing Middle housing and add more affordable housing stock, greatly adding capacity, speed, and efficiency to our mass transit, we need to make it more onerous to live far from your work and driving. We need to be forward-thinking and progressive so we build the city and the region that supports a sustainable world. Please stop this boondoggle of a project that ODOT is trying to force down our throats by withholding data and designs until the majority of the public comment period is over. I don't know if it is incompetence or corruption or a little of both, but there needs to be consequences either way for how this project has been mishandled.

Attachments: N/A

2019 0331 Sean McDougal

Comment: Please, it is vital to the well being of those of us who work and live in Portland and surrounding areas to improve the capacity of our infrastructure, currently strained under rapid increase in population and lack of real expansion in decades. The commutes in and around Portland are awful, and it is driving away employers and workers from the area.

Don't buy in to the pipe dream that bad infrastructure will force people to use public transportation- that shows a complete lack of understanding of human nature and the existing behavioral evidence. Public transportation is a waste of resources that could better be spent on increasing the road capacity for drivers, since drivers are the ones already paying for it and deserve better infrastructure.

-Sean

Attachments: N/A

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2019 0402 Sean Rea

Comment: I am a resident of the Boise-Eliot neighborhood and remain steadfastly opposed to this project. This project will only bring more pollution and congestion to the area and I have a hard time finding the benefit in that. Alternatives, such as demand pricing, should be fully researched and tested before committing this project.

It is also clear that ODOT has mismanaged the project and been lazy at best and outright dishonest at worst when it comes to discussing the traffic projections. Based on that alone, I strongly believe that a full environmental impact statement needs to be conducted before this project proceeds any further. We need to know the effect such an undertaking will have on all road users -- such as transit users, pedestrians, and cyclists -- not just motorists.

Sincerely,

Sean Rea

Attachments: N/A

2019 0401 Sean Sendelbach

Comment: This project will have minimal impact on Portland's congestion woes (which are undeniably bad, and getting worse) or epidemic of traffic fatalities (ditto), despite ODOT's claims. Additionally, spending half a billion dollars on this freeway expansion has a significant opportunity cost on our ability to invest in transportation systems that actually support Portland's stated goals to lead on climate, provide cleaner air, support healthy communities, build infrastructure for affordable housing and invest resources equitably across the city.

Attachments: N/A

2019 0000 SeoVadmNG

Comment: Здравствуйте! Хочу предложить вам продвижение вашего сайта в поисковиках, методом наращивания ссылок. Чем больше ссылок будут ссылаться на ваш сайт, тем выше он будет в выдаче по вашим ключевым запросам. Для работы мне необходимо лишь ссылка на ваш сайт и ключевые слова, по которым вы продвигаетесь в поисковых системах. Если у вас установлена метрика, тем лучше, можно взять (скачать) оттуда ключи за последний месяц или квартал.

Работа занимает примерно 2-3 недели, после которой вы получите рост позиций, доверие поисковиков, увеличение траста вашего сайта, посещаемость, более 1000 ссылок на ваш сайт с различных ресурсов.

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Стоимость – 9900 рублей.

Заинтересовались? Пишите на Email: proxrur*.*mail.ru (уберите звездочки *).

Подробнее обсудим.

С Уважением к вам, Вадим.

Attachments: N/A

2019 0219 Sergio Acena

Comment: I'm a Portland resident and I oppose freeway expansion. Freeway expansion is a flawed idea, over and over cities find that widening freeways to reduce traffic just leads to more cars on the freeway and whatever gains made are lost. ODOT's own consultants found this. As climate change threatens our nation and community more and more ODOT needs to think about ways to make transportation easier for people in the Portland Metro without leading to an increase in carbon emissions. I don't own a car and so I rely on biking and public transit to get around, if the current plan goes forward and the Flint Avenue crossing goes away it makes the city harder for me to get around.

Thank you for reading my comment.

Attachments: N/A

2019 0312 Seth Alford

Comment: Hi, I'm Seth Alford. I from Raleigh Hills, which is in unincorporated Washington County. I've been living in the Portland area since 1984. I am opposed to the Rose Quarter freeway expansion. The point I want to emphasize is that if this project is approved, don't expect an extra lane in the freeway, and the covers, and the active transportation features to appear the next day. Instead there will be four to five years or longer of construction. Based on my past experience with ODOT bicycle detours and what ODOT does for bicycles, specifically with Scholls Ferry Road and 217 during the construction project, if this project is approved, despite what ODOT's representative said earlier, I expect the bicycle infrastructure will be demolished first and rebuilt last. Effectively during the construction period, bicycle transportation in this area will be cut off. Furthermore, during the construction there's going to be delays and lane closures and additional traffic problems created by the construction itself. That idling motor vehicle traffic during construction will further enhance the greenhouse gases that this project will produce. If the project is being justified as reducing greenhouse gases through better traffic throughput, you have to count that idling traffic during construction against that hypothetical improvement. A better low-cost solution would be decongestion pricing as you have heard. In the meantime, spend the money you were going to spend on this on local projects that fix bike lanes, especially on Barbur. Fix the Beaverton-Hilldale, Oleson-Scholls intersection. Again, again I'm opposed to the Rose Quarter freeway expansion. Thank you.

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**Attachments:** N/A

2019 0226 Seth Blum

Comment: As someone who lives, works, and drives near the Rose Quarter, I am very very strongly opposed to this idea. My family and I all suffer from severe allergies and asthma, which is directly affected by freeway pollution. I drive through the proposed freeway widening area every day, and though the traffic can be frustrating, there is no reason this expansion needs to happen. It wouldn't even solve the congestion problem, as overwhelming evidence demonstrates. It's an exercise in futility. It will have a negative effect on our city and the Earth. Please, please reconsider. Oregonians are ready for sustainable solutions, like congestion pricing. We don't want more car traffic. We want a future for our children, our city, and our planet.

Attachments: N/A

2019 0326 Seth D Alford

Comment: At the hearing about the EA, we heard from an ODOT representative that they would provide bicycle detours around the project.

I testified that based on my past experience with the ODOT project on Scholls Ferry Road at 217, we should expect that bicycle infrastructure during construction will be demolished first and rebuilt last. So, I expect bicycle transportation during most of the 4-5 years of construction of this project will effectively be cut off.

I wasn't able to show this during the hearing, but I did make a video of what the construction at Scholls Ferry looked like. Here's a link:

<https://youtu.be/X5CXjrufAg8>

This is just one reason I am opposed to this project. Other reasons I'm opposed include those pointed out by others, such as promoting climate change, induced demand, and that demand tolling should be tried first.

Attachments: N/A

2019 0324 Seth Pellegrino

Comment: What's the best way to dig yourself out of a hole? Well, step one is to stop making the hole deeper. We know that adding freeway lanes can not reduce congestion. Ultimately, more capacity just allows for more people to be congested at the same time. We must stop thinking of traffic volume as an unstoppable external force: it is a dynamic response to the choices we make. We will solve all traffic, forever, by doing nothing more or less than making different choices. Congestion pricing, vehicle-miles traveled (VMT) fees, eliminating parking and road subsidies, changing our housing options, and providing alternative infrastructure all have a

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role to play in unwinding this spring. "Adding capacity" has been tried, and we understand its effects. We know that the money would be better spent elsewhere. By your staffers' own admission, this project is unlikely to improve safety, but widening a freeway to pump more cars into our already-overstressed arterials will harm vulnerable road users. If safety is ODOT's priority, 82nd, Barbur, and Powell are a few of ODOT's high-crash properties in the Portland area that are also deadly to pedestrians. For \$500m we could overhaul significant portions of these dangerous corridors. We know that freeways sicken us: 2.5-micron and 10-micron particulate matter (PM2.5 and PM10) consist of not just combustion products, but tire fragments and brake dust. Electric vehicles (EVs) will produce comparable levels of particulate matter to internal combustion engines, and the emerging link between PM2.5 and even non-respiratory diseases like diabetes suggests to me that we are not paying enough attention to this problem. This project's proximity to the Harriet Tubman school alone should be enough "environmental impact" to stop it! We know that the clock is running out on climate change, and we can no longer afford to deny the reality that highways are fossil-fuel infrastructure. EV sales are nowhere near high enough to replace the 4.1 million registered vehicles in Oregon any time soon, and what's worse is that EVs are mainly powered by fossil fuels. As energy usage outpaces renewable growth, new marginal demand (like when an EV owner plugs in their car for the first time) must be satisfied by burning more coal or natural gas. Your environmental impact statement claims a decrease in emissions from this stretch of highway, but it fails to account for emissions generated elsewhere, included the effect of the projected increase in nearby transit times. With atmospheric carbon dioxide approaching catastrophic levels and transportation accounting for 40% of Oregon's emissions, I have to wonder why we would build a stretch of road that must go unused in order to meet our climate objectives? This ain't it, ODOT. This ain't it.

Attachments: N/A

2019 0401 Seth Smigelski

Comment: Hello,

I live on the edge of Portland & Milwaukie. Even as someone who mostly gets around by car, I oppose expanding the freeway.

Take a trip to sunny southern California if you want to see how well enlarged freeways do at reducing congestion...

ODOT is good at building freeways. It's what you know, but freeway expansion should be a last resort - only used if boosting other forms of environmentally-friendly transportation are somehow unsuccessful.

This is a terrible way to spend money.

If you really want to reduce congestion in PDX... how about untangling the traffic flow the east side of the Ross Island Bridge. Shouldn't there be a ramp onto I-405 instead of the bonkers street route?

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Attachments: N/A

2019 0401 shane.a.stricker

Comment: I'm writing to remind you that it's 2019. Not 1960. We have learned that tearing up Portland with our highways was a costly mistake. Please stop putting money into it. Instead focus on the real reason people love living here: walking and biking safety and infrastructure.

Attachments: N/A

2019 0401 Shannon Robalino

Comment: I am strongly opposed to this freeway expansion. Time and time again, research evidence has shown that expanding freeways and building more roads does nothing to alleviate traffic congestion. It does, however, increase the number of cars on the road and pollution. At a time when we should be moving more people towards more sustainable forms of transportation to limit the climate crisis, building a freeway expansion is the wrong thing to do. The city knows this.

Attachments: N/A

2019 0331 Shannon Sullivan

Comment: Do not consider further construction or addition to the I-5 corridor. Consider further environmental impact studies, as well as implementation of congestion pricing. Further more, public transit affordability and wide-spread use (via fareless transit, perhaps?) should be considered and implemented before decimating the community and our shared environment with more roadways only for automobile vehicles.

Attachments: N/A

2019 0215 Shara Alexander

Comment: This project is primarily about adding freeway lanes. When you add freeway lanes you increase the number of

people driving on freeways, and that's a fact. You have only encouraged single vehicle miles. That you would

suggest that this project will reduce carbon emissions just tells me how far from reality you all are willing to stray.

Truly you live in a world of make believe.

Another hilarious spin on safety- adding speed to the freeway will increase safety and reduce deaths? The pedestrian

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overpass money could be spent elsewhere. The pedestrians who died crossing the freeway were in a mental

health/drug and alcohol crisis. If you want to try to prevent those kinds of deaths, please invest in treatment

programs, not freeway lanes.

So disappointed in your greenwashing of this nonsense. I'm not buying it, and neither are most Portlanders - hence

we elected Jo Ann Hardesty. This is just about moving freeway drivers through faster so they can get to their

outlying homes / Vancouver tax haven.

These hundreds of millions could be spent elsewhere and actually improve human health.

Thank you for the opportunity to comment,

Shara Alexander

Attachments: N/A

2019 0329 Sharon Birrel

Comment: I am speaking out as a Portland native against the proposed I 5 freeway expansion in North Portland. Climate change is real and the biggest threat facing us at this time. I have observed the changes over time in this area including the effects of increased wildfires and drought. It is deeply troubling. We should be working towards sustainable non carbon emitting transportation options. Sustainable forms of alternative transportation and walkable, liveable neighborhoods should be the focus, not expanded LA style freeways. To accommodate more carbon emitting traffic is counterproductive in light of the undeniable climate science.

As a native of this area I have always thought of Oregon and Portland in particular as leaders in environmental stewardship. As the city continues to grow we must keep environmental and human impact in the forefront especially when considering large impactful projects such as this. Adding freeway lanes that accommodate more carbon fueled vehicles, especially so close to a middle school, is simply not the answer. A full environmental impact study that addresses environmental and human impact of this project needs to be completed and the results be made available to the public before any action is taken by ODOT on this project.

Thank you for the opportunity to comment on this proposed project. I sincerely hope you will take this opinion under consideration.

Attachments: N/A

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2019 0311 Sharon Miller

Comment: Please do not implement decongestion pricing, as it disproportionately affects low income families. Working to reduce traffic in other ways seems advisable, by increasing public transportation options.

Attachments: N/A

2019 0401 Sharon Nasset

Economic Transportation Alliance/Third Bridge Now

Comment: I Testified At The Oregon Transportation Commission

March 21, 2019 Concerning How The Rose Quarter

Environmental Assessment Process

It is imperative that a Full Environmental Impact Statement be started immediately.

The Environmental Assessment for the Rose Quarter, I-5 and I-84 area has been all outreach and NO REACH IN for the public. Divide and conquer

The very fact that the hearings and “informing briefings” have been on the news stations as contentious, overly crowded, with picketing, signage, speeches, and marches demanding our BASIC CIVIL RIGHTS for a Full Environmental Impact Statement

I found it easier to drive to Salem and make my comments about the process in front of the Oregon Transportation Commission then to attend the “opportunities” and the way the citizen public comment process was being handled. I would like my video testimony to be added to the formal citizen comment for EA of the Rose Quarter.

I testified at the Oregon Transportation Commission March 21, 2019 concerning how the Rose Quarter Environmental Assessment process and citizen comment on the EA that it has not been good and the project should not continue. The OTC link is below I spoke 22 minutes and 45sec
<https://www.youtube.com/watch?v=I1Ekbi6-FQM&t=1665s>

The growing chorus of civic organizations, elected officials, neighborhood associations, business associations, and individual stating numerous significant environmental issues with the “proposal” plans the departments of transportation have cobbled together from several plans, years old, and studies that have never been though a thorough NEPA Process Environmental Impact Statement.

Sharon Nasset Economic Transportation Alliance / Third Bridge Now 503.283.9585

Sharonnasset@aol.com

Attachments: [2019 0401 Sharon Nasset ATT1](#); [2019 0401 Sharon Nasset ATT2](#)

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2019 0401 Sharon Nasset 2

Comment: Significant interest in the Environmental Assessment clearly states the imperative need for a full Environmental Impact Statement to take place immediately.

Attachments: [2019 0401 Sharon Nasset 2 ATT](#)

2019 0401 Sharon Nasset 3

Comment: Please add to the formal citizen comment on the I-84 Environmental Impact Statement A~1

Attachments: [2019 0401 Sharon Nasset 3 ATT1](#); [2019 0401 Sharon Nasset 3 ATT2](#); [2019 0401 Sharon Nasset 3 ATT3](#)

2019 0401 Sharon Nasset 4

Comment: Please add to the formal citizen comment on the I-84 Environmental Impact Statement A~2

Attachments: [2019 0401 Sharon Nasset 4 ATT1](#); [2019 0401 Sharon Nasset 4 ATT 2](#)

2019 0401 Sharon Nasset 5

Economic Transportation Alliance/Third Bridge Now

Comment: A Need For Study: Separate attempts to "study" the Environmental Assessment study boundaries over the decades are numerous pointing to the ABSOLUTE need for an Environmental Impact Statement

on any project being considered to go forward.

In the 1980's the Oregon and Washington Legislators came together and stated that the I-5 Freeway through

Portland was over capacity for the volume, speed of a freeway, and was rated F on FHWA traffic flow charts.

The I-5 freeway failed, even after the opening of the I-405 Freeway By-pass. This lead to putting in metered

ramps as a "temporary solution" sending additional freeway traffic overflow onto the surface level streets

adjacent to the I-5 and I-84 freeways.

The freeway Ramp Meters as a "temporary" solution started decades ago in the 1980's.

Since then several committees, study groups, and plans have developed became of the numerous traffic volume

problems in the area, stating the need for a comprehensive plan and a full EIS.

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After decades of redirecting traffic the majority of the surface level streets in the area have failed. Unable to

handle traffic levels, pushed onto local neighborhood streets that are not equipped to for high capacity vehicle

usage levels.

In 2001 the I-5 Portland / Vancouver Transportation and Trade Partnership (I-5 Partnership) Environmental

Impact Statement boundaries from I-5 and I-84 freeways in Portland to I-5 and I-205 in Vancouver WA was

shorten to the Bridge Influence Area removing the area south of Columbia Blvd. through the Rose Quarter

Area. Stating the complexity of the two areas was to great for one Environmental Impact Statement and

recommendation to start a process for the Rose Quarter Area needed to be addressed separately.

In 2006 the Columbia River Crossing Environmental Impact Statement boundaries from I-5 and I-84 freeways

in Portland to I-5 and I-205 in Vancouver WA was shorten to the Bridge Influence Area removing the area

south of Columbia Blvd. through the Rose Quarter Area. Stating the complexity of the two areas was to great

for one Environmental Impact Statement and recommendation to start an EIS process for the Rose Quarter Area

needed to be addressed separately. *See Clark County Board of Commissioner December 18, 2006

2010-2012

I-5 Broadway/ Weilder Facility Plan

North/ Northeast Quadrant Plan

And other neighborhood plans

At least 70 "alternatives" mostly likely components where recognized by this Environmental Assessment

Separate attempts to "study" the Environmental Assessment study boundaries over the decades are numerous

pointing to the absolute need for an Environmental Impact Statement on any project being considered to go

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forward.

The challenges in this one small area demand

A Full Environmental Impact Statement

The NEPA process states the need for an Environmental Impact Statement

When significant Environmental effects MAY OR Will occur

The confluence of commerce, transportation, event centers, shopping center, restaurants galore, and

vibrate residential neighborhoods, schools, parks, old and new homes, justify a full EIS

~~ All of the below complexes, transportation infrastructure, PLUS schools, parks, historical structures,

and residents are inside the Environmental Assessment Area and directly adjacent.

No major plan that encompasses these high traffic needs of these complexes has been done.

This area of North and Northeast Portland has regional, national, international, and local traffic plus

being the area of the I-5 freeway system with the largest amount of accidents, congestion and pollution in

the entire state. The pollution and noise levels in the area exceed national health requirements. The start

of the I-84 Interstate Freeway to the interior of the United State and crossing the country is a tremendous

economic benefit.

This part of our neighborhood has the two Interstate Freeways I-5 and I-84 it also HOST :

The I-405 freeway Fremont Bridge and ramps

The Emanuel Hospital complex covering several blocks, once a residential neighborhood

The Lloyd Center first mall in America, once a residential neighborhood

The Veteran's Memorial Coliseum complex, once a residential neighborhood

The Rose Quarter complex and parking lots, once a residential neighborhood

The Oregon Convention Center complex, once a residential neighborhood

The federal government 911 building complex, once a residential neighborhood

With these large complexes

Approximately 5 large hotels with parking lots and several tall apartment complexes evolved.

Construction of light rail and streetcar systems.

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~~ All of the above complexes, transportation infrastructure, PLUS schools, parks, historical structures,

and residents are inside the Environmental Assessment Area.

No major plan that encompasses these high traffic needs of these complexes has been done. A comprehensive

Environmental Impact Statement is necessary.

It is Wrong to make our community BEG for our civil rights to an Environmental Impact Statement. We are the ones to decide what is significant to us and significant enough to have a full Environmental Impact Statement done. To know what will be done to us, our children, schools, parks, and the effects! Basic Human Rights respect us.

Attached Clark County Board of Commissioner letter dated Dec 2006

FHWA Citizen Guide to the NEPA process

NEPA Process Chart showing EIS necessary if there May or Will Occur

Sharon Nasset Economic Transportation Alliance / Third Bridge Now 503.283.9585

Sharonnasset@aol.com

Attachments: [2019 0401 Sharon Nasset 5 ATT1](#); [2019 0401 Sharon Nasset 5 ATT2](#)

2019 0401 Sharon Nasset 6

Comment: Please add to the formal citizen comment on the I-84EA and need for Environmental Impact Statement Historic 4(f) Historic Resources: NOTE NO ATTACHMENT PROVIDED

Attachments: N/A

2019 0401 Sharon Nasset 7

Comment: Please add to the formal citizen comment on the I-84 Environmental Impact Statement A~3

Attachments: [2019 0401 Sharon Nasset 7 ATT](#)

2019 0327 Shawn Fleek et al

OPAL - Environmental Justice Oregon; Neighbors for Clean Air; 350PDX

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Comment: I-5 Rose Quarter Freeway Expansion Letter - Public Comment. <<Submitted by NMF>>

Please find attached an op-ed published in BikePortland.org co-authored by representatives from OPAL - Environmental Justice Oregon, Neighbors for Clean Air, and 350PDX. We wish to submit this to the record for public comment in opposition to ODOT's proposal to widen the Rose Quarter Freeway.

A Year of Bad Headlines for Freeway Expansion: Public Comment on ODOT's Rose Quarter Freeway Expansion Project

(A slightly modified version of this letter was originally published as an Op-Ed in BikePortland.org on February 18, 2019. <<Footnote 1>> We are eager to submit this for the public record on the ODOT Rose Quarter Freeway Expansion project).

In 2017, the nascent No More Freeways coalition published an editorial in The Oregonian asking elected officials for an honest reassessment of the Oregon Department of Transportation (ODOT)'s plans to spend hundreds of millions of dollars to expand the Rose Quarter Freeway in North Portland. <<Footnote 2>>

Since then, headlines over the last eighteen months have only confirmed that this is a gravely misguided project.

Last March, the Portland Mercury reported ODOT's own consultants concluded the Rose Quarter freeway expansion wouldn't have any discernible impact on congestion. <<Footnote 3>> This finding may be counterintuitive, but it is a textbook example of the concept of "induced demand," a phrase transportation planners use to describe the phenomenon in which more lanes of freeways only lead to more eager motorists electing to drive. The Mercury also reported that, despite requests from advocates and elected officials, ODOT has refused to study whether decongestion pricing initiatives could solve the corridor's gridlock by itself, without wasting hundreds of millions on a widening project that does nothing to reduce congestion.

Secondly - as a result of induced demand, our community will suffer from worse air quality and pollution. In May, Willamette Week detailed the alarmingly poor air quality at Harriet Tubman Middle School. <<Footnote 4>> Researchers suggested students should avoid outdoor recess, and yet ODOT plans to literally expand I-5 into the backyard of the newly-reopened school. The latest studies on air pollution are grim - poor air quality is linked to lung disease, poor student performance, <<Footnote 5>> heart disease, dementia <<Footnote 6>> and diabetes. <<Footnote 7>> ODOT speaks to the importance of healing the Albina neighborhood's scars from urban renewal, but it is impossible to heal these scars by further polluting air near children's classrooms. Speaking of public health, ODOT has tried to sell the freeway widening as a safety project. But last October, Willamette Week punctured these phony claims, concluding that the stretch of freeway in question hasn't seen a traffic fatality in over a decade. <<Footnote 8>> Meanwhile, ODOT's regional arterials remain shockingly dangerous and deadly.

Finally, squandering half a billion dollars widening a mile of freeway is an egregious form of reckless climate denialism. We've all felt the unease that permeates our communities when our

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neighborhoods are cloaked with the wildfire smoke that has draped itself through the Willamette Valley three of the past four summers. October's IPCC report warned that phasing out fossil fuels in eleven years was essential to avoiding the destruction of society as we know it. Last month's reporting by The Oregonian suggests that even with passage of pending carbon legislation, Oregon won't hit carbon reduction targets without fundamentally reducing emissions from private automobiles. <<Footnote 9>> It is frustrating to watch self-proclaimed environmentalists in City Hall and Salem champion freeway expansion when 40% of Oregon's carbon emissions come from transportation. The hurricanes, fires and floods are only growing stronger.

Expansion of this freeway represents a complicit willingness to ignore Oregon's responsibility to future generations and the planet.

Future headlines will only make it more self-evident that spending billions on freeway expansions across the region is a wholly inappropriate use of taxpayer dollars given the daunting challenges Oregon faces. We encourage Oregonians committed to cost-effective governance, our children's lungs and the planet our children will inherit to join us in asking ODOT to conduct a more thorough Environmental Impact Statement that more rigorously studies the significant impacts this project will have on our community.

FOOTNOTES:

1 This op-ed is available online at <https://lbikeportland.org/2019/02/18/guest-opinion-a-year-of-bad-headlines-for-freeway-expansion-295697>.

2 "Portland leaders have a choice: increased congestion or courageous leadership (Guest opinion)" The Oregonian: https://www.oregonlive.com/opinion/2017/09/portland_leaders_have_a_choice.htm

3 "A New Report Shows Highway Widening Won't Solve Portland's Congestion Woes" Portland Mercury: <https://www.portlandmercury.com/news/2018/03/07/19724128/a-new-report-shows-highway-widening-wont-solve-portlands-congestion-woes>

4 "A Middle School Prized by Portland's Black Community Would See Its Poor Air Quality Worsen With a Rose Quarter Highway Expansion" Willamette Week: <https://www.wweek.com/news/2018/07/04/a-middle-school-prized-by-portlands-black-community-would-see-its-poor-air-quality-worsen-with-a-rose-quarter-highway-expansion/>

5 "How Car Pollution Hurts Kids' Performance in School" CityLab: <https://www.citylab.com/environment/2019/02/air-pollution-kids-health-data-school-academic-test-scores/581929/>

6 "Researchers warn a common air pollutant is a driver of dementia, even at levels below current EPA standards" Washington Post

https://www.washingtonpost.com/business/2018/09/05/researchers-warn-that-common-air-pollutant-is-driver-dementia-even-levels-below-current-epa-standards/?noredirect=on&utm_term=.341e73c33e2e

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7 "A Frightening New Reason to Worry About Air Pollution" The Atlantic:

<https://www.theatlantic.com/health/archive/2018/07/a-frightening-new-reason-to-worry-about-air-pollution/564428/>

8 "State Officials Say I-5 in the Rose Quarter Poses a Deadly Danger. Police Reports Undercut That Claim." Willamette Week: <https://www.wweek.com/news/city/2017/10/11/state-officials-say-i-5-in-the-rose-quarter-poses-a-deadly-danger-police-reports-undercut-that-claim/>

9 "With emissions on the rise, Oregon falls well short of greenhouse gas reduction goals" The Oregonian. <https://www.oregonlive.com/politics/2018/12/with-emissions-on-the-rise-ore-htm>

Attachments: [2019 0327 Shawn Fleek et al ATT](#)

2019 0327 Shelby Ness

Comment: Hello,

I am writing to express my opinion regarding the I5 expansion. I think the expansion of the I5 Rose Quarter corridor is exactly opposite of what this city needs and pretends to be about. Portland is supposed to be a green, forward thinking city working towards reducing climate change, yet expanding the highway corridor to give cars the advantage, while leaving buses in the dust and climate change causing pollution is in contrary to this. Portland needs to focus on ways to get more people taking public transportation and out of single occupancy vehicles. As this city grows, the citizens do not want to see it grow into a Seattle or LA. We do not want to see bumper to bumper traffic, or congestion and rush hour traffic. To best avoid this, we need to prioritize buses. When the city prioritizes buses, the citizens prioritize the bus. If a bus is sitting in the same traffic that single occupancy vehicles are sitting in and going nowhere, people will continue to drive. When a bus is zooming by single occupancy vehicles and those drivers see bus riders arriving to work faster than those sitting in their cars, they will get out of their cars and take the bus. In order for this to happen, Portland needs to spend the money that is allocated for the highway expansion on dedicated bus lanes. It is simple really. Reducing climate change and reducing the dependency on single occupancy vehicles should be the top priority of the city and dedicated bus lanes are a sure fire way to do this.

Put your money where your "green" mouth is Portland. Step up and prioritize the bus and reducing single occupancy vehicle use by prioritizing public transportation.

Thank you,

Shelby Ness

Attachments: N/A

2019 0329 Shelby Schroeder

Comment: I think that planning for the I-5 expansion at Rose Quarter should be halted based on the lack of transparency ODOT has provided; the known environmental impacts of highway

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expansion; the proof that expansions don't curb congestion; and because planned congestion pricing may achieve the intended results. Most importantly, ODOT's secretive inflation of congestion figures by presupposing a 12-lane Columbia River Crossing is a violation of ethics, and calls into question why ODOT is pushing so hard for this project.

Attachments: N/A

2019 0325 Shelby Simmons

Comment: I say no to the freeway expansion. What we should be expanding is public transit options, more bike and pedestrian lanes. Why add more pollution anyway? Portland and Oregon can do better.

Attachments: N/A

2019 0401 Shelley Allan-Cole

Comment: I urge you to put this freeway widening project on hold and examine other solutions to congestion. I believe that this will make congestion worse. We need to be looking at climate sensitive solutions.

I am also concerned that the project will cost a great deal more than what you propose. We will also negatively impact neighborhoods, schools, and traffic during construction.

I don't see this project as a step toward improving transportation in Portland or in Oregon in general.

Please halt this widening project now, give more time for input and take a 21st century point of view to solve traffic congestion.

Thanks for listening,

Shelley Allan-Cole

Attachments: N/A

2019 0227 Sherry

Comment: What happened to Oregon progressive GREEN thinking?? Why do humans have to destroy environment for its own selfish reasons- better driving?? Hello, put a train on the internet; make people pay huge driving fees- THINK of something other than making our carbon footprint bigger- what happened to OREGON, my OREGON- is it only Californians now who control our vision of a NEW GREEN WORLD? STOP now, why is it that we have to accommodate everyone that wants to move here- so you and your friends can line their pockets? That what it seems like as NO thought is being given to the rights of animals, trees and the environs of Portland. SHAME ON YOU.

Attachments: N/A

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2019 0402 Sherry Bohannon

Comment: What city do I live in? I thought it was PORTLAND. The Portland I helped build believed in things like GREEN spaces; reduction of toxic substances into the air, water or earth; no I-5 bridge without planning for mass transit; growth boundaries. Where am I now? I can not believe you would consider this expansion. Is all of California now in key positions in the Oregon system that once fiercely cared for our beautiful state? Really, people will come so we must build and expand? Only those who are solely concerned with profits are in power it seems. This is not the city that I helped build, disaster awaits for the generations that follow- I thought we had a plan to keep the greedy and the gas guzzling out of Oregon for generations to come- that spirit has died and California has arrived to destroy our state just like they did their state. You who would make such a decision as expanding the freeway will not have a different legacy- we came, we destroyed, we didn't think, we just reacted.

Attachments: N/A

2019 0329 Sherry Salomon

Comment: We do not need the freeway expanded. We need to find solutions that are environmentally sensitive and do not destroy the air we breathe and destroy our quality of life.

Expansions, at best, are temporary. Soon we will need more and more expansions leading to the destruction of our lives and the environment.

Attachments: N/A

2019 0329 Shika Kimura

Comment: Please invest in public transportation and the MAX. Express service and stops would be an obvious choice. Also instead of freeway expansion, please improve current infrastructure.

Attachments: N/A

2019 0329 Shirley Gibbons

Comment: Build a road and cars will come. I gave up my car and driving several years ago. This is not an option for everyone, but I see nearly every car with only the driver..no passengers. Trimet provides excellent service almost 24 hours a day. Try it! You might like it. Let someone else drive.

I am a very senior citizen. Lifelong Portlander. Most folks my age should have given up the right to drive long before. Remember that owning a car and driving are precious privileges, not rights.

Attachments: N/A

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2019 0401 Simone Crowe

Comment: To Whom It May Concern, I am very concerned about the proposal to widen I-5 in Portland, please do NOT spend \$500 million on a project that will contribute to climate change, degrade public transit and hurt our public spaces.

We know that widening this freeway will do nothing for traffic congestion in the long run. It will only induce demand and set our city's traffic problem back. It will only mean more air pollution in the Rose Quarter.

Instead, let's invest this money in bike lanes, public transportation, or even closing roads. At the very least, invest it in updates to east Portland roads.

From equity, climate change and transportation perspectives, this freeway expansion is a bad idea.

I urge ODOT to conduct an EIS.

Simone Crowe Portland, OR

Attachments: N/A

2019 0330 Sohpia Cain

Comment: Please don't expand the freeway! We already have some of the worst air pollution and this will just make it worse. What we need is better public transit options and safer biking routes to get cars off the road. Please don't disrupt our city traffic with this unneeded expansion. It will be a massive waste of money and it won't fix the problem. Look at the research!

Attachments: N/A

2019 0307 Soren Impey

Comment: The claims that this project will significantly enhance multimodal service are not credible. The project eliminates a high quality ped/bike-friendly bridge (Flint) and replaces it with a steep and less accessible crossing. The bike improvements on Williams and Vancouver also seem minimal. Why no improvements on Broadway and Wiedler?

The analysis of air toxics and pollutants is also not credible. Why were there no analyses of pollution levels on the caps and on the new crossing infrastructure? The decrease in pollution relies on the premise that vehicle idling would be reduced. This is ridiculous given the likelihood of induced demand. Moreover, many vehicles no longer idle. Given that these new two lanes are likely to fill up this ill conceived project is almost certainly to increase pollution, increase climate-destroying motor vehicle use, and increase the stress and harm to Portlanders living in this area of NE Portland. Please reconsider this terrible project.

Attachments: N/A

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2019 0402 Soren Impey

Comment: The City of Portland and the metro region have committed to reducing greenhouse gas (GHG)

emissions by 80% by 2050. Oregon has also committed to a 75% reduction in emissions by 2050. Because transportation represents ~40% of emissions in Oregon and Portland, ODOT's proposal to expand the I5 freeway near the Rose Quarter makes a mockery of these goals. The principle of "induced demand" has been repeatedly replicated and indicates that this highway expansion would stimulate increased driving and increased vehicle emissions (<https://www.citylab.com/transportation/2018/09/citylab-university-induceddemand/569455/>). Thus, ODOT's proposal to build two additional highway lanes is a form of dangerous and quixotic climate change denial. Moreover, the transportation modeling conducted in ODOT's EA is not credible at all.

Instead of using Portland and the metro region's transportation and climate action plans as the basis for modeling, ODOT concocted a model where all infrastructure, including the canceled CRC, would be built and utilized. This is absurd and patently in bad faith! The city of Portland has seen significant reduction in vehicle miles traveled since the 1990s and its stated goal is to reduce VMT by over 60% by 2050 (<https://www.portlandoregon.gov/bps/article/531984>). It is deeply insulting to Portland residents for ODOT to fabricate a model that ignores past trends and shamelessly dismisses the City's own transportation planning.

The planned improvements in public space and active transportation infrastructure are also "shams". For example, the loss of the flint avenue bridge – a direct and heavily used connection – and its replacement with a kafkaesque facility with an unusable ~10% grade is horrifying. The freeway caps are nothing more than left-over construction equipment that are unusable as buildable space and make virtually no effort to connect with the existing streetscape. And many of the other "alleged" cycling and pedestrian improvements on surface streets completely fail to mitigate the risk of crossing multiple lanes of fast moving traffic. Adding additional lanes is not compatible with the city's stated goal of encouraging multimodal traffic and discouraging driving.

I urge ODOT to cancel this ill-considered, unneeded, and over expensive freeway expansion. This revenue must be used for transportation projects, such as light rail, that genuinely take

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into account the region's transportation needs and a more sustainable future.

Sincerely,

Soren Impey

Attachments: N/A

2019 0306 Sorin Garber

Comment: I'm having difficulty finding the Transit Technical Report which is referenced in the ERA. The New and Library tab has a link to Environmental Technical Reports and below that is a link to Transit - Appendix A. The material in that link are descriptions of figures. I'm looking for the detail that supports the analysis of transit operations described on pages 68 and 69 of the EA.

I left a voice mail this afternoon with the same request.

Thank you.

Sorin Garber

Attachments: N/A

2019 0330 Spencer Alan

Comment: I am a resident of Portland and I oppose the Rose Quarter expansion project.

It is hard for me to think that my typed words here will have any impact on the outcome of this discussion. There are far more learned folks than me who also oppose this project but who know and have studied induced demand, congestion pricing, environmental impacts, and climate change. I am afraid that the cacophony of voices in opposition, growing louder and more pained, will be ignored. I wish I knew the magic combination of words, the correct things to write, that would change the minds of the people who can pull the plug.

We, collectively, have the power to build the society we want to live in. I may not know the magic words to stop this project but maybe I can paint a picture of what the society I want to live in looks like to me.

I want to walk around my neighborhood unafraid of being stuck and killed by a motor vehicle.

I want to bike to work unafraid of being struck and killed by a motor vehicle.

I want to sit outside and breathe unpolluted air.

I want to walk along the Willamette river to the sounds of birds and water, not cars and trucks.

I want open plazas, cafes with ample room for outdoor seating reclaimed from streets, pavement turned to grass and trees.

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I want enforced lower speed limits, fewer streets dedicated to vehicle traffic, dedicated bus lanes, expansive light rail.

I want a government that sees the insanity in expanding a freeway that would never suggest such a thing in the first place.

I am a resident of Portland and I oppose the Rose Quarter expansion project. Please, do not do this.

- Spencer Alan

Attachments: N/A

2019 0326 Spencer Bushnell

Comment: I am writing to express my dismay at the proposed highway expansion in the Rose Quarter. I am firmly opposed to enabling more induced demand. Expansion will induce demand and further cement (literally) our city, region, and country in an archaic transportation system.

More needs to be done to combat climate change and enabling more vehicles to travel burns more CO2 and creates more climate change. We need to implement congestion pricing now prior to any expansion. In addition, removal of the Flint avenue bridge makes absolutely no sense whatsoever. Countless pours of concrete went into that along with vast amounts of CO2. Why don't we continue to use that as a facility?

Furthermore, any project in this area should enable re-knitting the street grid and allow building high density buildings on top of the Rose Quarter road sections so that we do not waste more valuable urban land space on SOV's.

Any road project must allow rapid mass capacity transit as well. It does no good to have a bus sitting in traffic.

Please perform the Environmental Assessment / EIS as dictated by current law.

This is a boondoggle that will instantly be filled with greater volumes of traffic (just like the LA freeway expansion years back).

Thank you

Spencer Bushnell

Attachments: N/A

2019 0320 Spencer Kroll

Comment: The expansion of the I-5 in the Rose Quarter will not solve the traffic problems that Portland is experiencing. The expansion of freeways only creates a situation where more cars fill up the roads and gridlock will still exist. This will not solve the situation. Where more

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investment needs to be spent is at the Columbia River crossing. This is the only spot where I-5 shuts down between Canada and Mexico. This bridge needs to be re-built as soon as possible. Additionally, major investments in the improvement of city infrastructure, such as expanding the max throughout southeast Washington and separate bus only lanes, need to happen. This will more effectively help to mitigate traffic than expanding a freeway and enabling continued gridlock.

Attachments: N/A

2019 0401 Staci Monroe

CoP BDS

Comment: On behalf of the Portland Design Commission, we want to thank you for the excellent briefing on March 7, 2019. We also commend you for your continuing work with community members and other stakeholders through the alternatives analysis to-date. It's important that this project accomplish the community urban design goals as identified in the project vision. Below is a summary of our concerns and recommendations to you as you proceed into the next phase:

1. Overall urban design: From our perspective the potential to re-connect and rebuild the community that was lost is paramount. Therefore, the design of the infrastructure is critical and should support these efforts.

2. Pedestrian/Bicycle Features: We commend the effort to improve pedestrian and bicycle connections through this area, but we do note a few areas of concern:

---Some of the intersection corner radii appear very driven by large vehicle turning criteria and not pedestrian safety. On the preliminary plans, these features seem to coincide with unusually wide pedestrian crossings. Higher potential turning speeds and less pedestrian queueing area could lead to a place that does not encourage walking or a safe walking environment. This project should embody more of PBOT'S urban street standards that have evolved to accommodate multimodal mobility.

--- Street design should employ current best practices used by PBOT in existing street re-design and new street design projects throughout the city. Highway geometric design should not encroach into the surface streets of this project. 3. Highway Covers: The concept of covering over a trenched highway to re-connect urban districts is a strong idea and critical to re-establishing a viable neighborhood structure. However, the cover configuration as currently show is flawed in several ways:

---Fragmented, staggered lid shapes due to structural span or ventilation constraints (or other?) are not valuable or useable as open space and are not sized or shaped to accommodate new air rights buildings. The way to re-establish continuity of street level experience from east of I-5 to west of I-5 is to provide continuous public sidewalks and commercial uses at street level. We are at a point in Central City Portland where new fragments of landscape open space that are not programmed with activities, don't have an adjacent active use that spills out to occupy, don't

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have visual cues as to ownership of the space, and don't have a robust management and maintenance program are more liability than asset. Un-housed citizens, substance abuse victims, and a lack of mental health services all produce a population that seeks out unclaimed fragments of public space to set up temporary living. That outcome is not going to advance the re-connecting and re-birth of Lower Albina Neighborhood. Central Open Space: the proposed one-block park space shown in the concept simulations is potentially ill-conceived. Active ground floor uses in future buildings are across very busy traffic streets and essentially cut off from activating the proposed park. Passive activities like strolling, sitting, small gatherings, eating lunch, etc., will all be subject to significant noise impacts of both the surrounding surface streets, highway entrances and exits, and the mainline freeway itself. The covers as illustrated aren't extensive or continuous enough to provide effective noise mitigation. An active building use like offices with ground floor retail or common rooms would seem to have a higher chance of providing continuity at this critical block. The project team should look further into structural capacity for a low-rise commercial building here. 4. Noise Barriers: We have a concern about the possibility of noise barriers against sections along the east edge of the freeway as planned. In the effort to re-connect a fragment of an original neighborhood to a larger, intact adjacent district, physical and visual continuity are important. Buildings with active ground floor space, adequate sidewalks, street trees and amenities all contribute to a continuous experience. However, visual continuity of neighborhood on either side of I-5 is also important. More detail is needed, but it should be noted that noise walls are typically 10-12' tall and made of dense material like concrete to provide noise mitigation. These will isolate the two sides of the neighborhood, to their detriment. Consider transparent noise barriers or other alternative configurations that don't cut off views between areas.

The Commission's feedback is based on the Central City Fundamental Design Guidelines, the approval criteria that applies to most of the project area. Specifically:

- A3: Respect the Portland Block Structures
- A5: Enhance, Embellish & Identify Areas
- A7: Establish and Maintain a Sense of Urban Enclosure
- A8: Contribute to a Vibrant Streetscape
- B1: Reinforce and Enhance the Pedestrian System
- B2: Protect the Pedestrian
- B3: Bridge Pedestrian Obstacles
- B4: Provide Stopping and Viewing Places
- B5: Make Plazas, Parks & Open Space Successful
- C1: Enhance View Opportunities
- C4: Complement the Context of Existing Buildings
- C5: Design for Coherency

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C7: Design Corners that Build Active Intersections We encourage to continue the dialogue with all stakeholders as you move into the project's next phase. We look forward to our next briefing with the project team during the public urban design phase planned for Spring of this year. As mentioned in the briefing, a Design Commissioner may be available to be on urban design panel. Please reach out when this panel is being formed.

Attachments: [2019 0401 Staci Monroe ATT](#)

2019 0401 Staci Monroe

City of Portland Bureau of Development Services

Comment: Thank you, Megan.

Attachments: N/A

2019 0330 Steph Gaines

Comment: Freeway expansion will not solve congestion. The facts support this. Portland should be leading environmental initiatives and coming up with smarter ways to solve traffic issues.

Attachments: N/A

2019 0401 Stephan Leger

Comment: I am writing to express my strong opposition to the proposed Rose Quarter I-5 freeway expansion. There are many deeply problematic issues with the project, but some of the most important ones are: racial inequity, environmental pollution, ineffectiveness in terms of reducing congestion, and wasting/misusing our public funds. I will elaborate on each of these reasons below.

- Racial Inequity: I-5 runs alongside the historically black community of Albina, and its emissions disproportionately impact people of color. This particularly impacts the Harriet Tubman Middle School, which sits right next to the freeway. Rukaiyah Adams of the Albina Vision Trust has sent a letter requesting a full Environmental Impact Statement for the project.
- Environmental Impact: Research has shown that freeway expansion projects like this one, increase traffic and, therefore, emissions as well. Transportation accounts for 40% of Oregon's climate emissions. We need to decrease these emissions, not increase them, and this project is a major step in the wrong direction in this regard.
- Ineffectiveness: The project goal is to decrease congestion, but because expansions have been shown to increase the number of cars on the road, they don't actually improve congestion.
- Misuse of Public Funds: The project is projected to cost \$500,000,000 and it would likely go over budget and cost even more. There are so many useful projects that could be done with that money (things like adding sidewalks to historically under-served neighborhoods in East Portland

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or expanding our buses and other forms of public transit) rather than on harmful and counterproductive projects like this one.

Attachments: N/A

2019 0325 Stephan Morris

Comment: The last thing we need is more freeways. Put the money into transit and active transportation.

Attachments: N/A

2019 0326 Stephanie Byrd

Comment: Please do not expand any more freeways until we improve our existing infrastructure to make it safer, healthier, and easier for Portlanders to get around our city. What a waste of money when it has been proven over and over that widening freeways only worsens traffic, increases pollution, and encourages the kind of development patterns that weaken our cities. Please implement decongestion pricing to reduce congestion and create revenue for maintaining our current infrastructure. If you aren't willing to at least try this first, I have a hard time believing you have the best interests of regular Portlanders in mind.

Attachments: N/A

2019 0401 Stephanie Byrd

Comment: Please don't go ahead with this project. I drive my car often in Portland and would love to get rid of it, but auto travel is subsidized to such an extent (via zoning regulations, building codes, parking subsidies, tax code, and many other ways) that transit and active transportation can't compete. Please invest in making it safe and easy to walk, bike, and ride transit instead of adding to the mess that cars are making of our city. Why are there still places it is impossible to walk to but possible to drive a car to? Let's take care of that problem first.

Attachments: N/A

2019 0523 Stephanie Jarem

Comment: The I5RQ project's main goal is "safety" which seems reasonable as it relates to the fact that it is the highest crash corridor; however, the focus should really be on improving areas where there are the highest fatal and severe injuries, as THAT would be the greatest improvement in safety and health. There are other ODOT roads that are incredibly dangerous and could save lives with improvement. This project does not do enough for safety, congestion, air quality, or even reliability to warrant the cost to the state, especially when other projects in areas that are less well-served or are historically underserved (e.g., east Portland's 82nd Ave) could benefit.

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**Attachments:** N/A

2019 0306 Stephanie Noll

Comment: I'm writing to express my concern about the environmental impacts of a Rose Quarter Freeway Expansion.

I am a resident of North Portland, living just a few blocks from I5. I cross over the highway daily to bike my children to our neighborhood school, Beach Elementary, and I too have spent my share of time in stopped or slow-moving traffic on I5 on my frequent commutes to Salem. My family breathes the polluted air of traffic idling on I5 on a daily basis.

Investing in expanding the interstate bottleneck at the Rose Quarter is not a reasonable solution to congestion, especially when regarding the cost of the project. Expanding freeway capacity will only expand drive alone trips and associated emissions.

If we are serious as a region about reducing congestion and carbon emissions, we should instead invest on the same scale in increasing transit capacity and bike and pedestrian infrastructure. I live only 5 miles from downtown Vancouver, yet have no reasonably direct option for getting across the river except by personal vehicle. (I find the current bike facilities on the Interstate bridge terrifying.) I have great transit options for getting to downtown Portland and use them frequently, but our transit system is inadequate for traveling efficiently on the regional scale. My family bikes daily for neighborhood trips, and would bike much farther, but there are huge gaps in our regional trail and bike/ped network.

Investing \$500 million instead in light rail, enhanced transit lanes, and off-street or protected bike and pedestrian infrastructure would be far more transformative for our region and our daily commutes. We will not meet our climate smart or freight mobility goals by investing this sum in a 1.5 mile freeway project.

There are much better solutions to the problem we're trying to solve than freeway expansion.

Sincerely,

Stephanie Noll

5801 N. Albina Ave.

Portland, OR 97217

Attachments: N/A

2019 0303 Stephen Bachhuber

Comment: I strongly, vehemently oppose the freeway expansion proposed for the Rose Quarter area of Portland. It is an ineffective way to spend taxpayer money when ODOT's own calculations report that congestion will return again by 2027. It is a waste when \$500 million could be spent to improve transportation in so many other ways. It ignores the urgency of

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climate change and the need to act swiftly and decisively to terminate all new fossil-fuel infrastructure, which includes freeway expansion. Finally, it is poisoning us. Diesel and gasoline exhaust contain extremely hazardous substances directly linked to deteriorating health and higher death rates. I live in an area of high fine-particulate contamination- the Brooklyn neighborhood sandwiched between Highway 26 and Highway 99. I personally suffer from the effects of bad air, and I worry about the effects on my children and grandchildren. I don't wish this problem on anyone, especially the children of Tubman Middle School and the people of North Portland. All of us can't just sell out and move to the suburbs- isn't that part of the problem anyway? Stop expanding freeways and stop fossil fuel infrastructure. This idea is a boondoggle.

Attachments: N/A

2019 0402 Stephen Carson

Comment: Widening roads doesn't fix traffic. At best, it pushes congestion to the next bottleneck. In the face of a climate catastrophe, spending half a billion dollars to widen a stretch of road is gross malpractice. You could be taking vehicles off the road. You could be expanding buses, light rail, bike lanes, and sidewalks. You could be relieving people of the necessity and economic burden of car ownership, and lessening the hardship of those who cannot drive, be it due to disability, poverty, or legal status.

Fewer cars, not wider roads! Public transportation now!

Attachments: N/A

2019 0227 Stephen Galas

Comment: Congestion won't improve. Freeway expansion has never solved traffic congestion, in any North American city, anywhere. Ever! ODOT's own hired consultants admit that this project won't address recurring traffic congestion on this corridor.

Have you seen our video highlighting how ODOT's proposed freeway widening would expand I-5 into the backyard of Harriet Tubman Middle School?

Increase in air pollution. This project proposes to expand a freeway into the backyard of Harriet Tubman Middle School, where air pollution is already so bad that PSU's researchers recommended that students forgo outdoor recess. This is an environmental justice issue – 40% of Tubman's students are Black.

Freeway Expansion is Climate Denialism. 40% of Oregon's carbon emissions come from transportation – as a recent Oregonian article pointed out, Oregon simply cannot decarbonize our transportation sector without driving a lot less. If we are going to spend \$500,000,000 on a

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transportation project that addresses the urgent existential threat that climate change represents, this money should be spent on improving and prioritizing public transportation and building walkable communities.

Opportunity Costs: Even *if* ODOT can manage to keep this project under \$500,000,000 (pretty unlikely, given the agency's track record), it's an enormously expensive undertaking whereas the revenues could be spent on a litany of other projects and needs across the region. \$500 million could build a lot of sidewalks in East Portland, bus rapid transit lines across town, or be a solid down payment towards the proposed underground light rail tunnel. And unlike a freeway widening, all of those investments would be better for air quality, carbon emissions, public health, and congestion relief.

Community Opposition: Despite ODOT's claims that this project "reconnects the community," there are numerous concerns about the surface-level bicycle and pedestrian facilities currently proposed. ODOT intends to remove the Flint Avenue crossing (one of the city's most popular bike commuting routes), the proposed "lids" over the freeway won't be strong enough to support buildings like the Albina Vision is proposing, and is opposed by all major bike/ped groups and local neighborhood organizations (we wrote a letter to Portland City Hall last year articulating the ways the surface-level street changes are not an improvement to the community)

Decongestion Pricing should be implemented before expansion. Road pricing is the only policy actually proven to reduce traffic congestion; it's also proven to improve air quality and reduce carbon emissions as well. Why is ODOT moving forward with a \$500 million boondoggle investment without first instituting congestion pricing to see if that mechanism wouldn't solve the traffic problems on the corridor *without* sinking half a billion dollars into the expansion? ODOT's studies of traffic patterns of the proposed freeway expansion *completely* ignore the reality that the state is mandated with moving forward with decongestion pricing, which will enormously impact how many people choose to drive on the corridor and greatly reduce congestion. (There are meaningful, valid concerns about how to implement decongestion pricing fairly – we've explored that in letters to the Oregon Transportation Committee last year)

Attachments: N/A

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2019 0305 Stephen Gomez

Comment: I write to oppose the investment of +/- \$500M in the I-5 Rose Quarter area as proposed by ODOT.

It is a well known fact that expanding freeways does nothing to reduce congestion--we only have to look to Los Angeles and the failure of the expansion of I-405 as one recent example: <https://www.laweekly.com/news/11-billion-and-five-years-later-the-405-congestion-relief-project-is-a-fail-5415772>

The expansion of I-5 will directly impact Harriet Tubman middle school which sits above the freeway with increased pollution. This is a school historically and currently serving young students of color. The impacts of gentrification and displacement to this neighborhood, including the original construction of I-5 are well known--expanding the freeway will only continue this legacy.

We have arrived at point where all science says that climate change is definitively man-made and in Oregon our leading cause of greenhouse gases is transportation. A half-billion dollar investment in enabling more single-occupancy vehicle transportation is willfully ignoring climate change science.

Investments to enable transportation around our region are needed but should be directed into public transportation including bus rapid transit and safety and flow improvements to state highways that run through urban areas including protected bike lanes and sidewalks.

Lastly the only proven tool to manage decongestion is road use pricing including variable pricing schemes to reduce or redirect trips at peak hours. This tool reduces single-occupancy vehicle trips and enables the flow of truck freight. Road pricing can employ modern technologies to provide solutions that do not burden low income community members.

Thank you for your consideration.

Stephen Gomez

Attachments: N/A

2019 0331 Stephen Hodges

Comment: Please widen the freeway! The congestion is so bad now. Any amount of money to alleviate congestion is worth it.

Stephen Hodges

Portland Oregon

Attachments: N/A

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2019 0401 Stephen Judkins

Comment: I am deeply concerned about the assessment, which is not consistent with any recent, real environmental impact of freeway expansion. It will almost certainly increase miles driven and emissions.

Further, I am concerned that the engineering drawings are inconsistent with the promotional graphics used to promote the project in previous meetings. Multiple switchbacks have appeared and we have no guarantees it will not change further.

Attachments: N/A

2019 0401 Stephen Judkins

Comment: Hello,

I live in North Portland near the Rose Quarter and expect my children to attend Tubman middle school. Further I am a regular commuter through the area. I've been following this project closely and have concluded it would be an enormous mistake to continue with the current plans, for the following reasons:

The project represents a real increase in capacity that will increase the amount of traffic and pollution according to the well-understood, empirically verified concept of induced demand. Traffic projections include a non-existent new Columbia River bridge expansion, as well.

Air quality will absolutely decline at a historically disadvantaged middle school.

Children will not be able to play outside much of the year if they follow medical recommendations.

Initial promises included improvements in pedestrian and bicycle infrastructure in the area. As plans are solidifying, it's clear that this will represent a far worse pedestrian experience and a more dangerous situation for vulnerable road users. Some of the infrastructure--on one of Portland's busier cycling and walking routes--won't even be ADA-compliant because it's so steep.

Studies show an improved level of service for drivers, but speed and convenience for transit users, pedestrians, and cyclists were not even included. Further, it's implied that the streetcar and esplanade may be closed during construction but there is zero indication for how long or what the alternatives will be. One the busiest and most popular cycling routes--the esplanade--may be closed for several years without an

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alternative.

I will do whatever I can to halt this project, since it's clear it offers few benefits with enormous costs.

Thank you,

Stephen Judkins

Attachments: N/A

2019 0327 Stephen Tokarski

Comment: Even if this freeway expansion would reduce traffic (it won't), it would be so far down on the priority list that it shouldn't be part of the discussion. There are so many other things that you could do with this \$500 million, it boggles the mind that this is what we would choose to spend it on.

So it's no wonder that ODOT has launched a deliberately deceptive campaign in order to support it, and ignored public comments thus far, which have been almost universally opposed to it.

Don't do it, don't do it, don't do it.

Attachments: N/A

2019 0312 Steve Bozzone

Comment: Hi, I'm Steve Bozzone. I used to live in the neighborhood before I was no-cause evicted, but that's a whole other story. I was on the committee, I was joined by my neighborhood in voting no on the project. I just want to say that this has never been about the surface streets. The first meeting started with this big flying diamond diagram and that's where we started. And so we're supposed to be happy that we didn't bulldoze the entire Rose Quarter and we just bulldozed most of it. So I just wanted to dispel that myth. That this is completely a highway widening project and it has been from the start. And as someone who has been a part of the process this entire time, I've been very disappointed. In fact, ODOT staff -- I tried to build relationships with them at these meetings, and they laughed at me. They laughed at me for asking for information, and we're seeing that again with the failure to release all the data that we've been asking for and the failure to extend the comment period or to take a full environmental assessment. To address the point about funding, Commissioner, I think we can do it. I think we can do it together. This is Oregon money and we're Oregonians and we can do this. Yes, it takes some work and we would have to be strategic, but we can redirect that money. And that money doesn't start flowing until 2022. We have plenty of time to direct this money to where it matters most and where it will save the most lives on ODOT's high-crash corridors. Thank you.

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Attachments: N/A

2019 0331 Steve Bozzone

North/Northeast I/5 Rose Quarter Stakeholders Advisory Committee Member

Comment: To Whom it May Concern:

The proposed I-5 Rose Quarter Freeway Widening Project is a scientific, environmental and moral failure.

I say this project is a failure confidently as a community member who sat on the N/NE I-5 Rose Quarter Stakeholders Advisory Committee (SAC). What I found to be concerning during that dubious and highly inequitable public process remains today, only now that we have more information on the details of ODOT's plans, my concerns have grown into show stoppers that must be addressed before the project can move forward.

The project must undergo a full Environmental Impact Statement process. Anything less sets a troubling precedent for future freeway expansion projects through Oregon's most populated county.

The project will have serious impacts on Portland's local air quality and public health and must undergo further study. This project will bring more cars and their pollution. The widening of the freeway by over 20 feet will lead to an increase in the heat-island effect of the current highway. Brake dust, diesel, oil, gasoline and other pollutants will be emitted on the ground and dispersed into the air. The project will permanently disturb the riverbeds of the Willamette River.

ODOT failed to provide necessary information to the public in a timely manner, releasing data late into the current public comment period. ODOT has refused to extend the public comment period. ODOT conducted design meetings for the public during afternoon work hours. ODOT has acted in bad faith, obscuring public records and data until the last minute.

ODOT has not conducted adequate public outreach and meaningful engagement of the local community in addition to local agencies. This includes Portland Public Schools, Harriet Tubman School, Eliot Neighborhood, Boise Neighborhood, King Neighborhood, Portland Parks, and Albina Vision. I can also speak to this first hand having been a long term participant of ODOT's disappointing public process.

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ODOT has not calculated the amount of delay created for people walking, biking or riding transit. Due to the location of ODOT's desired highway widening, there are serious deleterious impacts to the local urban walking, biking and transit networks. While ODOT has not adequately studied admits transit will be delayed by this project. We need more information about the impacts of the highway widening, replete with new ramp designs, new auxiliary lanes and new surface street lanes.

This project fails to address the harmful, racist impacts of the current I-5 freeway on Portland's historically Black Albina and Jumptown neighborhoods. There are no components of this project that address the impacts of I-5 to Portland's Black community, including historic redlining, systemic divestment and institutional racism.

The I-5/RQ Freeway project fails to support the community-led Albina Vision coalition, which proposes a true reconnecting of the neighborhood grid over I-5, buildable freeway caps, new mixed-use development and affordable housing. ODOT already admits the proposed freeway "lids" will not support these development goals in any shape and form.

In violation of Oregon's Climate this project fails to address climate change and Oregon's carbon reduction goals in any meaningful way, and will likely lead an increase in carbon emissions. According to the Oregonian and the Oregon Global Warming Commission 2018 Report, " There are three main ways to lower those emissions: Boost the conversion rate to electric vehicles; substantially increase public transit; and modify urban design over time to support electric vehicles, bikes, walking and public transport. " See attached chart illustrating the path necessary for meeting Oregon's carbon reduction goals. All of our transportation projects must be considered in the context of Oregon's frontline battle with climate change.

The project will encroach into an existing Public park, the Vera Katz Eastbank Esplanade. The new support structures and bridge decking that must be built to accommodate the addition of new lanes to the I-5 highway will take away important public access from the riverfront. It will bring short and long term detours to existing bike and pedestrian pathways. The project as currently designed is not compatible with public use of Portland's Eastbank Waterfront park.

The project uses inaccurate traffic projections and fails to consider planned Congestion

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Pricing tools in ODOT's near-future plans. Congestion pricing is a proven method for successfully reducing traffic congestion. ODOT has failed to incorporate this available tool in their planning. ODOT has put their thumb on the scale and factored in predicted vehicle trips based on unbuilt, long dead projects along the corridor. ODOT has not provided any Average Daily Traffic data (ADT). ODOT must use accurate data for traffic projections as they impact this project. Ideally those will be made available and analyzed in a full EIS process. ODOT failed to consider HOT lanes, HOV lanes, tolling, or pro rated/pro tem highway ramps as design options for this project. During the public design process many proposals were submitted by participants that included these concepts. ODOT dismissed all alternative design concepts without any explanation for why they were unacceptable by ODOT's standards. Those alternative concepts all lead to less surface, soil and environmental impacts. The alternative proposals all cost less funding and disruption to local air quality and pollution. They also mitigate the surface level neighborhood congestion created by the highway's location in the heart of central Portland. Those concepts deserve to be adequately considered and not thrown out at ODOT's whim.

Attached to my comment I am submit into the record the attached previously submitted letter containing earlier expressed concerns from 2012, which ODOT has never addressed or responded to.

I look forward to ODOT conducting a full EIS, this time using more accurate traffic projections and factoring in all available tools at ODOT's disposal so that we can successfully manage congestion in the Rose Quarter.

Sincerely,

Steve Bozzone

North/Northeast I/5 Rose Quarter Stakeholders Advisory Committee Member

ATTACHED: Steve Bozzone I5 RQ Public Comment 3-31-19 - Attachments 1 and 2 - PDF format. To be included in full public comment report.

CC: Portland City Council, Senator Lew Frederick, Representative Tina Kotek, Oregon Department of Transportation, Portland Bureau of Transportation

Attachments: [2019 0331 Steve Bozzone ATT 1](#); [2019 0331 Steve Bozzone ATT 2](#)

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2019 0312 Steve Brown

Comment: Yes, my name is Steve Brown. I'm a long-term resident of Portland. I speak to you today not only as a resident of Portland but as a citizen of the area. I am absolutely opposed to the Rose Quarter freeway expansion. And there's lots of good reasons, perhaps technical ones, but I want to address really the effect on climate change. When I was 10 years old, 53 years ago something, I had the fortune of going to Mt. Rainier. I got to go through this ice cave. Incredibly beautiful blue sculpted. The sun was coming down. A couple years ago I went back. I looked for that ice cave. The park ranger said that doesn't exist. It hasn't existed for some time. Then he looked at me and he goes, you know, it's only you guys with silver hair that even ask me about that. That is really frightening. But you don't have to listen to the rantings of me. We just have to look at the last several years when this beloved state of Oregon was on fire, on fire. Just go to California. We are blessed that the effects of climate change are less in Oregon. We have nice water supplies. My point being is we cannot wait. We have to make good, sound decisions. And I understand there's lots of different interests. Everybody makes decisions on a lot of things, how it affects them. If you're a project manager at ODOT and this was your project, you're fully supportive. But it's time to come back and say we need to make decisions, not only for Portland, but for the U.S. and for the world. I give up the rest of my time. Thank you for listening.

Attachments: N/A

2019 0000 Steve Callaway

City of Hillsboro

Comment: RE: 1-5 Rose Quarter Auxiliary Lane Improvements

Dear Commissioner Eudaly and Mr. Windsheimer,

On behalf of the City of Hillsboro, I appreciate the opportunity to share our thoughts on the value of the proposed improvements to 1-5 generally between the N. Greeley Avenue and 1-84 interchanges. The region's interstate freeway system, together with the State's freeway system including US-26, are essential to the ability for our region to compete economically in a highly competitive world market. Hillsboro's high tech and manufacturing industry is a critical economic driver of the region and the State of Oregon, but its products, as well as, Washington County's agricultural products must get out timely and reliably to the world market daily through the Interstate system connecting north, south, and east of Portland. The 1-5 Rose Quarter is uniquely situated in the center of this critical distribution hub.

Auxiliary lanes have proven to be highly beneficial in facilitating safer and more efficient flow of vehicles through complex corridors challenged by multiple entrance and exit ramps. Eliminating merging and weaving movements between interchanges will optimize the capacity of the freeway system, improve its safety, and enhance the reliability of the 1-5 corridor. Enhancing this bottleneck will in turn improve traffic flow and reliability on the 1-405 loop, benefitting the US26 corridor by minimizing the negative impacts of 1-405 on US26 eastbound travel during the

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critical afternoon freight mobility window. These improvements also deliver the benefit of reduced emissions as tens of thousands of vehicles travelling through the corridor daily are able to do so more efficiently and with less pollution emitting delays.

Hillsboro applauds the leadership in making strategic bottleneck relief investments supporting both the environment and our economic competitiveness. We look forward to our ongoing partnership in supporting the state's economy and quality of life.

Sincerely,

Attachments: N/A

2019 0328 Steve Cheseborough

Comment: Please drop the proposal. No freeway expansion. It would hurt many people through air pollution and traffic. And it would damage Portland's progressive image.

The earth is in crisis. It's time to remove urban freeways and discourage driving. Please use this money for good, not for the evil of freeway expansion.

Thank you.

Sincerely,

Steve Cheseborough

Attachments: N/A

2019 0225 Steve Daggett

Comment: ODOT

Re: Public comments on Rose Quarter Freeway Expansion

I am strongly opposed to this expansion. It will not improve transportation.

I live within walking distance of the NE Broadway overpass above I-5. On a daily basis I walk, ride my bike, or drive thru one or more of the streets, bridges, or freeway under discussion. The proposed plan and years of negative construction impacts will result in no improvements and during construction will very negatively impact use of all the existing infrastructure.

I strongly encourage ODOT to invest in initiatives that positively address climate change, air quality, walking, biking, and mass transit.

I look forward to the abandonment of this proposal.

Thank you.

Steve Daggett

Resident 97212

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**Attachments:** N/A

2019 0225 Steve Leathers

Comment: I am a resident of Portland, Oregon writing to state my opposition to the proposed expansion of I-5.

It has been well documented for decades that expanding capacity for vehicular traffic only leads to induced demand. The idea that adding a lane would lead to decreased congestion and travel times is incorrect. The idea that we will be spending a half billion dollars on something that doesn't work makes me incredibly sad.

Decongestion pricing and increasing the cost of owning and parking cars will have to be countered with bold, progressive legislation that prioritizes affordable, equitable transit and vastly improved infrastructure for cyclists and pedestrians.

If Vision Zero is really a priority, I urge you to consider spending more resources on traffic calming measures east of 82nd avenue, where many people have been struck, injured and killed by vehicles that are moving too quickly.

Expanding I-5 would be an expensive, critical mistake that generations ahead of us will be paying for with their health. I urge you to move forward with the plans for improving the Rose Quarter without expanding I-5.

Thank you for your time and consideration.

Best of luck,

Steve Leathers

Attachments: N/A

2019 0311 Steve Rauworth

Comment: Two things are certain: the volume of traffic will expand to fill any new lanes as soon as they are built, and the earth becomes a less inhabitable place with every gallon of gasoline burned. Wasting time and money on a technology and infrastructure whose time has past is irresponsible, an admission of failure.

Attachments: N/A

2019 0218 Steven

Comment: Please don't continue plans to expand I-5. Public discussion and consideration of all options is important. People may complain about slow transit times during peak hours, if they feel it is too slow, they should be introduced to and consider public transportation. I drive this corridor because it is easy/convenient adding to congestion and pollution. A bit of promotion

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and improvement of our public transportation system is money better spent and much more insightful of our long term needs. Trucks should be limited to one lane unless exiting left.

Thank you,

Steve Vorenkamp M.D.

16562 NW Canton Street

Portland, OR

97229

Attachments: N/A

2019 0402 Steven Chambers

Comment: In light of projected traffic statistics including a new Columbia crossing and the limited amount of knowledge based on other more likely scenarios, it is my opinion that the best course of action would be to delay the rose quarter project until the other likely scenarios can be studied. Tolling and congestion pricing should also be studied.

Attachments: N/A

2019 0218 Steven

Comment: Hi,

This is probably the wrong email address to write to but I've been on your website i5rosequarter.org and on

Linkedin, and was unable to find the person to get in touch with.

I was wondering if you could help me find the coworker who is currently making product descriptions and content -

Maybe that this is the one in charge of SEO / Marketing? It would be awesome if you could point me to the right

one.

The reason I am asking is that my company is developing a Software that automates content production with the use

of AI and I am trying to understand better how it is done without such a tool.

Attachments: N/A

2019 0401 Steven Rosenbaum

Comment: I am opposed to expanding the freeway along I-5 at the Rose Quarter.

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My family lives nearby and I believe it will make our community's livability worse, both short-term and long-term.

I believe the project is based upon flawed assumptions about the future of transportation.

A new wave of smaller, safer autonomous vehicles will rapidly replace current transport.

The future is about more walking and fewer roads. The costs of this project far outweigh the benefits.

Steven Rosenbaum

Attachments: N/A

2019 0326 Stewart Buettner

Comment: Please, please, please listen to those in the public (students, their teachers, bicyclists, pedestrians, public transit riders) who are opposed to widening I-5 in the vicinity of the Rose Quarter, Portland. Such widening will likely not improve (but, in the long run, add to) traffic congestion. We have known for almost fifty years now that more freeways breed more, not fewer, cars, more air pollution and (more recently) global warming. Let's take the \$500 million and spend it on projects that will IMPROVE, not undermine public health. Thanks

Attachments: N/A

2019 0331 Stone Doggett

Comment: As a Portland resident whose family's health will be directly impacted by the Rose Quarter I-5 project, as a physician who is well versed in the evidence linking highways that dissect residential areas to diseases like asthma and obesity, and as a citizen who is concerned about the negative impact on climate change that will result from building more infrastructure that encourages single occupancy vehicle trips rather than expanding transit and smart safe travel infrastructure, I am strongly opposed to this project. Extensive research and experience has shown the negative impacts of these projects, so I will be succinct in listing the reasons why this project must not go forward.

1. The environmental assessment has been wholly inadequate and was not presented in good faith by the Oregon Department of Transportation. The supporting data was not initially provided, projections are not based on current conditions or conditions that will reliably exist in the future, details that will directly affect people who live and travel in areas near the project are lacking and some details were released toward the end of the comment period, such as the expansion over the east esplanade, that have a tremendous negative environmental impact. This area is one of the most popular public outdoor spaces in the metro area.

2. This is a 500 million dollar solution in search of a problem. Safety, congestion and rebuilding the damage done to the Albina neighborhood by I-5 could all be accomplished in a much better way by investing in transit and in congestion pricing. These solutions are currently under

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consideration by ODOT and should be at the forefront rather than secondary to auxiliary I-5 lanes.

3. The delays and congestion caused by construction over 4-5 years will likely not be recaptured by the addition of the auxiliary lanes. They will disproportionately burden the surrounding neighborhoods including Tubman school with delays and traffic.

4. The proposed caps and "green spaces" are poorly designed and lack capacity for buildings, place making structures or trees. The road designs on the caps prioritize through traffic at the expense of pedestrians. Although the expense of the caps are being attributed to pedestrian facilities, they are a byproduct of construction the extent to which they must be improved to meet their stated purpose is outside of the budget and scope of the project.

5. Transit is predicted to be slower as a result of the project, which is in conflict with other regional priorities.

6. The documents submitted by ODOT for the EA reveal a lack of competence and expertise within ODOT to integrate a highway into an urban center in a manner that is safe for pedestrians and people riding bikes. This is evident in the high crash corridors that ODOT has neglected in the Portland area that have contributed to serious injuries and fatalities.

7. The EA does not account for climate impact from greenhouse gases in a meaningful way. Assumptions regarding decreased car emissions due not account for increased car size that offsets gains in fuel efficiency.

8. A crucial bike bridge, the Flint bridge, is being removed and is being replaced by a bridge with an unacceptable grade that will not be possible for very young and old riders and intimidating for inexperienced riders. The other bridge has a circuitous route that will be impractical to most bike riders.

In summary, this project will have significant negative impacts on the environment with regards to greenhouse gas production, air pollution, noise pollution, visual disruption, transit disruption and bicycle travel. It prioritizes single occupancy vehicle miles traveled over transit and will encourage more sprawl at a time when the great majority of intelligent people understand that this is harmful to future generations. The benefits that are promised are minimal at best, even if the EA is accurate, and are not worth the negative impact during construction and once it is built.

Attachments: N/A

2019 0328 Stuart Emmons

Comment: The expansion of I-5 at the Rose Quarter in Portland is the most obscene colossal waste of money in decades. The enlargement is at odds with everything we Oregonians stand for and I am amazed that our progressive state is still pursuing this boondoggle.

Attachments: N/A

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2019 0311 Stuart Johnson

Comment: Hello,

I completely oppose the Portland Rose Quarter freeway expansion. Making bigger freeways only increases congestion and encourages more people to drive motor vehicles. Look at California to see how bigger freeways have only increased congestion by expanding the sprawl further and further outwards.

Decongestion Pricing should be implemented before expansion. Road pricing is the only policy actually proven to reduce traffic congestion; it's also proven to improve air quality and reduce carbon emissions as well. Why is ODOT moving forward with a \$500 million boondoggle investment without first instituting congestion pricing to see if that mechanism wouldn't solve the traffic problems on the corridor *without* sinking half a billion dollars into the expansion? ODOT's studies of traffic patterns of the proposed freeway expansion *completely* ignore the reality that the state is mandated with moving forward with decongestion pricing, which will enormously impact how many people choose to drive on the corridor and greatly reduce congestion.

\$500 million could build a lot of sidewalks in East Portland, bus rapid transit lines across town, or be a solid down payment towards the proposed underground light rail tunnel. And unlike a freeway widening, all of those investments would be better for air quality, carbon emissions, public health, and congestion relief.

Thank you.

Attachments: N/A

2019 0311 Sue Ellen Liss

Comment: Please! Please e more forward thinking than to think that a bigger freeway will solve anything! If we don't solve climate change this planet will not be livable. Air polution from fossel fueled cars is causing illness and climate change. It's science! The answer is more electric mass transit and fewer cars. That freeway you want to build will be a polluting traffic jam immediately. Come up with smarter, more innovative, effective solutions to move people around this city. All of our lives depend on it. Think of your children and grandchildren. No more freeways as a short-sighted, pretend solution. Please!

Attachments: N/A

2019 0329 Sue Ellen Liss

Comment: It is insane to build such a freeway, when we MUST encourage people to use clean energy mass transit instead of fossel fuel cars or we won't have a livable planet and in the meantime the polluted air will be making us sick. You are not going to improve anything with this project. Put more mass transit in that area and across the Columbia River Bridge. Let it be

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difficult to drive in this area and easy to park their cars and hop on mass transit. Wake up, wake up, wake up to the imminent danger of climate change...We have 12 years to turn things around before it is TOO late. Quit being in denial. My grandchildren deserve better. Shame on us...shame on you!!!

Attachments: N/A

2019 0226 Summer Boslaugh

Comment: I Have lived in Portland for 13 years and at various times in the late 90s. I have seen how much Portland has changed and the impact on traffic. I am fortunate to be able to bike and bus to work. Many others are not able to do this. Spending \$500 million on freeway expansion won't help them do so. And it won't help the traffic congestion ODOT says it is focused on. That money would be much better spent building bus rapid transit lines across town, or beginning the proposed underground light rail tunnel. These initiatives will help people move around the Portland metro area ways that are better for air quality, carbon emissions, public health, and congestion relief. As a taxpayer I want my money invested in ways that make economic sense and deliver an ROI that is measurable and meaningful. Spending millions on a proposal that doesn't solve the problem and creates new problems is a waste of funds and squandering taxpayer dollars.

Attachments: N/A

2019 0311 Susan Bickerstaff

Comment: I am opposed to freeway expansion. Instead I encourage ODOT to prioritize other approaches to easing congestion including increased bus service and congesting pricing. My children will attend Harriet Tubman Middle School and I am very concerned about the impact of I-5 pollution on their well-being. Please implement other strategies that can reduce traffic congestion and air pollution. Freeway expansion will do neither. Thank you.

Attachments: N/A

2019 0301 Susan McLawhorn

Comment: Do not spend my tax dollars on freeway expansion! Better use of funds would be to expand public transportation options and to make the existing ones faster and more reliable (they're pretty good already!) We need more bike lanes and more dedicated lanes for buses. We need more pedestrian crosswalks and more pedestrian-friendly streets, NOT more cars on the freeway!

Attachments: N/A

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2019 0311 Susan Ferguson

Comment: Please don't waste our tax dollars on the Rose Quarter I-5 road widening. It will not relieve congestion, nor will it encourage people to use public transit. And we need to mitigate the air pollution around Harriet Tubman School.

Attachments: N/A

2019 0326 Susan Ferguson

Comment: Stop the Expansion of the I-5 at the Rose Quarter. It is a band-aid boondoggle. We need to invest in better, faster, more frequent mass transit to get people out of their automotive cocoons and onto trains and busses. Our air quality is already bad - imagine Harriet Tubman kids playing outside - would you want your kids breathing that filthy air? By the way, while you're at it, do something truly valuable and get the filthy diesel castoffs from CA and WA off our roads. Put the "Oregon" back in ODOT.

Attachments: N/A

2019 0331 Susan Gilsdorf

Comment: I lived in Portland from 1998-2009, and moved back here in 2018. I can attest to the fact that freeway traffic has worsened as a result of a population increase and more drivers on the road. An expansion of freeways is not the answer! Portland enjoys a reputation as a city that thinks outside the box, "the city that works," and we should try to live up to that high standard by increasing the amount of public transportation, and incentivizing its use, instead of putting major resources behind a project that will undoubtedly go over budget, cause more traffic problems in the short term while the freeways are under construction, and result only in an ugly, pollution-aggravating, short-term fix. We need a full environmental impact statement before moving forward with a freeway expansion. Let's rethink the existing bus routes, and add some additional routes. How about using \$500,000,000 to create more MAX lines? Portland needs to consider the long-term future health of the city and its citizens. Freeway expansion should be the very last option on the table.

Attachments: N/A

2019 0000 Susan Gisvord

Comment: I am not interested in having you get back to me. I just want to convey my concern about this project. In my view, you can't build way out of congestion. Frankly, as a Portlander I'm tired of letting people dictate what I need to do for them. I think it would be very destructive to businesses and so-called affordable housing to have that project in the works. I hope the project will never come to fruition and I want to tell you my concern. I live in NE Portland and my name is Susan Gisvord and that's my message. Thank you.

Attachments: N/A

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2019 0330 Susan Hayden

Comment: More freeways do not reduce cars. They just make more room for them. Having lived in N. Portland since 1979, we have watched this area mowed down, suffered additional pollution in residential and school areas, and also watched the traffic grow and grow.

NO NO NO to this proposed expansion.

Susan Hayden

Attachments: N/A

2019 0220 Susan Haywood

Comment: Please don't expand freeways! This does nothing to relieve traffic congestion and will increase air pollution. We need to increase public transportation, including trains to outlying areas, and be mindful of the climate crisis that we are facing.

Attachments: N/A

2019 0226 Susan Haywood

Comment: The problem we have now is congested traffic, and an increase in pollution from the congestion. We cannot widen a lane of traffic for a short stretch and expect it to solve this problem. The problem is that the downtown area is a throughfare for long distance trucks. We need to reroute the big trucks, which will solve both the congestion and the pollution.

Portland cannot afford to throw \$500,000,000. at this problem in any case. A lot of our streets are unsafe due to deep potholes, and we have many unpaved, almost impassable roads. We are not managing our money well, and this project is an example of how not to spend it. I vote for my considerable tax dollars to not be spent in this way.

In addition, we have less than a dozen years now to completely change our priorities and our transportation models. There is no point to add more concrete and infrastructure to accommodate fossil fuel vehicles. There is no point in taking any modicum of nature still remaining in the city.

We need to reroute trucks away from the civic center, and we need to fix roads that Portlanders use for safety's sake. Those roads accommodate not only vehicles, but bikers and pedestrians.

Let's have a Green New Deal here in Portland.

Thank you,

Susan Haywood

2146 NW Everett St.

Portland, OR 97210

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Attachments: N/A

2019 0330 Susan Horky

Comment: Use mass TRANSIT! BICYCLE! CARPOOL! WORK FROM HOME!

Attachments: N/A

2019 0318 Susan Mates

Comment: I have some serious concerns about the I-5 Rose Quarter Project. This does not seem to be the moment to be expanding freeways in order to reduce congestion.

About 90% of Oregonians today live where diesel exhaust exceeds health benchmarks, putting us at the sixth highest health risk in the nation due to diesel pollution and causing more than 450 premature deaths per year in our state according to the United States Environmental Protection Agency. Besides degrading air quality from particulate matter and ozone, diesel exhaust is responsible for over 70% of the cancer risk from all air toxics. Pollution levels near freeways - and in the low income, minority communities and industrial areas that are often near them - are often two or three times as high and put some of our most vulnerable citizens at risk.

Please consider investing in public transportation instead. Freeway expansion has never solved traffic congestion.

This freeway expansion seems to fly in the face of the slow and painful moves we are trying to make to alleviate climate change and environmental injustice in our Metro area. More than 40% of Oregon's carbon emissions come from transportation. This is the time to be improving and prioritizing public transportation projects such as providing bus rapid transit lines across town and helping fund the proposed underground light rail tunnel.

My understanding is that the state is mandated with moving forward with decongestion pricing. While that has its own problems, including how to fairly implement it, surely we need to determine what inroads that might make into reducing traffic congestion.

Please reconsider the focus of this project.

Thank you for the opportunity to comment on this important issue.

Attachments: N/A

2019 0312 Susan Nolte

Comment: I am opposed to freeway expansion as presented in this project. It does not solve traffic congestion, and impacts local populations heavily with increased noise and vehicle emissions. Please share the data that you have on the number of trips that are crosstown commuters, commercial freight, local traffic, airport bound, etc so we can craft creative solutions

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that put livability FIRST and support more public transit. The East side esplanade is a delightful space but needs less noise, and school children should be able to hear their own playful shouts over the traffic noise. Spending on highway expansion is an outmoded approach to an age old problem. Figure out how we can get people out of cars onto shared transit whether it is more convenience, more pleasant and safer bus stops, certifying pets for travel on transit that have earned the right with excellent training or requiring basket muzzles. Take that huge some of money and build light rail and install toll booths on roads to retrain people!

Attachments: N/A

2019 0321 Susan Rosenthal

Comment: I oppose the expansion of the I 5 freeway through the Rose Quarter. This project will not improve traffic congestion. Building extra highways does not improve congestion. When highways are built people drive more than they did in the past. The amount of congestion increases.

ODOT should be spending money improving local infrastructure such as Barbur Blvd. I have ridden my bike on Barbur many times. It can be very dangerous, especially on the two bridges between Capitol Highway and downtown. The Rose Quarter project will cost 500 million dollars. This money could be better spent on improving. Conditions on our local roads.

Attachments: N/A

2019 0227 Susan Royce

Comment: I am on board with the campaign to stop the Rose Quarter Freeway Expansion for all of the reasons that they propose - it will increase air pollution and traffic congestion and the funds dedicated to that should be aimed at reducing congestion and improving alternatives to driving. Money should be spent on improving and prioritizing public transportation including train, bus, bike, and scooter, ride share programs, and building walkable communities.

Attachments: N/A

2019 0327 Susan Westby

Comment: I live a few blocks from and commute by bike daily through the proposed freeway expansion area. I am dismayed at ODOT's backward-looking freeway expansion plan. Please rethink this terrible boondoggle! Save Flint overpass!!

Attachments: N/A

2019 0330 Susan Westby

Comment: I live in NE Portland in the Eliot neighborhood. The prudent choice is to try congestion pricing before launching a costly lane-adding project to I-5. I commute by bike to

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and from work most days. Other days, I take mass transit. Of course I sometimes use the freeway to get to and from someplace. This project would only invite more car trips, so the net the benefit seems to be negligible (or non-existent). It WOULD increase air pollution. It WOULD harm the students at Tubman school and anyone in the vicinity breathing the air. It would cut off Flint Street, a valuable route through the neighborhood. PLEASE CONSIDER LESS COSTLY, LESS POLLUTING OPTIONS to improve our transportation infrastructure first.

Over the years, my neighborhood has suffered incalculable harm from the freeway on many levels. More is not better.

Respectfully,

Susan Westby

Attachments: N/A

2019 0303 Susie MacPherson

Comment: Hello!

I'm a concerned Portlander. Our air quality is threatened and our children's health is at risk. We have too many cars, pollution and accidents already. I urge you to NOT move forward with further expansions of our freeways. The current proposal is wasteful, unwanted and unnecessary, if we address the larger issue of too many cars on our roads.

Thank you for reading this public input. Thank you for all of your hard work every day.

Attachments: N/A

2019 0318 Sutter Wehmeier

Comment: I am writing to express my strong opposition to the Rose Quarter Freeway Expansion project. No matter how the project is framed, expanding the freeway simply adds up to more cars on the road, and I am shocked that ODOT has not published their methodology to demonstrate the claim that induced demand will not increase.

I am a bike commuter and small business owner in NE Portland, and I am dismayed that the funds proposal could be funneled to a freeway expansion instead of more pressing issues of equitable access to transit, pedestrian safety, and bike infrastructure. As a parent of two young sons, I am also infuriated that the children of Harriet Tubman Middle School will be subjected to worsened air quality and that the pattern of environmental injustice to the African American community in Portland may be perpetuated.

On the issues of environmental justice, climate change, walkability, and transparency of planning, this project deserves a failing grade. We can do better.

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**Attachments:** N/A

2019 0311 Suzan K Ireland

Comment: I am very concerned about the plan for expansion of I-5 in Portland. This project will not decrease congestion, will increase carbon pollution and will not encourage other forms of transportation in our city.

Attachments: N/A

2019 0315 Suzanne Clarke

Comment: No road expansion until diesel trucks are banned in Oregon! The air quality in Portland is abysmal. Expanding the freeway is an unhealthy solution and it doesn't work; it did not solve Seattle's traffic woes. I would put in an express lane that people can pay to travel in during rush hour like Washington DC implemented. Improving public transit is the way to go! If folks want to work in Portland, they can live in Portland. leave the highways open for ambulances, firetrucks and hybrid commercial trucks delivering goods to our communities!

Attachments: N/A

2019 0312 Suzanne Moulton

Comment: Dear Committee,

Portland doesn't need to spend billions on one lane expansion to connect two highways.

What Portland needs is a real rapid transit system like Chicago's or San Francisco's. Portland's MAX system is the most slow moving and least expansive of any city I've lived in that has "rapid" transit. The MAX needs more elevated rails or tunnels to allow faster transit with fewer stops between outlying suburb city centers and Portland city center. The MAX should not be a bus on rails on regular city streets.

If you analysis San Francisco's three transit systems; the Bart, the Metro (trolleys and street cars) and bus system, the Bart is the rapid transit on which the most people rely for transit to and from work and traveling long distances. The Metro is the slowest system mainly for sight-seeing and mostly used by tourists, while the Bus system is used to connect to shorter destinations after using the Bart.

Respectively here in Portland, we do NOT have a BART type system- only the slower sight-seeing Metro style Max and Bus. Portland seems to expect the MAX to serve as the BART, but the MAX is NOT designed to be rapid transit along nearly all of the lines, only by the airport.

If we want to reduce road traffic, pollution and better connect our communities, we need to invest in a rapid transit system that can get people to work in a reasonable amount of time and ultimately is the better way to get around the city. Put your billion dollar budget toward a rapid transit solution and congestion will be more manageable as the population grows in the Portland region.

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Thanks for your time.

All the best,

Suzanne Moulton

Attachments: N/A

2019 0315 Suzanne Steffen

Comment: Portland should prioritize pedestrians, cyclists, & public transport - not cars! Adding freeway lanes to the tune of hundreds of billions of dollars would make Portland pro global warming, anti human health, pro increasing car traffic, anti environment, & pro government waste.

I'd been commuting by bike in Portland since the mid 90s. Part of the reason I moved away from Portland last year was because the huge increase in auto traffic in the last few years made cycling stressful. I used to consider Portland a progressive city. If this freeway expansion is approved Portland will be officially just another carcentric US city.

Thank you for your time,

Suzanne

Attachments: N/A

2019 0306 Suzy Elbow

Comment: To Whom It May Concern,

I'm a longtime Portland and a current resident of North Portland (97203). I continue to be deeply troubled by this project. It feels profoundly shortsighted to invest this heavily in such a short term fix--we know that expansions like this induce demand over time, and with our future depending on radical climate action over the next decade, we need to be making more thoughtful investments in transportation. We could be funding a huge number of improvements to our various transit options instead of dumping \$500 million into this misguided, polluting project. \$500 million is way too much for a band-aid solution to our traffic woes. I'd like to see action taken to implement decongestion pricing before any freeway expansion efforts.

Sincerely,

Suzy Elbow

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Attachments: N/A

2019 0228 Sydney Herbst

Comment: More freeways will not fix our congestion problem. We need to implement smart TDM programs in order to encourage people to get around in other ways than driving alone. Portland is supposed to be a progressive City, but this would be taking several steps backward.

Attachments: N/A

2019 0327 Sylvan Clendenon

Comment: This plan is immoral and unethical at best. Even if the entire project was entirely harmless, inexpensive, and beneficial, the fact that you hid a ~\$3B bridge proposal? really, folks? That's just not okay. It's shady, manipulative, and I seriously expected better from you.

Don't run away from this guilt, either; embrace it. Use it to weed out such similar terrible behavior, make yourselves stronger and more benevolent. We're counting on you.

Attachments: N/A

IN CONSIDERATION OF RESOLUTION NO. 26-5600

FOR THE PURPOSE OF AMENDING THREE I-5 ROSE QUARTER PROJECTS TO THE 2024-27
MTIP TO MEET FEDERAL PROJECT DELIVERY REQUIREMENTS

Date: July 6, 2026

Department: Planning, Development and
Research

Meeting Date: July 16, 2026

Prepared by: Gabriela Lopez, Planning,
Development and Research

Presenter: Gabriela Lopez, Planning,
Development and Research, Monica
Blanchard and David Kim, ODOT

Length: 60 minutes

ISSUE STATEMENT

The July FFY 2026 Metropolitan Transportation Improvement Program (MTIP) Formal Amendment #2 proposes the following programming changes:

- Amends the I-5 Rose Quarter Improvement Project
- Amends the I-5 Rose Quarter: Phase 1A project
- Amends the I-5 Rose Quarter: Broadway to Weidler Phase 1 project

Resolution No. 26-5600 authorizes the proposed MTIP Formal Amendment.

ACTION REQUESTED

Recommend approval of Resolution 26-5600 to amend three I-5 Rose Quarter projects, as stated within Exhibit A, to the 2024-27 MTIP to meet federal project delivery requirements

IDENTIFIED POLICY OUTCOMES

Advancement of the 2023 Regional Transportation Plan (RTP) investment priorities of equitable transportation, climate action and resilience, safe system, mobility options, and thriving economy.

POLICY QUESTION(S)

- Should JPACT and the Metro Council approve the resolution to move forward with proposed MTIP project amendments?

POLICY OPTIONS TO CONSIDER

The Joint Policy Advisory Committee on Transportation (JPACT) is scheduled to consider action to recommend approval of Resolution 26-5600 to the Metro Council on the morning of July 16, 2026.

Should JPACT recommend approval, the Metro Council is scheduled to consider action to adopt Resolution 26-5600 at its meeting on July 16, 2026.

- If the Metro Council adopts the resolution, the required programming actions will be completed for the three projects in the July FFY 2026 Formal Amendment #2.
- If the Metro Council does not adopt the resolution, the required programming actions will not be completed, the projects will not move forward with next steps, and the amendment will return to JPACT for further consideration.

STAFF RECOMMENDATIONS

Metro staff recommend approval of Resolution 26-5600.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

1. **Metro's Strategic Framework or Core Mission:** The 2024-2027 MTIP follows transportation policy established in the development of the 2023 RTP. Projects programmed in the MTIP must be consistent with the RTP to ensure federal requirements are met. Metro staff have confirmed that a complete build of the IBR program is included in the 2045 fiscally constrained model for the 2023 RTP.
2. **Metro's racial equity and climate action goals:** While the package of investments in the adopted 2024-27 MTIP make very slight progress towards the 2023 RTP goals, which include Equitable Transportation and Climate Action, the individual projects and programs within the MTIP are likely to make better progress to the local communities in which they are located.

Metro staff assessed how the Rose Quarter Improvement project advances the RTP investment priorities of Mobility Options, Thriving Economy, Safe System, Equitable Transportation, and Climate Action and Resilience. (See **Attachment 1: Staff memo on Rose Quarter Improvement Project Major Project Assessment**).

Model results for RTP Investment Priorities for addressing Equitable Transportation and Climate Action and Resilience show neutral or no significant change towards the desired outcome with one exception: model results show a positive trend towards completing active transportation infrastructure gaps with the full build of the I-5 Rose Quarter Improvement Project.

3. **Known Opposition/Support/Community Feedback:** Based on previous testimony, there are two known active lawsuits opposing the Rose Quarter project, one in State Court and one in Federal Court. The plaintiffs in these suits include:
 - No More Freeways
 - Neighbors for Clean Air
 - BikeLoud
 - AORTA (Association of Oregon Rail and Transit Advocates)

- Families for Safe Streets
- Eliot Neighborhood Association

The above groups are on record opposing either part or all of the I-5 Rose Quarter Improvement Project and do not support capacity/expansion changes to the Interstate and State Highway System.

Beginning June 1, 2026, Metro conducted a 30-day public comment period on the proposed MTIP formal amendment to conclude at 5 p.m. on July 1, 2026.

Metro received:

- Testimony from two attendees at the JPACT meeting on June 18, 2026
- Three written testimonies via email

Comments included concerns about the proposed delivery of the project not addressing community needs, concerns about challenges with freeway investments, and concerns on the Environmental Assessment completed for project.

A staff report that includes the emails and transcripts of the testimonies received are in **Exhibit B to Resolution 26-5600: Public Comment Period Summary**.

4. Legal Antecedents:

- Amends the 2024-27 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 23-5335 on July 20, 2023 (FOR THE PURPOSE OF ADOPTING THE 2024-2027 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA)
- Oregon Governor approval of the 2024-27 MTIP on September 13, 2023.
- 2024-2027 Statewide Transportation Improvement Program (STIP) Approval and 2024 Federal Planning Finding on September 25, 2023.

5. Anticipated Effects: Enables the projects to be amended in the MTIP, as well as the Statewide Transportation Improvement Program, or STIP, which is managed by the Oregon Department of Transportation. Follow-on fund obligation and expenditure actions can then occur to meet federal delivery requirements.

6. Financial Implications: The proposed amendments have no impact to the Metro budget.

BACKGROUND

The 2024-2027 MTIP is a program implementation tool. It includes an investment profile and performance analysis of the progress expected toward the 2023 RTP's regionally significant transportation investments. The MTIP must accurately maintain project information throughout the life of a project, from initial award/allocation to funding obligation and through all phases of project delivery. If a change emerges to a project's

scope, schedule or budget, the MTIP may need to be amended to reflect the change. As new federally funded and regionally significant projects emerge and are funded, the MTIP is amended to include the projects.

Amend Existing MTIP/STIP Programmed Projects:

Project Number: 1	Key Number: 19071	Status: Existing Project
Project Name:	I-5 Rose Quarter Improvement Project	
Lead Agency:	ODOT	
Description:	The Rose Quarter investment will help reduce congestion, improve safety and traffic operations, and support economic growth in the Portland Metro region with multi-modal improvements that include ramp-to-ramp (auxiliary) lanes, highway shoulders and cover, new overcrossing, I-5 southbound ramp relocation, new bike and pedestrian crossing, and improved bike and pedestrian facilities. This specific project will: provide additional funds to project development and right of way efforts of the Broadway-Weidler facility plan and the N/NE Quadrant; relocate utilities in the cover grant and stormwater areas; acquire permanent VMS signs and software early in the project to support movement of traffic during cover construction. Subsequent projects will advance other elements of the Rose Quarter effort.	
Funding Summary:	The project is currently programmed with a total funding of \$247,641,997. Project funding includes Advance Construction funds, Neighborhood Access and Equity (NAE) funds, National Highway Freight Performance (NHFP) funds, National Highway Performance Program (NHPP) funds, ODOT funds, and local funds.	
Added Notes:	The formal amendment includes the following programming changes: • Increase the Preliminary Engineering (PE) phase by \$3,000,000 of NHPP funds, moving funds from ODOT Key 23672 • Decrease Other (OT) phase by \$250,000, removing rescinded grant funds • Slip OT phase from FFY 2026 to 2027 Technical correction was completed to ensure consistency with identified STIP fund types. Total project increase from \$247,641,997 to \$250,391,997.	

Project Number: 2	Key Number: 23682	Status: Existing Project
Project Name:	I-5 Rose Quarter: Phase 1A	
Lead Agency:	ODOT	
Description:	Construct stormwater facilities for the east end of Fremont Bridge and ramps. Construct structural deck overlay, bridge rail upgrades and seismic retrofit on two bridges in the southern portion of the project area. PE completed in Key 19071.	
Funding Summary:	The project is currently programmed with a total funding of \$69,165,000 of Advance Construction funds with a State Match of \$5,835,000.	
Added Notes:	The formal amendment is to increase Construction (CN) phase by \$18,000,000 of Advance Construction funds, moving funds from ODOT Key 23672. The approved scope associated with these funds is planned to be delivered under ODOT Key 23682 to expedite work. Total project increase from \$75,000,000 to \$93,000,000.	

Project Number: 3	Key Number: 23672	Status: Existing Project
Project Name:	I-5 Rose Quarter: Broadway to Weidler Phase 1	
Lead Agency:	ODOT	
Description:	Replace 3 of the 5 aging bridges over I-5 by constructing the central portion of the highway cover from Broadway to the southern end and beyond Weidler, and the facilities to support it; as well as performing construction work necessary to make this cover work forward compatible with follow-on construction packages. Construct portion of NB & SB auxiliary lanes. This will provide greater connectivity for the lower Albina neighborhood. Preliminary design and right of way are programmed under project key 19071 I-5 Rose Quarter Improvement project.	
Funding Summary:	The project is currently programmed with a total funding of \$549,450,000. Project funding includes Advance Construction and NAE funds.	
Added Notes:	The formal amendment includes the following programming changes: • Change project name to I-5 Rose Quarter: Phase 1B • Change project description to: ○ On I-5 between the Fremont Bridge and the Burnside Bridge, widen the Holladay/Hassalo bridge structure, construct structural deck overlay, replace bridge and median rail, provide seismic retrofit, reconstruct adjacent retaining wall and embankment, upgrade signage, and reconstruct impacted local street and light rail facilities. Preliminary design and right of way are	

	programmed under project key 19071 I-5 Rose Quarter Improvement project. • Reduce CN phase by \$402,950,000. ○ Decrease of \$21,000,000 Advance Construction funds to be distributed to ODOT Keys 19071 and 23682, ○ Decrease of \$382,250,000 of rescinded USDOT Neighborhood Access and Equity grant funds ○ Add \$300,000 of Advance Construction funds. • Slip CN phase from FFY 2026 to 2027. Total project decrease from \$549,450,000 to \$146,500,000.

Attachment 2: Project Fact Sheet: Construction Phases (April 2026) provides additional information about the scope of Phase 1A, Phase 1B, and Phase 1C.

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. Metro staff evaluate each project and its requested changes against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The evaluation process is designed to ensure the MTIP is fiscally constrained, consistent with the approved RTP, and provides transparency in its updates, changes, and/or implementation.

PROPOSED PROCESSING AND APPROVAL ACTIONS:

<u>Action</u>	<u>Target Date</u>
• TPAC agenda mailing.....	May 29, 2026
• Initiate the required public notification/comment process.....	June 1, 2026
• TPAC amendment overview – no action.....	June 5, 2026
• JPACT amendment overview ¹ – no action.....	June 18, 2026
• Metro Council amendment overview – no action	June 30, 2026
• Completion of public notification/comment process.....	July 1, 2026
• TPAC action	July 10, 2026
• JPACT action	July 16, 2026
• Metro Council action.....	July 16, 2026
• Final amendment package submission to ODOT & USDOT.....	Late July 2026
• USDOT clarification and final amendment approval.....	September 2026

Note: The above dates are anticipated and could change.

1. Information about the proposed amendment was included in the June 18, 2026 JPACT meeting packet. Due to insufficient time at the meeting, JPACT did not hear a staff presentation. However, JPACT members received an email with a link to the recording of the staff presentation at the June 30, 2026, Metro Council meeting to review in advance of the vote at the July JPACT meeting. The [YouTube livestream clip](#) begins at 2:13:44 and ends at 2:54:30.

ATTACHMENTS

1. Metro staff memo on Rose Quarter Improvement Project Major Project Assessment
2. Project Fact Sheet: Construction Phases (April 2026)

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: Friday, June 8, 2026
To: JPACT, Metro Council and Interested Parties
From: Blake Perez, Associate Transportation Planner
Jean Senechal Biggs, Resource Development Manager
Subject: 2024-27 MTIP Formal Amendment Request: Rose Quarter Improvement Project Major Project Assessment

Purpose: The purpose of this Major Project Assessment is to document how the proposed amendments to the 2024-27 Metropolitan Transportation Improvement Program (MTIP) for the Rose Quarter Improvement Project performs in accordance with local, regional, and state transportation policies, as well as how the project addresses the five goal areas of the 2023 Regional Transportation Plan (RTP).

Overview

The MTIP is a federally required document that helps track and manage regionally significant transportation investments. The MTIP is a list of transportation projects and programs that are scheduled to receive federal transportation money for the four-year reporting period. An active MTIP may be amended if additional funding becomes available. The Metro Council adopted the 2024-27 MTIP in July 2023.

Major Project Assessments (MPAs) are conducted when a proposed MTIP amendment has at least one of the following:

- The project is capacity enhancing,
- The project is regionally significant, and/or,
- The amendment is over \$100 million.

The proposed amendment for the Rose Quarter Improvement Project is a regionally significant project prompting the need for this assessment. While the complete build of the Rose Quarter Improvement Project is capacity enhancing and will be over \$100 million, this proposed amendment does not include either capacity enhancing elements or add over \$100 million funding. In this case, the Major Project Assessment is prepared solely to meet the requirements for a regionally significant project.

This assessment uses results from analysis that Metro completed in 2025. In March 2025, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved a formal amendment to the 2024-2027 MTIP which amended three projects associated with the Rose Quarter Improvement Project. As part of that 2025 amendment process, Metro completed an MPA of both the amended phased projects (1a & 1) and a completed Rose Quarter Improvement Project, also called the “full build.” **The analysis for this Major Project Assessment remains the same since the Rose Quarter Improvement Project does not propose changes to the full build project in this amendment.**

This Major Project Assessment models, reviews, and evaluates both the phased projects (Phases 1A & 1) and the complete build of the Rose Quarter Improvement Project against local, regional, and state transportation policies, and the five goals of the adopted 2023 Regional Transportation Plan (RTP). This evaluation shows how adding the Rose Quarter Improvement Project funds to the 24-27 MTIP influences the full package of investments in the 24-27 MTIP (Note: Metro included a

complete build of the Rose Quarter Improvement Project in the 2045 fiscally constrained model for the 2023 RTP.)

The Oregon Department of Transportation (ODOT) and Rose Quarter Improvement Project staff provided project information, such as, but not limited to, project plans, finance, cost estimates, and programming, that supported this assessment. This assessment is provided to inform the amendment decision process regarding consistency with investment priority policies.

Rose Quarter Improvement Project Proposed Amendments

The proposed formal amendment for the Rose Quarter Improvement Project amends the three existing projects in the 2024-27 MTIP. Goals and objectives, along with major work elements and milestones, for each project and phase are described below.

I-5 Rose Quarter Improvement Project (ODOT Key Number K19071)

- *Goals & Objectives*
This amendment would transfer \$3,000,000 in funding to I-5 Rose Quarter Improvement Project (K19071) from I-5 Rose Quarter: Broadway to Weidler Phase 1 (K23672). Funding will be utilized for the construction contractor to provide pre-construction support services.
- *Major Work Elements & Milestones*
 - Constructability reviews
 - Cost estimating
 - Scheduling
 - Contracting
 - Other required tasks during Phase 1 design

I-5 Rose Quarter: Phase 1A (ODOT Key Number K23682)

Construction Phase

- *Goals & Objectives*
Phase 1A is an active construction package that provides near-term safety, preservation, and operational improvements with independent utility. The primary goals of Phase 1A are to address deferred maintenance, improve safety and seismic resilience, and maintain reliability at a critical segment of the I-5 corridor while advancing elements necessary to support future phases of the project.

This amendment would transfer \$18,000,000 in funding to I-5 Rose Quarter: Phase 1A (K23682) from I-5 Rose Quarter: Broadway to Weidler Phase 1 (K23672).
- *Major Work Elements & Milestones*
 - Bridge deck overlays and structural repairs
 - Bridge rail upgrades and seismic retrofits
 - Stormwater treatment facilities to meet regulatory requirements
 - Pavement rehabilitation, signing, lighting, and striping
 - Construction of the southern portion of the southbound auxiliary lane between I84 and the Morrison Bridge
 - Key milestones for Phase 1A include completion of design procurement through the CMGC delivery method, initiation of construction in August 2025, and execution of staged construction activities through 2026, including planned short-term and long-duration I-5 closures to safely and efficiently complete deck overlay and structural repair work.

I-5 Rose Quarter: Broadway to Weidler Phase 1 (ODOT Key Number K23672) – To be known as I-5 Rose Quarter: Phase 1B

- *Goals & Objectives*

In 2024, ODOT received a \$450 million grant from the Federal Highway Administration (FHWA) under the banner of the Reconnecting Communities and Neighborhoods (RCN) program. This funding was for the Broadway Weidler Phase 1 package, which includes constructing the southern portion of the highway cover, completing the southbound I-5 auxiliary lane and shoulder from I-405 to the Moda Center, and other improvements. The OTC supplemented this grant with \$250 million in HB 2017 Urban Mobility Strategy funding to allow completion of Phase 1.

ODOT was able to obligate \$67.5 million of the RCN grant funding while the unobligated balance of \$382.5 million in Construction and Other Phase funds was rescinded as part of the federal budget reconciliation bill H.R. 1, known as the "One Big Beautiful Bill Act" of 2025. Following this action, the Rose Quarter Project has \$480,891,997 in total funding available.

This amendment would update I-5 Rose Quarter: Broadway to Weidler Phase 1 (K23672) to I-5 Rose Quarter: Phase 1B and update the Project Description to remove scope and funding associated with rescinded \$ 382,250,000 Reconnecting Communities and Neighborhood (RCN) grant. The remaining funding will be used to construct Phase 1B as agreed by the Commission in December 2025 and ratified in March 2026 after discussion with project partners.

Phase 1B represents a redefined and reduced scope construction phase formerly referred to as Broadway to Weidler Phase 1. The goals of Phase 1B are to advance critical bridge preservation, seismic retrofit, and supporting infrastructure improvements using remaining available funding after the federal RCN grant rescission, while preserving consistency with the project's approved environmental clearance.

- *Major Work Elements & Milestones*

- Widening and strengthening the Holladay/Hassalo bridge structure
- Structural deck overlays and bridge rail replacement
- Seismic retrofit of affected structures
- Reconstruction of adjacent retaining walls and embankments
- Upgrades to signage, local street facilities, and impacted light rail infrastructure

Proposed MTIP Amendment Major Project Assessment

Consistency with Metro's I-5 Rose Quarter Project: Values, Outcomes and Action

JPACT and Metro Council are currently considering an MTIP amendment to add program funding to existing MTIP projects for a construction package that partially completes the improvements to the Interstate 5 mainline that are included in the Rose Quarter Improvement Project. Metro Council approved a set of Values, Outcomes and Actions for the Rose Quarter Improvement Project in April 2020 that has guided Metro's engagement in the project ever since. This document reviews the current status of the project in implementing each action identified in the Values, Outcomes and Actions document, and summarizes overall progress with respect to each of the three values.

Value / action	Status	Staff comments
<i>1. Advancing racial equity and committing to restorative justice</i>	<i>Complete / ongoing</i>	
1A. Coordinate with the Albina Vision Community Investment plan (funded by a Metro grant) to take into account the land value created by this project and the urban design features described in the Albina Vision.	Ongoing	Albina Vision Trust (AVT) has completed their Metro-funded Community Investment grant project. This work continues to inform their engagement with I5RQ, including through partnership with PBOT on two federally-funded Reconnecting Communities grant projects ¹ that focus on development strategies and surface street improvements in and around the project area. Coordination between AVT and ODOT is ongoing. In March 2024 the OTC directed ODOT to work with AVT to prioritize offering AVT the right to develop new parcels created by I5RQ. AVT also recently signed a letter of commitment indicating its intent to continue coordinating with ODOT and other partners on I5RQ.
1B. Appoint a landscape design team to inform a community-led decision-making process on highway cover design.	Complete	The consultant team completed the Independent Cover Assessment in July 2021, which recommended a cover design that maximized developable space on and around the cover, as well as changes to surrounding transportation facilities to improve access to and foster development on the cover. ² All project partners subsequently agreed to a cover design through a letter of agreement with the Governor's office signed in January 2022.

¹ For more information on these projects, see <https://www.portland.gov/bps/planning/reconnecting-albina/about> and <https://www.portland.gov/transportation/news/2024/3/8/pbot-news-release-portland-mayor-commissioner-and-transportation>.

² https://www.i5rosequarter.org/pdfs/independent_cover_assessment/RQ-CAP-Report.pdf

1C. Set a new standard for State design and contracting practices for local minority-owned contractors and small businesses that incorporates prime-contractor development programs, workforce development opportunities, anti-displacement and restorative community building investment, and wealth creation and land ownership opportunities.	Ongoing	The goals and strategies outlined in the Project's Diversity and Subcontracting Plan ³ are designed to help develop, mentor, expand expertise and build the capacity of small businesses, as well as to promote a diverse workforce and economic opportunities. Other topics discussed in this outcome, including anti-displacement, restorative community building investment, wealth creation, and land ownership opportunities are the subject of one of the collaborative PBOT-AVT projects discussed under item 1A. ⁴
Establish a committee to oversee implementation of the Diversity and Subcontracting Plan.	Complete	ODOT established the Community Oversight Advisory Committee ⁵ to oversee implementation of the contractor's Subcontracting and Diversity Plan in 2020. The committee met between 2020 and January 2023 and resumed meeting in January 2025 as construction on the project began. The committee continues to meet quarterly.
<i>2. Increase multi-modal mobility and implement congestion pricing to reduce greenhouse gas emissions</i>	<i>Not on track</i>	
2A. Synchronize the project timeline with the I-5 tolling program, so that any analysis of traffic and greenhouse gas emission benefits of the project also incorporates pricing strategies for managing traffic.	Not on track	In March 2024, Governor Kotek and the Oregon Transportation Commission ordered ODOT to stop work on the Regional Mobility Pricing Project (RMPP; the official project name of the I-5 tolling program); the project is now on hold indefinitely. ⁶ This decision poses an obstacle to achieving all actions associated with pricing.
2B. Link the project with larger I-5 corridor planning efforts by taking into account the transportation needs of the entire corridor, as well as the potential impacts to people living along the entire I-5 corridor.	Ongoing	As discussed in more detail in the project Supplemental Environmental Assessment (SEA), ⁷ the modeling assumptions provided by Metro to the project account for all projects up and down I-5 that were then included on the Regional Transportation Plan project list, and the SEA analyzed potential project impacts to traffic speeds and volumes at locations on I-5 outside the immediate project area. However, the decision to pause RMPP (see 2A) eliminates some of the needs and/or opportunities for this project to coordinate with larger I-5 corridor planning activities

³ https://www.i5rosequarter.org/media/izoepgnp/ch_2_reconciled_diversity_subcontracting_plan.pdf

⁴ <https://www.portland.gov/bps/planning/reconnecting-albina/about>

⁵ <https://www.i5rosequarter.org/committees/>

⁶ <https://www.oregon.gov/odot/tolling/pages/i-5-tolling.aspx>

⁷ https://www.i5rosequarter.org/media/kxjgs5tl/i5rq_rsea_appendixa_traffic_508.pdf

2C. Implement congestion pricing on this segment of I-5 as soon as possible and prior to completing the project.	Not on track	According to a progress report provided by ODOT to project partners in April 2023, which characterized pricing work as in progress and ongoing as part of the project development process, congestion pricing for I5RQ “is being addressed through the Regional Mobility Pricing Project.” Now that RMPP is on hold there is no plan to price the project prior to completion.
<i>3. Engaging stakeholders through a transparent and inclusionary decision-making process</i>		
3A. Provide more detail about the roles and expected deliverables of the Community Advisory Committee (CAC) and Executive Steering Committee (ESC), as well as how committee feedback will be incorporated into project timelines and milestones.	Complete	The project website provides extensive detail about the COAC (the official name of the CAC), ESC, HAAB, and other project committees, including their charters, membership, and meeting minutes. ⁸
3B. Clearly define how feedback mechanisms will function between the CAC, ESC, participating agencies, ODOT staff, and the Oregon Transportation Commission (OTC).	Complete	See response to 3A—this information is described in the charters of these committees, which are available via the project website.
3C. Clearly describe to agency partners how the OTC’s 11 actions will be incorporated into the project and have timelines synchronized in a way that ensures transparency and accountability.	Mostly complete	These 11 actions largely align with Metro Council’s Values, Outcomes and Actions; they include calls for ODOT to establish committees, document decision-making processes, conduct an independent cover evaluation, apply congestion pricing, and coordinate with partners. The majority of these actions are complete except for those related to pricing.
3D. Develop a partner agency agreement (e.g., IGA, MOU) that outlines how collaboration will continue as part of a process that incorporates these outcomes, completes these identified actions, and commits to project principles and values.	Complete	In August 2022, the Portland City Council unanimously adopted an Intergovernmental Agreement to formalize a partnership between ODOT and the City in delivering the project. ODOT and TriMet also executed an IGA related to I5RQ in August 2022.

⁸ <https://www.i5rosequarter.org/committees/>

Consistency with the Congestion Management Process and Oregon Highway Plan

Consistency with OHP Policy 1G and Action 1G.1

Oregon Highway Plan (OHP) Policy 1G and Action 1G.1 directs ODOT to maintain highway performance and improve safety by improving system efficiency and management before adding capacity. As public documents and presentations on the Interstate 5 Rose Quarter project to date have shown the known elements to the project includes: freeway cap, auxiliary lanes, on and off ramp improvements and spacing, active transportation enhancements, and local street connectivity. The scope elements are consistent with the first two steps of the OHP Action 1G.1 in addressing the overarching needs of the Interstate 5 corridor. The Project has documented consistency with the state and regional policy by focusing the project scope on the first two steps of the Oregon Highway Plan (OHP) Action 1G.1. These two steps are:

1. Protect the existing system. The highest priority is to preserve the functionality of the existing highway system by means such as access management, local comprehensive plans, transportation demand management, improved traffic operations, and alternative modes of transportation.
2. Improve efficiency and capacity of existing highway facilities. The second priority is to make minor improvements to existing highway facilities such as widening highway shoulders or adding auxiliary lanes, providing better access for alternative modes (e.g., bike lanes, sidewalks, bus shelters), extending or connecting local streets, and making other off-system improvements.

Consistency with Regional Transportation Functional Plan

Additionally, the Rose Quarter Interstate 5 project is consistent with Section 3.08.220 of the Regional Transportation Functional Plan in prioritizing four of the six strategies as part of the project outcomes, which includes:

1. TSMO strategies, including localized Travel Demand Management (TDM), safety, operational and access management improvements.
2. Transit, bicycle and pedestrian system improvements.
3. Connectivity improvements to provide parallel arterials, collectors or local streets that include pedestrian and bicycle facilities, consistent with the connectivity standards in section 3.3.4 and design classifications in Table 3.9 of the RTP, to provide alternative routes and encourage walking, biking and access to transit; and
4. Motor vehicle capacity improvements, consistent with the RTP Regional motor vehicle network vision and policies in Table 3.8 and section 3.3.3 of the RTP, only upon a demonstration that other strategies in this subsection are not appropriate or cannot adequately address identified transportation needs.

Consistency with Local Plans

Lastly, the Rose Quarter project would provide transportation infrastructure to support the land use plans for the Rose Quarter and the Albina neighborhood. The I-5 Rose Quarter Improvement Project also is included in adopted Portland regional land use and transportation plans. Specifically, the project would support the City of Portland's Central City 2035 Plan and Transportation System Plan, adopted in June 2018. The Project includes related goals developed through the joint ODOT and City of Portland N/NE Quadrant and I-5 Broadway/Weidler Interchange Plan process, which included extensive coordination with other public agencies and citizen outreach. The Metro Council and the Joint Policy Advisory Committee on Transportation adopted the proposed Project as part of the Regional Transportation Plan in 2014, 2018 and again in 2023. The current proposed amendment is a partial build of the full project, but this initial phase is consistent with the full build that was included in the most recent RTP with no new project elements.

Policies on RTP Investment Priorities

The following is an assessment of how the proposed MTIP project amendment advances the RTP investment priorities of Equity, Climate, Safety, Mobility and Economy and how the project impacts the package of MTIP investments towards those RTP goals. It is based on the similar assessment completed as part of the initial evaluation and adoption process for the 2024-27 MTIP. Economy was included in the 2023 RTP but was not part of the 24-27 MTIP assessment process. It has been included in this assessment. A summary of the evaluation results based on the RTP investment priorities is provided in Table 1. The detailed analysis by performance measure for each RTP investment priority is outlined following the summary table. In addition to the proposed amendments that were evaluated, staff performed a full build analysis of the project to ensure consistency with the RTP. Included is both a summary evaluation in Table 2 and a detailed analysis for each performance measure.

Table 1. Summary of RTP Investment Priorities Evaluation – Rose Quarter Interstate 5 Phase 1 & 1A

RTP Priority	Measure 1	Measure 2	Measure 3
Equity	o	o	+/o
Climate	o	o	+/o
Safety	o	+	N/A
Mobility	o	o	N/A
Economy	+	+	N/A

Table 2. Summary of RTP Investment Priorities Evaluation – Rose Quarter Interstate 5 Full Build

RTP Priority	Measure 1	Measure 2	Measure 3
Equity	o	o	+/o
Climate	o	o	+/o
Safety	o	+	N/A
Mobility	o	o	N/A
Economy	+	+	N/A

***The full build is not a part of the proposed amendment, but the evaluation is included to show RTP consistencies.**

Key:

- o neutral or still to be determined until further details are known
- ^ not directly addressing the region's desired outcome; has other related benefits
- + trending towards the desired outcome for that priority
- trending away from the desired outcome for that priority
- +/o potential to trend toward desired outcome but still to be determined until further details are known
- /o risk to trend away from desired outcome but still to be determined until further details are known

Equity

To measure equity in the context of the project, Metro staff describe whether the project increases access to travel options in Equity Focus Areas and summarize information provided by project staff on how the project has been identified as a priority transportation improvement by BIPOC and low-income persons or communities.

Desired Outcome	Performance Measures	Project Performance Assessment (Phase 1a & 1)	Full build
Increase Access to jobs	1. Weighted average household access to jobs within a 30-minute driving commute or 45-minute transit commute.	TIP Modeling shows small but positive increase in access to jobs both region wide and in the MPA equity focus areas. Modeling shows an increase of access to jobs via drive commute from 437,713 to 437,916 region wide and an increase from 73,711 to 73,715 for transit trips. For equity focus areas, there is an increase in access to jobs via drive commute from 450,816 to 451,005. For jobs accessible via transit there is an increase from 89,378 to 89,386.	TIP Modeling shows small but positive increased access to jobs both region wide and in the MPA equity focus areas. Modeling shows us an increase in access to jobs via auto trips across the MPA area from 437,713 to 438,129. An increase to jobs via transit from 73,711 to 73,725. There is also a small increase in MPA Equity Focus Areas as well. Access to jobs via auto trips in equity focus areas increased from 450,816 to 451,145. For transit, there is an increase from 89,378 to 89,402.
Increase access to community places	2. Weighted average household access to community places within a 20-minute driving commute or 30-minute transit commute.	TIP modeling shows a small increase access to community places. There is no increase in access to community places via transit in the modelling. There is an increase of access to community places via auto trips from 2,734 to 2,735 in the MPA area and an increase from 2,863 to 2,864 in equity focus areas.	TIP modeling shows small but positive increase in access to community places. Results were the same from the phased build out.
Complete any gaps in the active transportation system in an equity focus area	3. Miles and percentage of active transportation infrastructure added to the completeness of the regional active transportation work.	The phase 1a & 1 project is not located on a gap in the AT network, and thus cannot close a gap. However, the full build may include components of closing gaps in the active transportation network.	The full build does include a new bicycle and pedestrian bridge over I-5. Additional GIS analysis is required to determine whether the full build closes gaps in the active transportation system.

Safety

To measure safety in the context of the project, a description of whether the project includes scope elements to address documented safety issues that contribute to crashes that result in fatal and serious injuries and include recognized safety counter measures is provided. An assessment of the scope is also compared against the region's high injury corridors to better understand whether the project is addressing the locations with a propensity of crashes leading to fatalities and serious injuries. Additional relevant safety related information as provided by project staff is also summarized.

Desired Outcome	Performance Measures	Project Performance Assessment (Phase 1a & 1)	Full Build
Increase level of investment to address fatalities and serious injuries	1. Amount of investment of safety activities which address fatalities and serious injuries crashes.	The I-5 Southbound corridor through Rose Quarter is identified in Metro's 2018-22 High Injury Corridors (HIC) database with a percentile rank of 90%. The corridor qualifies as high injury because the percentile rank of the concentration score is between 80 and 100, meaning it is within the top 20 percent worst scores. I-5 Northbound is not identified in the HIC database. It is difficult to ascertain the amount of investment to address fatalities and serious injuries in phase 1a and 1. Cost estimates provided in the proposed amendment include PE, ROW, utilities relocation, construction, and other. The cost estimates do not provide a breakdown of specific project elements that are safety countermeasures to address serious injuries and fatalities or their discrete costs.	As with PAE of phase 1a and 1, it is difficult to ascertain the amount of investment to address fatalities and serious injuries with the full build project.
Increase level of safety investment on high injury corridors, and high injury corridors in equity focus areas	2. Amount of investment of safety activities which address fatalities and serious injuries crashes on high injury corridors, equity focus areas, and high injury corridors in equity focus areas.	The Project is in both a High Injury Corridor and an Equity Focus Area.	The Project is in both a High Injury Corridor and an Equity Focus Area.

Climate

To measure climate in the context of the project, a summary of how the project aligns with Metro's RTP climate goals and policies and whether the project includes elements that will increase access to and use of multi-modal options or increase motor vehicle travel is provided.

Desired Outcome	Performance Measures	Project Performance Assessment (Phase 1a & 1)	Full Build
Reduction of greenhouse gases per capita	1. Projected daily metric tons of greenhouse gas emissions reduction per capita.	TIP modeling shows a very small increase of emission (less than 0.01%).	TIP modeling shows a very small increase (approx. 0.017%).
Reduction in daily metric tons of greenhouse gas emissions	2. Projected daily metric tons of greenhouse gas emissions reduction	TIP modeling shows a 1 metric ton increase in greenhouse gas emission. Up from 12,565 to 12,566.	TIP modeling shows a 2 metric ton increase in greenhouse gas emission. Up from 12,565 to 12,567.
Improves system completeness of active transportation network	3. Miles and percentage of active transportation infrastructure added to the completeness of the regional active transportation work.	The project is not located on a gap in the AT network, and thus cannot close a gap. However, the full build will include components of closing gaps in the active transportation network.	The complete build of the Rose Quarter does include completing gaps in the active transportation network. More specifically, the project aims to close gaps in the Green Loop through Lloyd District. Additional GIS analysis is needed to confirm that gaps are being addressed.

Mobility

To measure mobility relief in the context of the project, an assessment of whether the project proposes impacts to mode split (e.g. driving, transit, bike) and miles traveled by mode per capita.

Desired Outcome	Performance Measures	Project Performance Assessment (Phase 1a & 1)	Full Build
Achieve a more equitable mode split amongst driving, transit, and biking	1. Mode split	TIP modeling shows virtually no impact to mode splits. Total SOV trips remain the same (42.515%). There is a small increase from 38.681% to 38.683% for total HOV trips. All other trips remain the same, total transit trips (4.641%), total bike trips (3.826%), total walk trips (7.548%), and total school bus trips (3.282%).	TIP modeling shows the same amount of SOV trips (42.515%), a very small increase in HOV trips (increase of .003% from MTIP and .001 from phase 1), very small increase in transit trips (.001%), very small increase in school bus trips (.001%), and same amount for bike trips and walk trips.
Decrease miles traveled by vehicle and increase miles done by bike and transit	2. Miles traveled by mode	TIP modeling shows a very small impact in miles traveled by mode. There is an increase of personal vehicle driver miles traveled from 21,256,521 to 21,257,411. A small increase in personal vehicle passenger miles traveled from 7,575,447 to 7,575,724. A slight decrease in bike miles traveled from 842,597 to 842,412. A slight decrease in pedestrian miles traveled from 292,789 to 292,772. A small increase in transit miles traveled from 2,020,953 to 2,021,685.	TIP modeling shows small but negative impacts on vehicle miles traveled, bike miles traveled, and pedestrian miles traveled. There is a small positive impact on transit miles traveled. There is an increase in personal vehicle miles traveled from 21,256,521 to 21,257,976. An increase in personal vehicle passenger miles traveled from 7,575,447 to 7,575,986. An increase in transit miles traveled from 2,020,953 to 2,021,685. There is a decrease in bike miles traveled from 842,597 to 842,412 and a decrease in pedestrian miles traveled from 292,789 to 292,765.

Economy

To measure economic vitality in the context of the project, an assessment of whether the project is in an area that is prioritized for future job growth and if the project is in an area with higher-than-average job activity.

Desired Outcome	Performance Measures	Project Performance Assessment (Phase 1 & 1a)	Full Build
Increase transportation option in areas prioritized for future job growth.	1. Is the project located in an area that is prioritized for future job growth?	The project is in the Central City, an area that is prioritized for job growth under the 2040 Growth Concept, which is the region's land use vision. This helps to ensure that the project supports access not only to jobs that exist today, but to new jobs that will be added as the region continues to grow.	The project is in the Central City, an area that is prioritized for job growth under the 2040 Growth Concept, which is the region's land use vision. This helps to ensure that the project supports access not only to jobs that exist today, but to new jobs that will be added as the region continues to grow.
Increase transportation options in an area with higher than average job activity	2. Is the project located in an area with higher-than-average job activity?	According to Metro's Economic Value Atlas , the Census Tract that aligns with the project area has over 50% more jobs than the average Census Tract in the Metro region, and has historically experienced more rapid job growth than the average tract.	According to Metro's Economic Value Atlas , the Census Tract that aligns with the project area has over 50% more jobs than the average Census Tract in the Metro region, and has historically experienced more rapid job growth than the average tract.



I-5 ROSE QUARTER IMPROVEMENT PROJECT

CONSTRUCTION PHASES

April 2026

Phase 1A – Funded & In Construction (CN)



1. Stormwater improvements near the intersection of I-5 and I-405
2. Bridge work near the intersection of I-5 and I-84
3. Extension of the southbound auxiliary lane along I-5 between the I-84 and Morrison Bridge/OMSI exits
4. Signage to help travelers navigate the area

Phase 1B – Funded & CN start Summer 2027



1. Signage to help travelers navigate the area
2. Widen I-5 structure over Rose Quarter Transit Center to increase shoulder width on I-5 and reconstruct impacted transit center infrastructure

3. Begin right-of-way acquisition for future Phase 1C construction

Phase 1C – Design & ROW Funded, Need CN Funding, Planned for Q1 2029

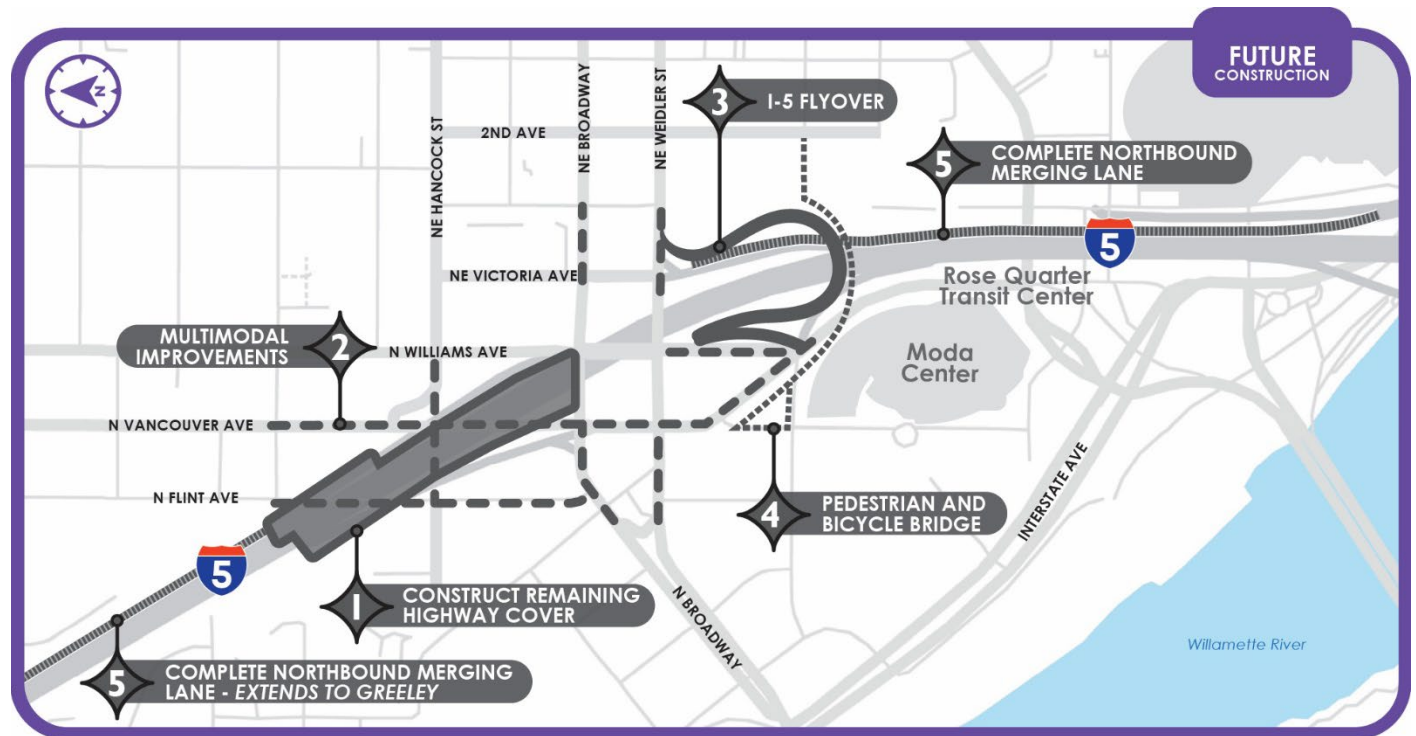


1. Complete southern portion of the highway cover from Broadway to south of Weidler (30% of cover length) and local street reconstruction (Broadway, Williams, Weidler)
2. Complete I-5 southbound merging lane from I-405 to I-84
3. Extend northbound merging lane and shoulders to Broadway

Why this portion of the cover? Why not smaller? Why include the cover & freeway?

- Due to the constraints of the existing Broadway/Williams/Weidler overcrossings, this is the smallest functional area of the cover that can be constructed
- Freeway widening and lowering are necessary within the cover limits in order to provide the necessary vertical clearance through the cover and maintain traffic through the cover during construction
- Makes remaining portions of the auxiliary lanes and highway cover achievable either as one complete larger package or smaller packages based on available funds

Remaining Project Elements - No Design or CN Funding



1. Construct remaining highway cover north of Broadway (including Hancock St extension)
2. Complete remaining multimodal local street improvements
3. I-5 flyover & ramp relocation
4. Pedestrian and bicycle bridge
5. Complete I-5 northbound merging lane, including segments from I-84 to Weidler, Weidler 2-lane exit, and I-84 and I-405