

Council meeting agenda

Thursday, April 6, 2023

10:30 AM

**Metro Regional Center Council Chamber,
[https://www.youtube.com/live/
-cKzqeCj2YU?feature=share](https://www.youtube.com/live/-cKzqeCj2YU?feature=share),
<https://zoom.us/j/615079992>, or
**877-853-5257 (toll free) (Webinar ID:
615079992)****

This meeting will be held electronically and in person at the Metro Regional Center Council Chamber. You can join the meeting on your computer or other device by using this link:
<https://www.youtube.com/live/-cKzqeCj2YU?feature=share>

1. Call to Order and Roll Call

2. Public Communication

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

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

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

3. Consent Agenda

- 3.1 Resolution No. 23-5319, For the Purpose of Amending the 2021-24 MTIP to Re-Scope the OR8/Canyon Rd Project to Reflect only the Beaverton Pedestrian Enhancement Portion Allowing it to Meet Federal Delivery Requirements
Attachments: [Resolution No. 23-5319](#)
[Exhibit A](#)
[Staff Report](#) [RES 23-5319](#)
- 3.2 Resolution No. 23-5324, For the Purpose of Appointing Mindy Stadlander to the Supportive Housing Services Tri-County Planning Body (TCPB)
Attachments: [Resolution No. 23-5324](#)
[Staff Report](#)
[Attachment 1](#) [RES 23-5324](#)
- 3.3 Consideration of the September 8, 2022 Council Meeting Minutes
Attachments: [090822c Minutes](#) [23-5842](#)
- 3.4 Consideration of the September 15, 2022 Council Meeting Minutes
Attachments: [091522c Minutes](#) [23-5843](#)
- 3.5 Consideration of the September 29, 2022 Council Meeting Minutes
Attachments: [092922c Minutes](#) [23-5844](#)

4. Resolutions

- 4.1 Resolution No. 23-5323, For the Purpose of Authorizing the Sale of General Obligation Refunding Bonds
Presenter(s):
Josh Harwood (he/him), Metro
Attachments: [Resolution No. 23-5323](#)
[Staff Report](#) [RES 23-5323](#)

5. Ordinances (Second Reading and Vote)

- 5.1 Ordinance No. 23-1492, For the Purpose of Amending
Metro Code Chapter 7.05 to Improve Clarity Regarding
Penalties and Interest and Other Housekeeping Updates
and Declaring an Emergency

[ORD 23-1492](#)

Presenter(s): Josh Harwood, Metro

Attachments: [Ordinance No. 23-1492](#)

[Exhibit A](#)

[Staff Report](#)

6. **Chief Operating Officer Communication**
7. **Councilor Communication**
8. **Adjourn**

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សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro
ឬដើម្បីទទួលពាក្យបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ
www.oregonmetro.gov/civilrights។

បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គ

ប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច
ថ្ងៃធ្វើការ) ជ្រាបពីវិធី
ថ្ងៃធ្វើការ មន្ត្រីប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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**Resolution No. 23-5319, For the Purpose of Amending the 2021-24 MTIP to Re-Scope the
OR8/Canyon Rd Project to Reflect only the Beaverton Pedestrian Enhancement Portion
Allowing it to Meet Federal Delivery Requirements**
Consent Agenda

Metro Council Meeting
Thursday, April 6th, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE	)	RESOLUTION NO. 23-5319
2021-24 MTIP TO RE-SCOPE THE)	
OR8/CANYON RD PROJECT TO REFLECT	)	Introduced by: Chief Operating Officer
ONLY THE BEAVERTON PEDESTRIAN	)	Marissa Madrigal in concurrence with
ENHANCEMENT PORTION ALLOWING IT TO	)	Council President Lynn Peterson
MEET FEDERAL DELIVERY REQUIREMENTS)	

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

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

WHEREAS, in July 2020, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved Resolution No. 20-5110 to adopt the 2021-24 MTIP; and

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

WHEREAS, the integration of Beaverton's Canyon Road Pedestrian Enhancements project into other ODOT OR8 operational safety upgrade projects will not be feasible; and

WHEREAS, the change of scoping to the OR8 Canyon Rd upgrades project to remove the ODOT portion will eliminate future delivery conflicts with the ODOT OR8 operational safety upgrade projects; and

WHEREAS, Beaverton's OR8 Canyon Rd Pedestrian Enhancements project will now reflect the planned pedestrian enhancements scope elements between SW 117th Ave & SW Lloyd St; and

WHEREAS, the re-scoping action has occurred under the review and approval of ODOT, the city of Beaverton, and Metro; and

WHEREAS, the revised project scope will also include \$325,948 of Metro approved federal HIP Exchange funds plus local match to support the project; and

WHEREAS, Exhibit A to this resolution includes the project name, description, and amendment action for the OR8 Canyon Rd Pedestrian Enhancements project proposed for amendment; and

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

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

BE IT RESOLVED that the Metro Council adopts this resolution to amend Beaverton's OR8 Canyon Road Pedestrian Enhancements project, as identified in Exhibit A, in the 2021-24 Metropolitan Transportation Improvement Program.

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

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

2021-2024 Metropolitan Transportation Improvement Program Exhibit A to Resolution 23-5319				
March FFY 2023 Formal Transition Amendment Bundle Contents Amendment Type: Formal/Full Amendment #: MR23-07-MAR Total Number of Projects: 1				
Key Number & MTIP ID	Lead Agency	Project Name	Project Description	Amendment Action
(#1) ODOT Key # 19758 MTIP ID 70757	ODOT	OR8: SW Hocken Ave– SW Short St OR8: Canyon Rd Pedestrian Enhancements	Design and construct streetscape, safety, and operational improvements Construct streetscape, safety & operational enhancements of median islands and crosswalk stripping between SW 117th Ave & SW Lloyd St with new pedestrian crossing at Cedar Hills Blvd, & rapid flashing beacon at Rose Biggi Ave, for safer pedestrian access.	SCOPE CHANGE: Re-scope the project to reflect the Beaverton pedestrian enhancement portion as the primary project scope and adjust the construction phase to be in FFY 2024.

Added Amendment Notes:

The complexity of separating the Beaverton pedestrian portion from the ODOT Street improvement project results in continue discussions over the appropriate name, description, and funding composition for the project. Through the public comment process, additional tweaks and adjustments to the project name, description, and funding composition may still occur. The final version will proceed to Metro Council with no further changes then occurring.

Proposed Amendment Review and Approval Steps:

- Tuesday, February 28, 2023: Post amendment & begin 30-day notification/comment period
- Friday, March 3, 2023: TPAC meeting (Required Metro amendment notification)
- Thursday, March 16, 2023: JPACT meeting
- Wednesday, March 29, 2023: End 30-day Public Comment period
- Thursday, April 6, 2023: Metro Council meeting
- Wednesday, April 13, 2023: Submit MTIP Amendment bundle sent on to ODOT and FHWA for final reviews and approvals
- Mid to late May 2023: Final project amendment approval from FHWA expected.

2021-2026 MTIP Formal Amendment - Exhibit A

March 2023 Formal Amendment for FFY 2023 - Amendment Number MR23-07-MAR

Summary Reason for Change: The project is being re-scoped closer to Beaverton's RFFA award Canyon Rd pedestrian enhancement project



Metro 2021-26 Metropolitan Transportation Improvement Program (MTIP) PROJECT AMENDMENT DETAIL WORKSHEET

**MTIP Formal Amendment
SCOPE CHANGE**
Re-scope project to reflect
Beaverton Canyon Rd Ped project

Lead Agency: ODOT		Project Type:	Highway	ODOT Key:	18758
Project Name: OR8: SW Hocken Ave - SW Short St OR8: Canyon Rd Pedestrian Enhancements	1	Fiscal Constraint Cat:	SM&O	MTIP ID:	70757
		ODOT Type	Operations	Status:	4
		Performance Goal:	Safety	Comp Date:	12/31/2028
		Capacity Enhancing:	No	RTP ID:	11440
		Conformity Exempt:	Yes	RTP Approval:	12/6/2018
		On CMP:	Yes	Trans Model:	12/6/2018
		30 Day Notice Begin:		TCM:	No
		30 Day Notice End:		TSMO Award	No
		Funding Source	Metro ODOT	TSMO Cycle	N/A
		Funding Type:	STBG	RFFA ID:	N/A
		State Highway Route	OR8	RFFA Cycle:	2016-2018
		Mile Post Begin:	3.22 3.15	UPWP:	No
		Mile Post End:	4.07 3.90	UPWP Cycle:	N/A
		Length:	0.85 0.75	Past Amend:	7
		Flex Transfer to FTA	No	Council Appr:	Yes
		FTA Conversion Code:	N/A	Council Date:	
		1st Year Program'd:	2015	OTC Approval:	No
		Years Active:	9	OTC Date	N/A
		STIP Amend #: 21-24-3109		MTIP Amnd #: MR23-07-MAR	
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated).					
Short Description: Design and construct streetscape, safety, and operational improvements Construct streetscape, safety & operational enhancements of median islands and crosswalk stripping between SW 117th Ave & SW Lloyd St with new pedestrian crossing at Cedar Hills Blvd, & rapid flashing beacon at Rose Biggi Ave, for safer pedestrian access.					

Detailed Description:

~~Improve the safety and signal operation to provide streetscape improvements that improve the connectivity between the Creekside District and Old Town, and to improve access to transit users of OR8 (canyon Rd) in the Beaverton Regional Center Project Funding~~

Construct various pedestrian upgrades on Canyon Rd/OR8 in Beaverton between MP 3.15 and MP 3.90, between SW 117th Ave and SW Lloyd St to include new pedestrian crossing at Cedar Hills Blvd, rectangular rapid flashing beacon (RRFB) at Rose Biggi Ave, construct median islands with landscaping, crosswalk striping, plus street and intersection lighting (Split from ODOT OR8 January 2023, 2016-2018 RFFA award and HIP fund exchange award)

STIP Description: Design and construct streetscape, safety, and operational improvements on Canyon Rd in Beaverton between SW 117th Ave and SW Lloyd St. Improve signal safety and access for pedestrians including streetscape enhancements.

Last Amendment of Modification: Administrative - AM22-07-DEC1 - December 2022 - Slip Construction phase with \$1,974,955 of STB-U and \$1,615,497 of STBG State plus matching funds and overmatch from FFY 2022 to FFY 2023

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
STP (Metro)	Z230	2015		\$ 1,111,396				\$ -
STP (Metro)	Z230	2015		\$ 1,577,190				\$ 1,577,190
State STP	H240	2015		\$ 32,882				\$ 32,882
Equity B	LZ2E LZ20	2015		\$ 50,344				\$ 50,344
NHS (Min Guarantee)	Q760	2015		\$ 25,452				\$ 25,452
Redistribution	M040 M03E	2015		\$ 125,876				\$ 125,876
ADVCON	ACP0	2015		\$ 325,948				\$ 325,948
STP (Metro)	ZS30	2020			\$ 448,650			\$ -
State STBG	ZS30	2020			\$ 1,139,571			\$ -
HSIP	ZS30	2020			\$ 225,133			\$ 225,133
STP (Metro)	Z230	2023					\$ 1,974,955	
STBG-U	Z230	2024					\$ 1,957,810	\$ 1,957,810
State STBG	Z240	2023					\$ 1,615,497	\$ -
State STBG	Z240	2024					\$ 548,244	\$ 548,244
								\$ -
Note: ADVCON =Metro HIP Fund Exchange awarded funding to the project.							Federal Totals:	\$ 4,868,879

State Funds									
State (STP)	Match	2015		\$	3,764			\$	3,764
State (Equity)	Match	2015		\$	5,762			\$	5,762
State (NHS)	Match	2015		\$	2,913			\$	2,913
State (Redist)	Match	2015		\$	14,407			\$	14,407
State (STBG)	Match	2020			\$ 130,429			\$	-
State (HSIP)	Match	2020			\$ 25,767			\$	25,767
State	S010	2020			\$ 30,000			\$	30,000
State (STBG)	Match	2023					\$ 184,901	\$	-
State STBG	Match	2024					\$ 62,749	\$	62,749
								\$	-
State Total:								\$	145,362
Local Funds									
Local (STP-U)	Match	2015		\$	127,204			\$	-
Local (STP-U)	Match	2015		\$	180,516			\$	180,516
Local (AC)	Match	2015		\$	37,306				
Local (STP-U)	Match	2020			\$ 51,350			\$	-
Local (STP-U)	Match	2023					\$ 226,042	\$	-
Local (STBG-U)	Match	2024					\$ 224,080	\$	224,080
Other	OTH0	2023					\$ 3,900,000	\$	-
Other	OTH0	2024					\$ 19,107	\$	19,107
								\$	-
Local Total								\$	423,703
Phase Totals Before Amend:			\$	-	\$ 1,500,000	\$ 1,770,000	\$	-	\$ 7,901,395
Phase Totals After Amend:			\$	-	\$ 2,382,360	\$ 280,900	\$	-	\$ 2,811,990
Total Project Cost Estimate (all phases):								\$	5,475,250
Year of Expenditure Cost Amount:								\$	5,475,250

Programming Summary Details

Why project is short programmed:

Phase Change Amount:	\$ -	\$ 882,360	\$ (1,489,100)	\$ -	\$ (5,089,405)	\$ (5,696,145)
Phase Change Percent:	0%	59%	-84%	0%	-64%	-51%
Revised Match Federal:	\$ -	\$ 244,668	\$ 25,767	\$ -	\$ 286,829	\$ 557,264
Revised Match Percent:	N/A	10.27%	10.27%	N/A	10.27%	10.27%

Phase Obligations and Expenditures Summary

Item	Planning	PE	ROW	Other/UR	Construction	
Total Funds Obligated:		\$ 2,382,360	\$ 280,900			Federal Aid ID
Federal Funds Obligated:		\$ 2,137,692	\$ 225,133			S029(027)
Initial Obligation Date:		8/31/2015	11/1/2019			Other Notes
EA Number:		PE002550	R9263000			
EA Start Date:		N/A	N/A			
EA End Date:		N/A	N/A			
Known Expenditures:		N/A	N/A			

MTIP Programming Consistency Check Details and Glossary

General Areas

- 1 Phase funding fields: Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- 2 Amendment Purpose: The purpose of an MTIP amendment is normally to add a new project due to required federal review actions involving the MTIP and STIP, or complete required changes to the project (name description, or funding) to meet the project's next federal approval delivery step.
- 3 This amendment to the MTIP completes what action: The amendment completes a re-scoping action to become a pedestrian/safety enhancement project which is closer to the original Beaverton Canyon Rd project as awarded through the 2016-18 RFFA call. The prior ODOT intersection safety improvement piece is split off from Key 18758.
- 4 MTIP Programming Submitted Supporting Documentation: STIP Summary Report, STIP Impacts Worksheet, Project Location Map, Approved CMR, prior Metro funding award documentation, IGA 30667,

Public Notification and Comment Process:

- 5A Was a 30 Public Notification/Opportunity to Comment Period Required? Yes
- 5B What were the 30 day Public Notification/Opportunity to Comment Start and end dates?
- 5C Was the Public Notification/Opportunity to Comment period completed consistent with the Metro Public Participation Plan?
- 5D Was the Public Notification/Opportunity to Comment period included on the Metro website allowing email submissions as comments?

5E	Were there a significant amount of comments received requiring a comments log summary provided to Metro Communications Staff? No. However, any significant comments received are sent on to Metro's Communication staff for review plus evaluation, and response as needed.
6	Added clarifying notes: The project returns closer to the original RFFA award scope for Beaverton

Fiscal Constraint Consistency Check Areas	
1	Will Performance Measurements Apply? No. This is a planning activity. Performance measurements do not apply to planning activities.
2A	Does the amendment include fiscal updates? No. The authorized funding is not changing, only being advanced forward to FFY 2023.
2B	What is the funding source for the project? Metro RFFA Step 1 annual funding
2C	Was the Proof-of Funding requirement satisfied and how? Confirmation of project need in FFY 2023 and verification that the funds will be part of the SFY 2024 UPWP.
2D	Was overall fiscal constraint demonstrated? Yes.

RTP Consistency Check Areas	
1A	RTP ID and Name: ID# 11440 - TV Hwy (and Canyon Rd) Corridor Safety and Access to Transit
1B	RTP Project Description: Bus stop improvements, ADA improvements, sidewalk infill, enhanced pedestrian crossings, signal priority, queue jumps.
2A	Is the project exempt per 40 CFR 93.126, Table 2 or 40 CFR 92.127, Table 3? Yes, per 40 CFR 93.126, Table 2
2B	What is the exception category per the regulation: Table 2 - Air Quality - Bicycle and pedestrian facilities.
3A	Is the project considered capacity enhancing? No. The project is a planning project. It is not capacity enhancing.
3B	If capacity enhancing, did the project complete required transportation demand modeling through the RTP Update or via an RTP amendment? No.
3C	Is Air Quality analysis required? No. The Metro MPA has obtained conformity attainment. Special air quality analysis requirements do not apply
3D	Is an Air Quality analysis approval date required? No. If the project is capacity enhancing, then transportation modeling analysis was completed as part of the RTP update. The RTP approval date 12/6/2018 can be considered the date for the completion of any required transportation demand modeling requirements for projects if they are capacity enhancing.
4	What RTP Goal(s) does the project support? Goal #3 - Transportation Choices - Objective 3.3 Access to Transit – Increase household and job access to current and planned frequent transit service. - Objective 3.4 Access to Active Travel Options – Increase household and job access to planned regional bike and walk networks.
5	Does the project require a special performance assessment evaluation as part of the amendment? (applies to capacity enhancing projects, \$100 million or greater, and regionally significant). No. The project is not capacity enhancing nor does it exceed \$100 million dollars in cost.

UPWP Consistency Check Areas	
1A	Does the MTIP action also require an UPWP amendment: No. The project is not part of Metro's UPWP.
1B	Can the MTIP amendment proceed ahead of the UPWP amendment? Yes.

2	What UPWP category does the project fit under (e.g. Master Agreement, Metro Funded Regionally Significant, or Non-Metro Funded Regionally Significant)? N/A
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Other Review Areas	
1	Is the project location identified on the National Highway System (NHS), and what is its designation? Yes. "Other NHS Routes"
2A	Is the project location identified as part of one or more of Metro Modeling Networks, and which one(s)? Yes. Motor Vehicle
2B	What is the Metro modeling designation? See below: <ul style="list-style-type: none"> - Motor Vehicle Network = Major Arterial - Transit Network = Light Rail Transit + Frequent Bus - Freight = Roadway Connectors - Bicycle = Bike Parkway + Regional Bicycle - Pedestrian = Pedestrian Parkway
3	Is the project designated as a Transportation Control Measure (TCM)? No
4	Is the project location identified on a Congestion Management Plan route? Yes

Fund Type Codes References	
ADVCON	Federal Advance Construction fund type code. ADVCON is a generic federal fund placeholder. The State DOT normally covers the expenditures using their own funds until the final federal fund code is known and can be applied to the project. ADVCON is also stated as "AC" or ACPO in the STIP. In this case, the origin of the AC funds are fund exchanged federal Highway Infrastructure Program (HIP) funds between ODOT and Metro. When the final federal conversion code is known, a technical correction will occur to identify the specific programmatic federal fund code for the project
Equity B	Older federal Equity Bonus Special funds that date back to SAFETEA-LU and reflect adjusted apportionments of federal funds to the state DOTs
HSIP	Federal Highway Safety Improvement Program funds appropriated to the State DOT and applied to eligible safety related type improvement projects
NHS Minimum Guarantee	A specialized federal fund type within the National Highway System (NHS) funding program that ensures that each State receives a specific share of the aggregate funding for major highway programs, with every State guaranteed at least a 90.5 percent return on its percentage share of contributions to the Highway Account of the HTF and that no State receives less than \$1 million annually.
Local	General Local funds committed by the lead agency that normally cover the minimum match requirement to the federal funds
Other	Local or general state funds used above the required match to cover phase costs. Also referred to as "overmatch" funds for the project.
Redistribution	FHWA rescinds some funds from states that don't meet their annual obligation targets and redistributes them to other states as a bonus that don't meet their annual obligation targets. Redistribution funds reflect a portion of those funds Oregon received from other states by meeting Oregon's annual obligation targets
State	General state funds normally used by ODOT as the match to the required federal fund match requirement.
State STBG	Federal Surface Transportation Block Grant funds appropriated to the state DOT. The portion ODOT retains is subclassified as State STBG to differentiate it from STBG allocated to the MPOs.

STP, STP-U, or STBG-U	(Metro STBG) Federal Surface Transportation Block Grant funds appropriated to ODOT and with a portion allocated under a formula to the MPOs and then committed to eligible projects via a discretionary award process
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Statewide Transportation Improvement Program
Amendment Project Summary

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Key Number: 18758

2021-2024 STIP

Project Name: OR8: Canyon Rd pedestrian improvements

(DRAFT AMENDMENT PROJECT)

Fund Codes													
Phase	Fund Code	Description	ICA P	Percent of Phase	Total Amount	Federal Percent	Federal Amount	State Percent	State Amount	Local Percent	Local Amount		
PE	H240	STP STATE FLEXIBLE -		1.54%	36,645.50	89.73%	32,882.01	10.27%	3,763.49	0.00%	0.00		
	LZ20	EQUITY BONUS-SPECIAL		2.36%	56,106.27	89.73%	50,344.16	10.27%	5,762.11	0.00%	0.00		
	M03E	REDIST CERTAIN AUTH MAP-21 EXT		1.84%	43,883.17	89.73%	39,376.37	10.27%	4,506.80	0.00%	0.00		
	M040	FY15 REDISTRIBUTION OF FUNDS		4.05%	96,400.00	89.73%	86,499.72	10.27%	9,900.28	0.00%	0.00		
	Q760	MINIMUM GUARANTEE -		1.19%	28,365.05	89.73%	25,451.96	10.27%	2,913.09	0.00%	0.00		
	Z230	STP >200K		89.02%	2,120,960.01	89.73%	1,903,137.42	0.00%	0.00	10.27%	217,822.59		
	PE Totals				100.00%	2,382,360.00		2,137,691.64		26,845.77		217,822.59	
RW	S010	STATE		10.68%	30,000.00	0.00%	0.00	100.00%	30,000.00	0.00%	0.00		
	ZS30	HIGHWAY SAFETY IMP PROG FAST		89.32%	250,900.00	89.73%	225,132.57	10.27%	25,767.43	0.00%	0.00		
	RW Totals				100.00%	280,900.00		225,132.57		55,767.43		0.00	
CN	OTH0	OTHER THAN STATE OR		0.00%	0.00	0.00%	0.00	0.00%	0.00	0.00%	0.00		
	Z230	STP >200K		78.27%	2,200,997.00	89.73%	1,974,954.61	0.00%	0.00	10.27%	226,042.39		
	Z240	SURFACE TRANSP BLOCK GRTS-FLEX		21.73%	610,993.00	89.73%	548,244.02	10.27%	62,748.98	0.00%	0.00		
	CN Totals				100.00%	2,811,990.00		2,523,198.63		62,748.98		226,042.39	
Grand Totals							5,475,250.00		4,886,022.84		145,362.18		443,864.98

2016-18 RFFA project and program recommendations

Local projects						
Sub-region	Project	Lead agency	Focus area	Phase	RFF request	Total Project Cost
Washington County	Canyon Road Streetscape and Safety Project	Beaverton	AT/CS	CONS	\$3,535,000	\$3,939,579
	Fanno Creek Trail: Woodard Park to Bonita Road and 85 th Avenue to Tualatin River Bridge	Tigard	AT/CS	CONS	\$3,700,000	\$4,600,000
	Beaverton Creek Trail Crescent Connection: Westside Trail to SW Hocken Avenue	THPRD	AT/CS	PD	\$800,000	\$4,733,812
	Tonquin Road/Grahams Ferry Road Intersection	Washington County	GE/FI	CONS	\$2,132,000	\$3,352,154
	Pedestrian Arterial Crossings	Washington County	AT/CS	PD	\$636,000	\$3,979,350
	US 26/Brookwood Interchange – Industrial Access Project	Hillsboro	REOF	CONS	\$8,267,000	\$35,000,000

3.2 Resolution No. 23-5302, For the Purpose of Completing a HIP Fund Exchange with ODOT for Less Restrictive Federal Funds Allowing them to be Applied as Supplemental Funding Support to Seven Metro Regional Flexible Fund Allocation Funded Projects to Help Offset Inflation Cost Increase Impacts

Presenter(s): Ted Leybold (he/him), Metro
Ken Lobeck (he/him), Metro

Attachments: [Resolution 22-5302](#)
[Staff Report](#)

STAFF FUNDING RECOMMENDATIONS

The final staff project funding recommendations for the \$3,850,000 of HIP Exchange Supplemental funding are shown below. Proposed approval and implementation steps will then follow.

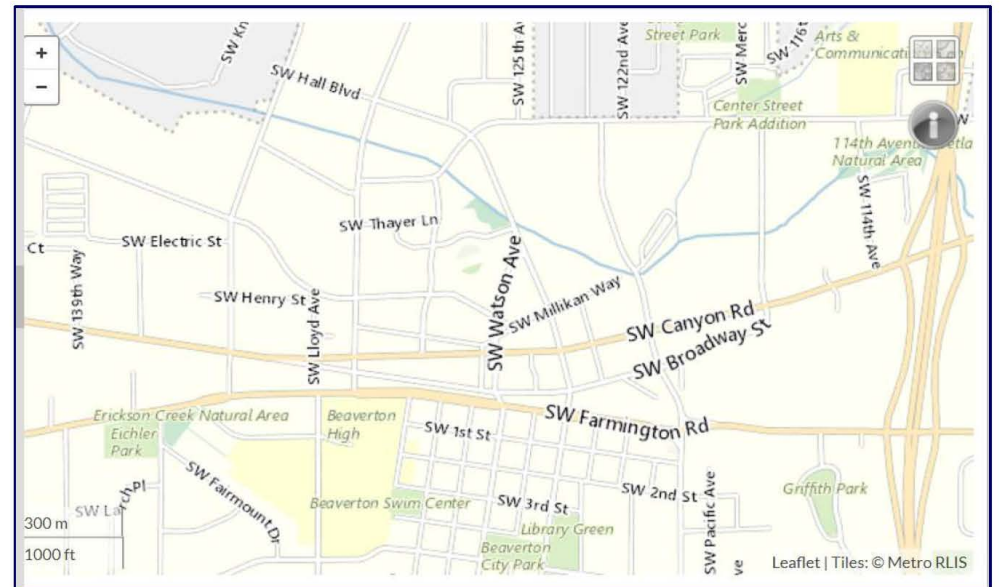
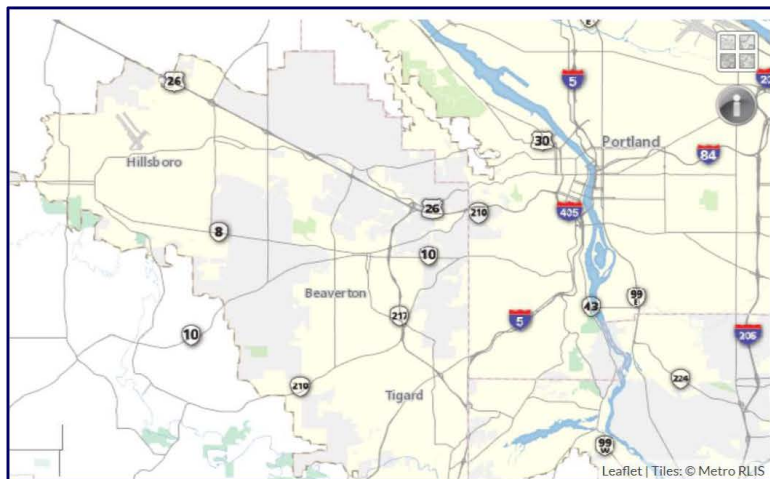
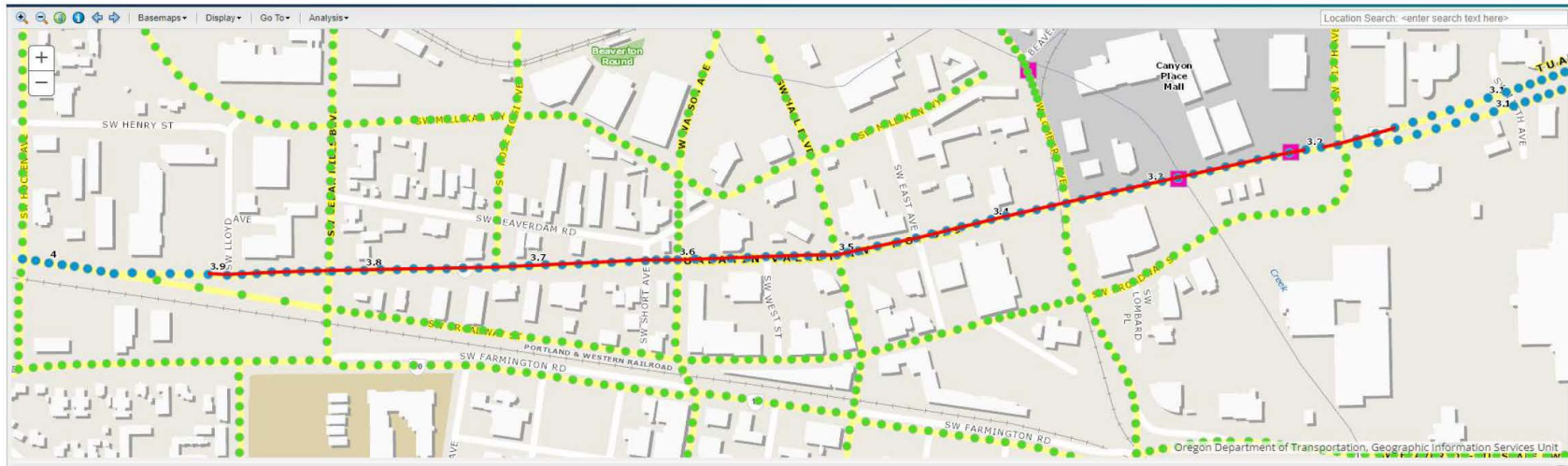
HIP Exchange Supplemental Federal Funding Recommendations					
Key	Lead Agency	Project Name	Project Description	Federal Funding Recommendation	Notes
Clackamas County					
19276	Clackamas County	Jennings Ave: OR 99E to Oatfield Rd	Construct sidewalk on the north side of the road and bike lanes on both sides of the road to provide safe bicycle and pedestrian facilities to connect residents with nearby schools, businesses, and transportation options. (2016-18 RFFA Award)	\$577,500	Add to the construction phase along with local match. Current cost estimate update indicates the construction phase is short by \$789,644.
Washington County					
19327	Tigard	Fanno Crk Trail: Woodard Pk to Bonita Rd/85th Ave - Tualatin BR	This project will construct four sections of the Fanno Creek Trail from Woodward Park to Bonita Road and 85th Avenue to Tualatin River Bridge in Tigard. (2016-18 RFFA Award)	\$695,605	Add funds plus required match to the construction phase in FFY 2023. Latest cost update indicates construction phase is still short of funding.
Split from 18758	ODOT & Beaverton	OR8: SW Hocken Ave - SW Short St	Design and construct streetscape elements focused on pedestrian safety and place making. (2016-18 RFFA Award)	\$325,948	Key 18758 is being split into two separate projects to avoid further delivery conflicts between ODOT's scope elements and Beaverton's.

K18758 OR8: SW Hocken Ave - SW Short St.

Proposed funding changes via CMR08 (CMR approved 1/9/23)

1/11/2023

CMR 08					STIP AMENDMENT			BOLD = funding being added					
Phase	Current STIP	Current FFY	Proposed STIP	Proposed FFY	Change	Existing Funding Commitment	Proposed Changes to Funding Commitment	Proposed New TIP Programming	Proposed STIP Programmin based on TIP				
PE	\$1,500,000.00	2015	\$2,382,360.00	N/C	\$882,360.00	\$261,400 ODOT FIX-IT funds \$1,238,600 Metro funds w/local match	(INCREASE BY \$882,360.) Add \$325,948 in new Metro HIP funding, Beaverton pays the \$37,306 match. (\$363,254) Add \$500,000 in Metro and match funds from RW Add <u>\$19,106</u> in ODOT funds from RW	• \$280,506 ODOT (\$261,400 + \$19,106) Fix-It Funds (need fund source and if federal, need fed/match break out) • \$1,560,046 U-STBG + \$178,554 match (Beaverton) (\$1,738,600 total) • \$325,948 HIP Exchange (fund type TBD) + \$37,306 match (Beaverton) (\$363,254 total)	Fix-it 2015	164,999.99	148,054.50/16,945.49 (\$)		
									UrbSTB 2017	1,238,600	1,111,396/127,204 (L)		
									Fix-it 2017	96,400	86,500/9,900 (S)		
									Fix-it 2023	19,106	17,143.81/1,962.19 (\$)		
RW	\$1,800,000.00	2020	\$280,900.00	2024	-\$1,519,100.00	\$1,300,000 ODOT FIX-IT funds (\$30,000 obligated) \$500,000 Metro funds w/local match	(DECREASE BY \$1,519,100) Move \$500,000 in Metro funds to PE. Remaining Metro contribution = \$0. Move <u>\$19,106</u> in ODOT funds to PE. Drop <u>\$999,994</u> from ODOT funds to the Region FP as savings.	• \$280,900 ODOT Fix-It Funds (need fund source and if federal, need fed/match break out)	Fix-it 2020	\$30,000	0/30,000 (\$)		
									Fix-it 2023	\$250,900	225,132.57/25,767.43 (\$)		
CN	\$7,901,395.09	2023	\$2,811,989.00	2025	-\$5,089,406.09	\$1,800,398 ODOT FIX-IT funds \$2,200,997 Metro funds w/local match \$3,900,000 Beaverton funds	(DECREASE BY \$5,089,406) Keep \$2,200,997 in Metro funds. Drop \$1,189,405 in ODOT funds back to Region FP as savings. Remaining ODOT contribution = \$610,993. Drop \$3,900,00 in Beaverton funds back to Beaverton. Remaining Beaverton contribution = \$0 (not including overmatch on Metro funds)	• \$1,974,954 U-STBG + \$226,042 match (Beaverton) (\$2,200,996 total) • \$610,993 ODOT funds (need fund source and if federal, need fed/match break out)	UrbSTB 2024	2,200,997	1,974,954.61/226,042.39 (L)		
									Fix-it 2024	610,993	548,244.02/62,748.98 (\$)		
Total	\$11,201,395.09		\$5,475,249.00		-\$5,726,146.09	\$11,201,395	\$5,475,249		\$			5,	



Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: March 16, 2023
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: March FFY 2023 MTIP Formal Amendment & Resolution 23-5319 Approval Request

FORMAL MTIP AMENDMENT STAFF REPORT

Amendment Purpose Statement

FOR THE PURPOSE OF AMENDING THE 2021-24 MTIP TO RE-SCOPE THE OR8/CANYON RD PROJECT TO REFLECT ONLY THE BEAVERTON PEDESTRIAN ENHANCEMENT PORTION ALLOWING IT TO MEET FEDERAL DELIVERY REQUIREMENTS

BACKGROUND

What This Is:

The March FFY 2023 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment bundle contains one project. Key 18758 currently is a combined ODOT street upgrade and Beaverton pedestrian enhancement project. The project is being re-scoped to reflect only the Beaverton pedestrian enhancement scope elements. The current MTIP programming is shown in the below table as the starting point to change the project.

Transportation tracker | Welcome Ken Lobeck (Admin) | [Logout](#) | [Glossary](#) | [Documentation](#)

home **admin** **RTP** **RFFA** **MTIP** **FUND**

[details](#) [costs](#) [programming](#) [map](#) [amendments](#) [obligations](#) [earmarks](#) [comments](#)

ODOT Key: 18758 | MTIP ID: 70757
OR8: SW Hocken Ave - SW Short St - Cycle 2021-26

Current Programming

phase	year	fund type	federal amount	minimum local match	other amount	total	hold from mtip
Preliminary engineering	2015		\$1,345,950	\$154,049	\$0	\$1,499,999	<input type="checkbox"/>
	2010	NHS	\$25,452	\$2,913	\$0	\$28,365	
	2015	STP	\$1,111,396	\$127,204	\$0	\$1,238,600	
	2014	State STP (M240)	\$32,882	\$3,763	\$0	\$36,645	
	2016	Equity B (LZ2E)	\$50,344	\$5,762	\$0	\$56,106	
	2015	Redistribution (Z030)	\$125,876	\$14,407	\$0	\$140,283	
Purchase right of way	2020		\$1,588,221	\$181,779	\$0	\$1,770,000	<input type="checkbox"/>
	2016	STP	\$448,650	\$51,350	\$0	\$500,000	
	2020	STBG - STATE	\$1,139,571	\$130,429	\$0	\$1,270,000	
Construction	2023		\$3,590,452	\$410,943	\$3,900,000	\$7,901,395	<input type="checkbox"/>
	2018	STP	\$1,974,955	\$226,042		\$2,200,997	
	2021	STBG - STATE	\$1,615,497	\$184,901	\$3,900,000	\$5,700,398	
Totals >>			\$6,524,623	\$746,771	\$3,900,000	\$11,171,394	

What is the requested action?

JPACT met on March 16, 2023 and approved Resolution 23-5319 and recommends Metro Council provide the final approval which will complete the re-scoping action to the OR8/Canyon Rd project in the MTIP and STIP.

A summary of the project and amendment actions are shown on the next pages.

March FFY 2023 Formal Transition Amendment Bundle Contents Amendment Type: Formal/Full Amendment #: MR23-07-MAR Total Number of Projects: 1				
Key Number & MTIP ID	Lead Agency	Project Name	Project Description	Amendment Action
(#1) ODOT Key # 18758 MTIP ID 70757	ODOT	OR8: SW Hocken Ave – SW Short St OR8: Canyon Rd Pedestrian Enhancements	Design and construct streetscape, safety, and operational improvements Construct streetscape, safety & operational enhancements of median islands and crosswalk stripping between SW 117th Ave & SW Lloyd St with new pedestrian crossing at Cedar Hills Blvd, & rapid flashing beacon at Rose Biggi Ave, for safer pedestrian access.	<u>SCOPE CHANGE:</u> Re-scope the project to reflect the Beaverton pedestrian enhancement portion as the primary project scope and adjust the construction phase to be in FFY 2024.

JPACT March 16, 2023 Meeting Summary:

The MTIP formal amendment was included on the JPACT Consent Agenda. JPACT moved the Consent Agenda and passed it unanimously without discussion which include the MTIP formal amendment in Resolution 23-5319.

TPAC March 3, 2023 Meeting Summary:

TPAC members received their notification of the amendment an overview of the project changes occurring. Ken Lobeck, Metro staff provided a short overview of Beaverton's Canyon Rd Streetscape upgrade projects from initial award through the combining action with ODOT's OR8 operational and safety upgrade projects to the final decision to separate the project from the ODOT projects. TPAC members asked for some added details about why this combining effort eventually failed and now requires re-scoping. Ted Leybold, Metro Resource Development Department Manager clarified that conflicts in delivery timing and additional costs emerged during the Preliminary Engineering phase that could not be resolved. As a result, it became necessary to slow-down the Beaverton scope elements and separate them from the ODOT OR8 planned improvements to allow ODOT's scope elements to continue moving forward. The re-scoping and separation effort now occurring allows the Beaverton scope elements more time to work through their final scope and cost estimates without delaying the ODOT safety and operation upgrades occurring on OR8. After this discussion, TPAC move staff's recommendation and unanimously voted to prove JPACT and approval recommendation for Resolution 23-5319.

AMENDMET SUMMARY

Project #1 Key 18758	OR8: SW Hocken Ave -- SW Short St OR8: Canyon Rd Pedestrian Enhancements (Scope Change) Lead Agency: ODOT
-------------------------------------	--

Project Description:~~Design and construct streetscape, safety, and operational improvements~~**Construct streetscape, safety & operational enhancements of median islands and crosswalk stripping between SW 117th Ave & SW Lloyd St with new pedestrian crossing at Cedar Hills Blvd, & rapid flashing beacon at Rose Biggi Ave, for safer pedestrian access.****Identifications/Key Consistency Check Areas:**

- Lead Agency: ODOT
- ODOT Key Number: **18758**
- MTIP ID#: 70757
- RTP ID: 11440
- Proof-of Funding/Fiscal Constraint Demonstrated: Yes. Support documents included
- Conformity Status: Exempt from air quality analysis and transportation demand modeling requirements
- OTC approval: Yes. Scheduled for March 9, 2023. See Attachment 1 for added details.
- Performance Measurements applicable: Yes – Safety
- Special Amendment Performance Assessment Required: No
- Were overall RTP Consistency checks achieved and satisfactory: Yes
- Can the required changes be made without issues: Yes

Description of Changes

The scope change separates the Beaverton Canyon Road Pedestrian Enhancements from its previous assimilation within the larger series of ODOT OR8 operational safety upgrade projects. Due to delivery challenges, Beaverton's portion is separated out as a stand-alone project to avoid further conflicts with the OR8 operational safety upgrade projects. The scope and funding for Key 18758 now reflects the planned Canyon Road Pedestrian Enhancements as part of Beaverton's planned streetscape upgrades.

Project History:

As part of the 2016-18 Regional Flexible Fund Allocation, Beaverton's Canyon Road Safety and Streetscape Enhancement project received a federal \$3,535,000 award.

2016-18 RFFA project and program recommendations						
Local projects						
Sub-region	Project	Lead agency	Focus area	Phase	RFF request	Total Project Cost
Washington County	Canyon Road Streetscape and Safety Project	Beaverton	AT/CS	CONS	\$3,535,000	\$3,939,579
	Panno Creek Trail: Woodard Park to Bonita Road and 85th Avenue to Tualatin River Bridge	Tigard	AT/CS	CONS	\$3,700,000	\$4,600,000
	Beaverton Creek Trail Crescent Connection: Westside Trail to SW Hocken Avenue	THPRD	AT/CS	PD	\$800,000	\$4,733,812
	Tonquin Road/Grahams Ferry Road Intersection	Washington County	GE/FI	CONS	\$2,132,000	\$3,352,154
	Pedestrian Arterial Crossings	Washington County	AT/CS	PD	\$636,000	\$3,979,350
	US 26/Brookwood Interchange - Industrial Access Project	Hillsboro	REOF	CONS	\$8,267,000	\$35,000,000

The RFFA award provided funding assistance for Beaverton's Phase 2 component that would support the engineering and construction of pedestrian safety enhancements in the area

bounded by to SW 117th Avenue to the east and SW Hocken Avenue to the west. Project elements included:

- Improvement of six (6) existing intersections with high-visibility paint, paving and bulb-outs
- Addition of a signalized intersection at Rose Biggi Ave & Canyon Road
- Installation of a mid-block pedestrian refuge & beacon at East Ave & Canyon Road
- Installation of a bike lane on the south side of Canyon from Hocken to Broadway
- Installation of a sidewalk on the south side of Canyon Road from Hocken Ave to Broadway St, and from Broadway St to Cedar Hills Blvd
- Installation of stormwater quality treatment on Canyon Road from Cedar Hills Blvd to Broadway St, including utility reconstruction & drainage
- Reconstruction of a bridge structure over Beaverton Creek to widen a currently substandard sidewalk

Element	Cost Estimate
Construct curb/gutter, sidewalk & curb ramps & bike lane striping	\$138,000
Utility removal/reconstruction	\$102,000
Stormwater swales & drainage system	\$447,000
Bridge reconstruction	\$110,000
Traffic signal at Rose Biggi Avenue	\$450,000
Pedestrian refuge island & beacons	\$100,000
Crosswalk markings, concrete treatments & turn improvements	\$301,000
Project elements subtotal (rounded)	\$1,648,000
Survey, design, admin. & contingency (rounded)	\$1,877,000
Total (rounded)	\$3,525,000

The estimate total project cost at the time of the RFFA award was approximately \$3.9 million..

Around the same time, ODOT was developing their operational safety upgrade projects along OR8. These projects would provide various operational and safety upgrades for motorists and pedestrians along various locations of OR8. The projects included:

- Canyon Road Improvements: SW 110th Avenue to SW 192 Avenue
- OR 8 at River Road Safety Project
- OR 8 Safety Improvements at SE 44th/45th Avenue
- OR 8 Safety Improvements at OR 219



Since there appeared to be clear overlap between Beaverton Canyon Rd Streetscape enhancements project and the ODOT operational safety upgrade projects, Beaverton and ODOT agreed to merge the Canyon Rd project into their operational safety projects. The intent was to provide enhanced delivery abilities and better leverage project costs.

However, complications arose with the planned project merger concerning the available funding and scope elements. Unfortunately, the complications could not be resolved. This resulting in the current re-scoping amendment now occurring to separate Beaverton's Canyon Road pedestrian streetscape enhancement project from the ODOT operational safety upgrade projects.

Beaverton's Canyon Road Streetscape Project is designed to enhance the existing streetscape by creating a sense of place with trees, sidewalks, center medians and a new crosswalk. The new streetscape will increase pedestrian connectivity between the Creekside District and Old Town in Central Beaverton. It will also improve highway safety, signal operations, and access to transit on Canyon Road. ODOT will remain lead agency to delivery the project for Beaverton.



The proposed project elements include the following:

- Improve accessible sidewalk curb ramps.
- Add a crosswalk and a flashing beacon on Canyon Road at Rose Biggi Avenue. A flashing beacon is a pedestrian-activated flashing light at a marked crosswalk to help alert motorists that a pedestrian is crossing the street.
- Add a landscaped center median on Canyon Road between Short Street and Cedar Hills Boulevard.
- Upgrade the traffic signals and lighting in the project area.
- Rebuild driveways and evaluate business access within the project area for safety and compatibility with project design.
- The updated estimated total project cost is now \$5,475,250.

Funding in support of the revised project includes a combination of Metro RFFA, ODOT managed funds, a HIP Exchange Funding award from Metro, and local funds from Beaverton. The

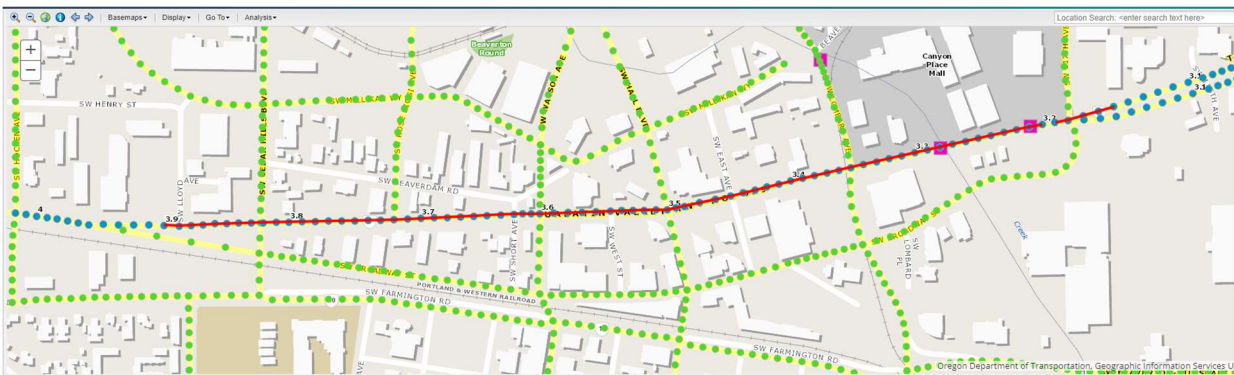
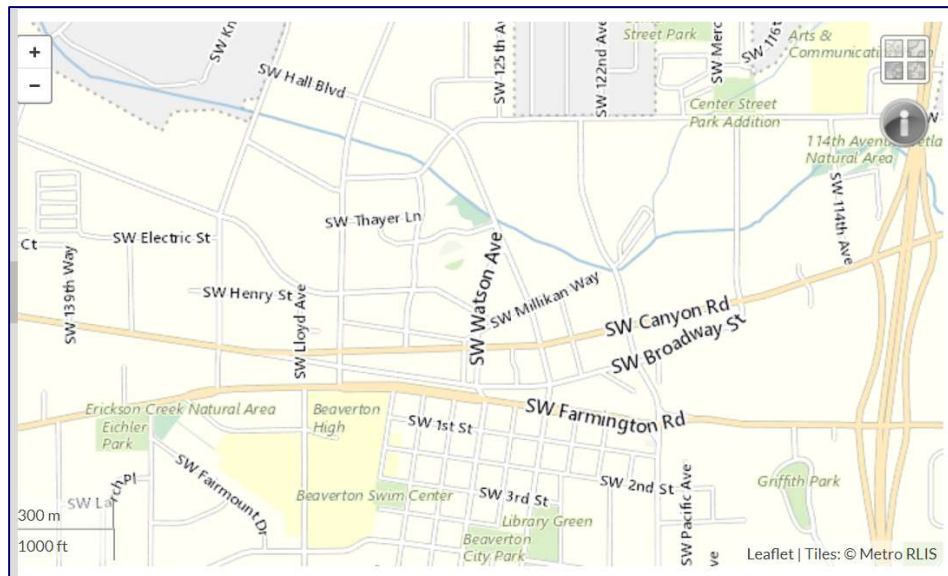
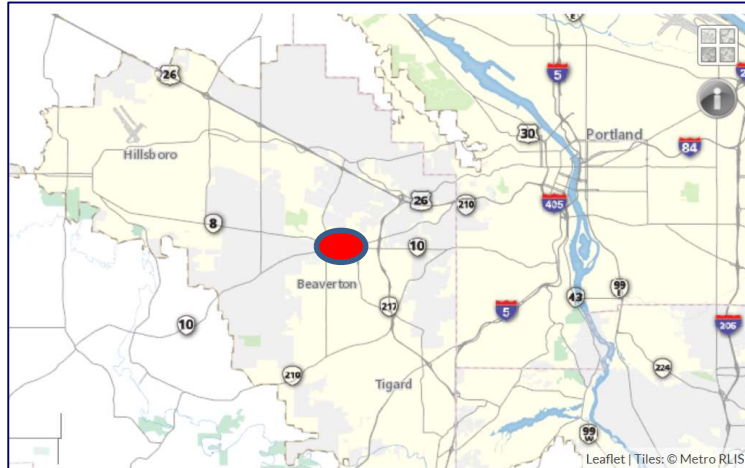
Key 18758 - OR8/Canyon Road Pedestrian Enhancements Revised Funding Composition

Fund Type Code	Source	Federal	State (Match)	Local (Match/Overmatch)	Total
State STP	ODOT	\$581,126	\$66,513	\$0	\$647,639
Equity B	ODOT	\$50,344	\$5,762	\$0	\$56,106
NHS	ODOT	\$25,452	\$2,913	\$0	\$28,365
Redistribution	ODOT	\$125,876	\$14,407	\$0	\$140,283
HSIP	ODOT	\$225,133	\$25,767	\$0	\$250,900
State	ODOT	\$0	\$30,000	\$0	\$30,000
STBG-U	Metro	\$3,535,000	\$0	\$404,596	\$3,939,596
ADVCON (HIP Fund Exchange)	Metro	\$325,948	\$0	\$37,306	\$363,254
Other	Beaverton	\$0	\$0	\$19,107	\$19,107
Totals:		\$4,868,879	\$145,362	\$461,009	\$5,475,250

ODOT Contribution: \$1,153,293 (= 21.1%)

Metro Contribution: \$3,860,948 (= 70.5%)

Beaverton Contribution: \$461,009 (= 8.4%)

Support Item(s):**Project Location Map****Additional Support Items****HIP Fund Exchange Award Confirmation**

- 3.2 Resolution No. 23-5302, For the Purpose of Completing a HIP Fund Exchange with ODOT for Less Restrictive Federal Funds Allowing them to be Applied as Supplemental Funding Support to Seven Metro Regional Flexible Fund Allocation Funded Projects to Help Offset Inflation Cost Increase Impacts

Presenter(s): Ted Leybold (he/him), Metro
Ken Lobeck (he/him), Metro

Attachments: [Resolution 22-5302](#)
[Staff Report](#)

STAFF FUNDING RECOMMENDATIONS

The final staff project funding recommendations for the \$3,850,000 of HIP Exchange Supplemental funding are shown below. Proposed approval and implementation steps will then follow.

HIP Exchange Supplemental Federal Funding Recommendations					
Key	Lead Agency	Project Name	Project Description	Federal Funding Recommendation	Notes
Clackamas County					
19276	Clackamas County	Jennings Ave: OR 99E to Oatfield Rd	Construct sidewalk on the north side of the road and bike lanes on both sides of the road to provide safe bicycle and pedestrian facilities to connect residents with nearby schools, businesses, and transportation options. (2016-18 RFFA Award)	\$577,500	Add to the construction phase along with local match. Current cost estimate update indicates the construction phase is short by \$789,644.
Washington County					
19327	Tigard	Fanno Crk Trail: Woodard Pk to Bonita Rd/85th Ave - Tualatin BR	This project will construct four sections of the Fanno Creek Trail from Woodward Park to Bonita Road and 85th Avenue to Tualatin River Bridge in Tigard. (2016-18 RFFA Award)	\$695,605	Add funds plus required match to the construction phase in FFY 2023. Latest cost update indicates construction phase is still short of funding.
Split from 18758	ODOT & Beaverton	OR8: SW Hocken Ave - SW Short St	Design and construct streetscape elements focused on pedestrian safety and place making. (2016-18 RFFA Award)	\$325,948	Key 18758 is being split into two separate projects to avoid further delivery conflicts between ODOT's scope elements and Beaverton's.

METRO REQUIRED PROJECT AMENDMENT REVIEWS

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The programming factors include:

- Verification and eligible to be programmed in the MTIP.
- Passes fiscal constraint verification.
- Passes the RTP consistency review. Identified in the current approved constrained RTP either as a stand-alone project or in an approved project grouping bucket
- Consistent with RTP project costs when compared with programming amounts in the MTIP
- If a capacity enhancing project, the project is identified in the approved Metro modeling network and has completed required air conformity analysis and transportation demand modeling

- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP.
- If not directly identified in the RTP's constrained project list, the project is verified to be part of the MPO's annual Unified Planning Work Program (UPWP) if federally funded and a regionally significant planning study that addresses RTP goals and strategies and/or will contribute or impact RTP performance measure targets.
- Determined the project is eligible to be added to the MTIP, or can be legally amended as required without violating provisions of 23 CFR450.300-338 either as a formal Amendment or administrative modification:
- Does not violate supplemental directive guidance from FHWA/FTA's approved Amendment Matrix.
- Reviewed and determined that Performance Measurements will or will not apply.
- Completion of the required 30-day Public Notification/Opportunity to Comment period:
- Meets MPO responsibility actions including project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.

APPROVAL STEPS AND TIMING

Metro's approval process for formal amendment includes multiple steps. The required approvals for the March FFY 2023 Formal MTIP amendment (MR23-07-MAR) will include the following:

<u>Action</u>	<u>Target Date</u>
• TPAC Agenda mail-out.....	February 24, 2023
• Initiate the required 30-day public notification process.....	February 28, 2023
• TPAC notification and approval recommendation.....	March 3, 2023
• JPACT approval and recommendation to Council.....	March 16, 2023
• Completion of public notification process.....	March 28, 2023
• Metro Council approval.....	April 6, 2023

Notes:

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

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

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

<u>Action</u>	<u>Target Date</u>
• Final amendment package submission to ODOT & USDOT.....	April 12, 2023
• USDOT clarification and final amendment approval.....	Mid to Late May 2023

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.

2. **Legal Antecedents:**

- Amends the 2021-24 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5110 on July 23, 2020 (FOR THE PURPOSE OF ADOPTING THE 2021-2024 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA).
- Oregon Governor approval of the 2021-24 MTIP: July 23, 2020

- c. 2021-2024 Statewide Transportation Improvement Program (STIP) Approval and 2021 Federal Planning Finding: September 30, 2020
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds, or obtain the next required federal approval step as part of the federal transportation delivery process.
4. **Metro Budget Impacts:** None. The Metro funds are prior awarded funds from the 2016-18 RFFA Step 2 project funding call and are separate from the Metro annual budget.

RECOMMENDED ACTION:

JPACT met on March 16, 2023 and approved Resolution 23-5319 and recommends Metro Council provide the final approval which will complete the re-scoping action to the OR8/Canyon Rd project in the MTIP and STIP.

1 Attachment: OTC Staff Report Item - OR8: SW Hocken Ave- SW Short St project renaming and funding adjustment



Oregon

Tina Kotek, Governor

Oregon Transportation Commission

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

DATE: February 27, 2023

TO: Oregon Transportation Commission

FROM: Kristopher W. Strickler
Director

SUBJECT: **Consent Item 09** – Amend the 2021-2024 Statewide Transportation Improvement Program (STIP) to re-name OR8: SW Hocken Ave- SW Short St project and decrease project funding due to revised project scope.

Requested Action:

Amend the 2021-2024 Statewide Transportation Improvement Program (STIP) to re-name *OR8: SW Hocken Ave - SW Short St* project to *OR8: Canyon Rd pedestrian improvements* project and decrease funding for *OR8: Canyon Rd pedestrian improvements* project.

Approve amending the 2021-2024 Statewide Transportation Improvement Program (STIP) to decrease project funding for the *OR8: Canyon Rd pedestrian improvements* project from \$11,201,395 to \$5,475,250 for a total decrease of \$5,726,145, mostly made up of fix-it Region 1 program and local funds.

Project to decrease funding:

OR8: Canyon Rd pedestrian improvements (K18758)			
PHASE	YEAR	COST	
		Current	Proposed
Preliminary Engineering	2015	\$1,500,000	\$2,382,360
Right of Way	2020	\$1,800,000	\$280,900
Construction	2024	\$7,901,395	\$2,811,990
TOTAL		\$11,201,395	\$5,475,250

Background:

The purpose of the *OR8: Canyon Rd pedestrian improvements* project (K18758) is to design and construct streetscape, safety, and operational improvements on SW Canyon Rd in Beaverton between SW 117th Ave and SW Lloyd St. The project will improve signal safety and access for pedestrians, including streetscape enhancements.

A previous design concept was developed jointly by ODOT and the city of Beaverton that included sidewalk widening, traffic signal replacements, minor highway realignment, landscaped medians, and an enhanced pedestrian crossing signal. Design for this concept was completed to approximately 75%

by 2021. This concept was ultimately rejected by a new City Council and Metro leadership due to exceeding the available construction funding while not sufficiently addressing the core objective of pedestrian safety and access. In 2022, ODOT, Beaverton, and Metro worked together to develop a more focused project scope that was acceptable to all partners. This revised scope will make improvements to enhance the pedestrian experience, including safety and access, in Beaverton's central business district. These improvements are consistent with the long-term goals of all three agencies for this corridor. Specifically, the revised project scope includes an enhanced pedestrian crossing signal at the SW Rose Biggi Ave intersection, a landscaped median on SW Canyon Rd, and other targeted pedestrian access improvements.

The significance of the scope and funding changes is best conveyed by changing the project name from *OR8: SW Hocken Ave - SW Short St* to *OR8: Canyon Rd pedestrian improvements*.

Increasing the Preliminary Engineering phase will allow ODOT to complete the design for the revised project scope. Decreasing the Right of Way and Construction phases will allow funds to be transferred to other phases and leave sufficient funding to complete the reduced project scope and return \$3.9m to local funding partners and \$2,189,399 to the Region 1 Fix-it financial plan to address shortfalls on safety and preservation projects within Region 1.

Outcomes:

With approval, ODOT will proceed to increase the PE phase by \$882,360 to complete the design. ODOT also will reduce the Right of Way phase by \$1,519,100 and reduce the Construction phase by \$5,089,405. ODOT will also change the project name from *OR8: SW Hocken Ave - SW Short St* to *OR8: Canyon Rd pedestrian improvements*.

Without approval, ODOT will place the Preliminary Engineering phase on hold until sufficient funding for design is secured and our partners agree to the expanded scope.

Attachments:

- Attachment 1 – Vicinity and Location Maps

K18758 OR-8: CANYON RD PEDESTRIAN IMPROVEMENTS

PROJECT LOCATION



REGION



COUNTY



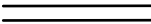
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INTERSTATE



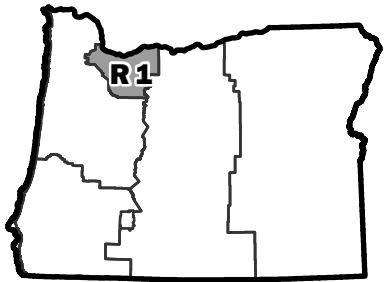
STATE ROAD



LOCAL ROAD

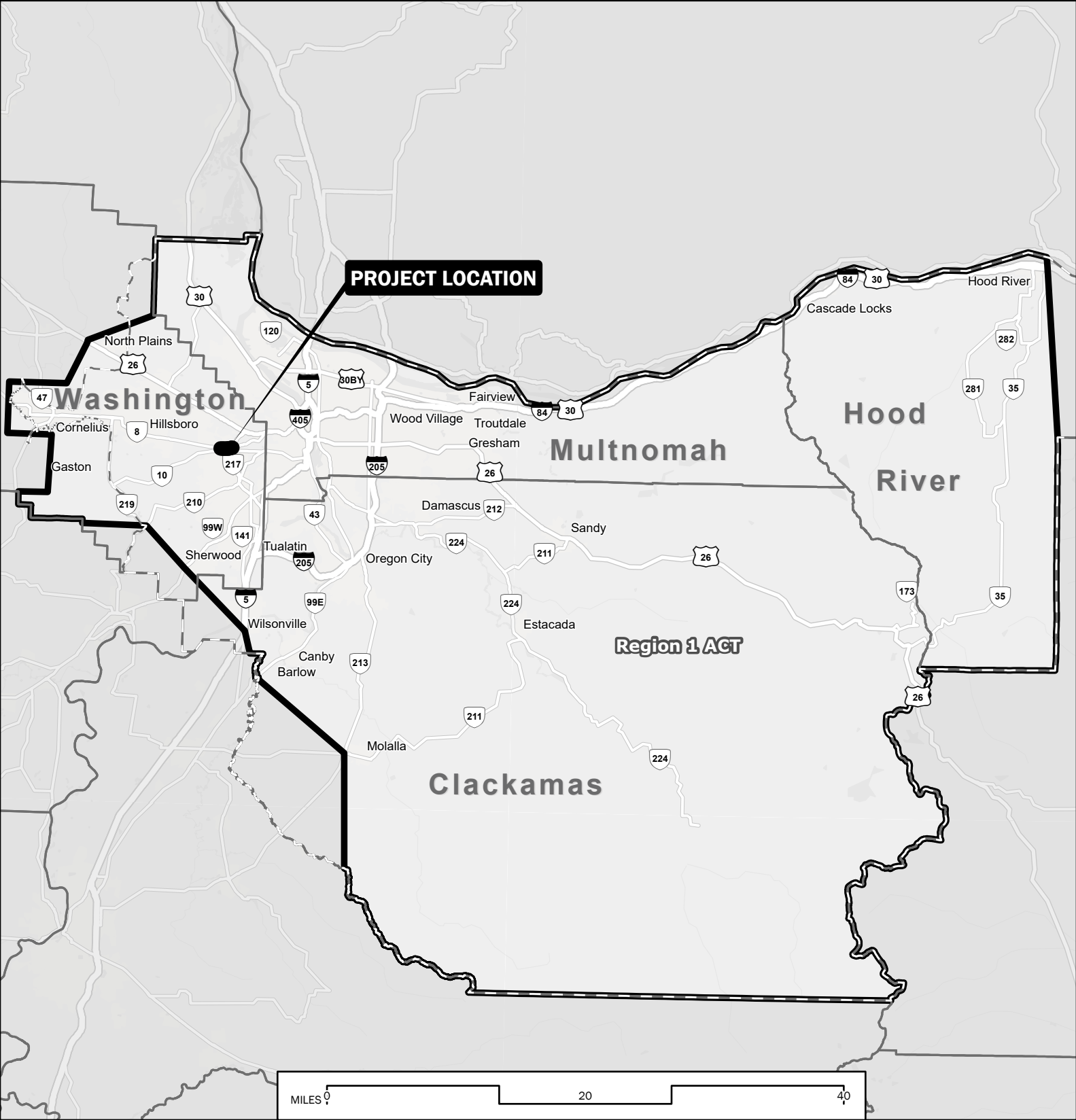


RAILROAD



DATE: 1/26/2023
PROJECT NO. 23-52
ODOT | GIS UNIT

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STIP PROJECT LOCATION

K18758 OR-8: CANYON RD PEDESTRIAN IMPROVEMENTS

PROJECT LOCATION



REGION



COUNTY



ACT



INTERSTATE



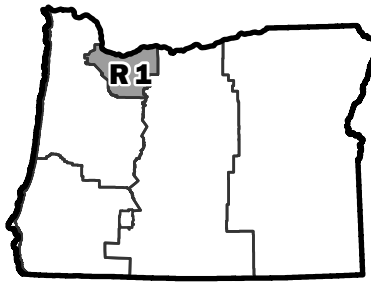
STATE ROAD



LOCAL ROAD

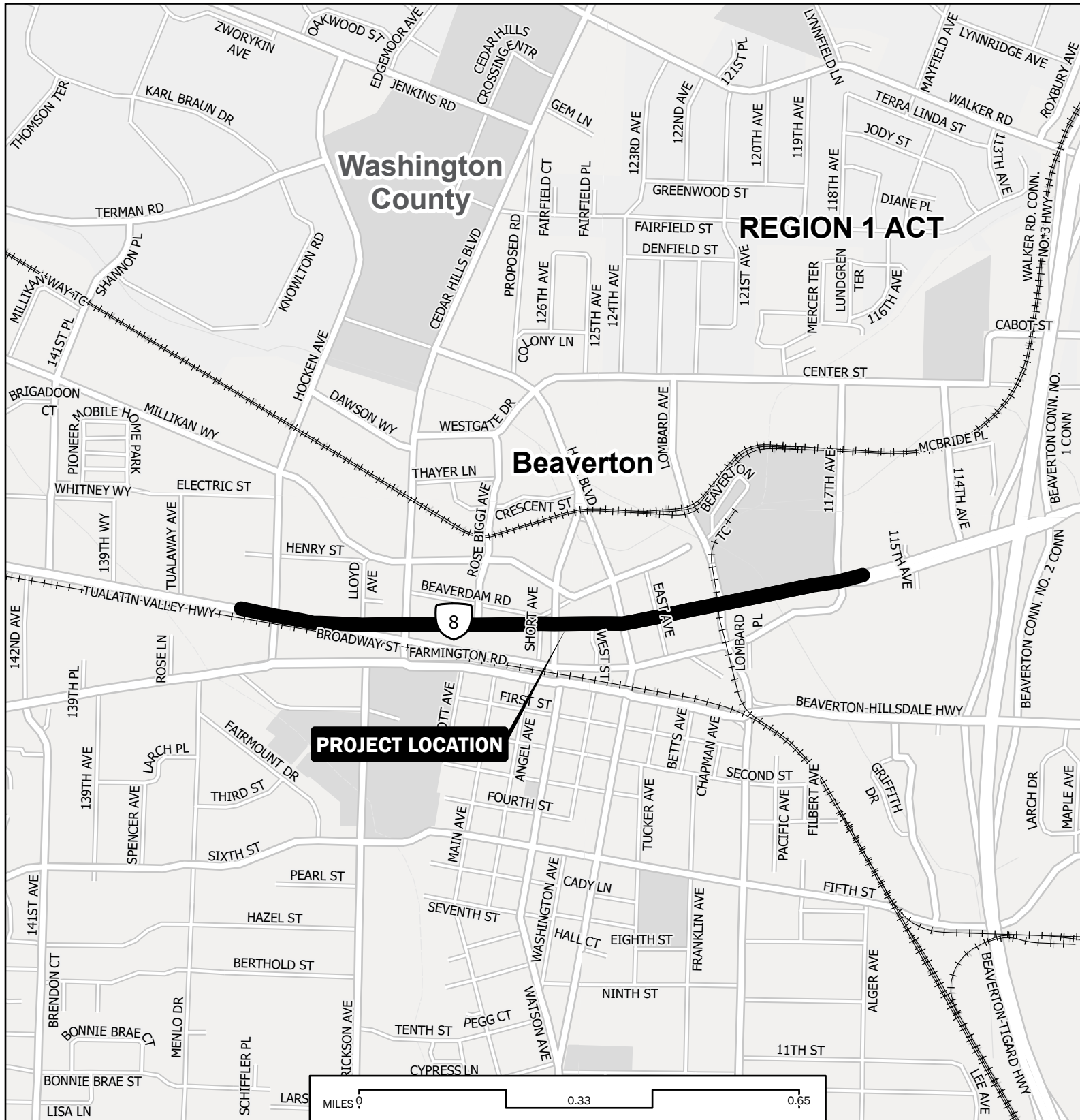


RAILROAD



DATE: 1/26/2023
PROJECT NO. 23-52
ODOT | GIS UNIT

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**Resolution No. 23-5324, For the Purpose of Appointing Mindy Stadtlander to the
Supportive Housing Services Tri-County Planning Body (TCPB)**
Consent Agenda

Metro Council Meeting
Thursday, April 6th, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING MINDY	)	RESOLUTION NO. 23-5324
STADTLANDER TO THE SUPPORTIVE)	
HOUSING SERVICES TRI-COUNTY	)	Introduced by Chief Operating Officer
PLANNING BODY (TCPB)	)	Marissa Madrigal in concurrence with
	)	Council President Lynn Peterson

WHEREAS, on February 25, 2020, the Metro Council referred to the Metro area voters a personal and business income tax for the purposes of funding Supportive Housing Services in the Metro region (the “Supportive Housing Services Measure”); and

WHEREAS, on May 19, 2020, the Metro Area voters approved the Supportive Housing Services Measure; and

WHEREAS, in December 2020, Ordinance No. 20-1452 added a new Title XI, Chapter 11.01 to the Metro Code, which established the Supportive Housing Services Program; and

WHEREAS, Metro Code Section 11.01.170 establishes a Tri-County Planning Body (TCPB) to strengthen regional coordination to implement the Supportive Housing Services Program; and

WHEREAS, responsibilities of the TCPB include, but are not limited to, developing a regional plan that includes regional strategies to address homelessness, approving and monitoring regional investments from the Regional Investment Fund and providing guidance on operationalizing SHS values on a regional scale; and

WHEREAS, on May 5, 2022, the Metro Council adopted Resolution No. 22-5267, which adopted the TCPB Charter, and

WHEREAS, the TCPB Charter sets out requirements for membership and requires Metro to lead a recruitment process to identify members, in collaboration with the TCPB Jurisdictional Leadership Team (also established by the Charter); and;

WHEREAS, the TCPB Charter established that the TCPB would be composed of 17 voting members, four of whom are elected representatives, with one each from the Clackamas, Multnomah and Washington County Board of Commissioners and the Metro Council; and

WHEREAS, on May 5, 2022, the Metro Council adopted Resolution No. 22-5264, appointing the first 13 members to the Tri-County Planning Body; and

WHEREAS, a vacancy on the TCPB currently exists due to the resignation of a member whose term had not yet ended; and

WHEREAS, Mindy Stadtlander has the qualifications and professional experience necessary to contribute to the work of the TCPB and fulfill the current vacancy; now therefore,

BE IT RESOLVED that the Metro Council appoints Mindy Stadtlander to the Tri-County Planning Body for a term beginning on April 6, 2023, and ending on May 4, 2024, with eligibility to serve two additional two-year terms when this current term ends.

ADOPTED by the Metro Council this 6th day of April 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NO. 23-5324 FOR THE PURPOSE OF
APPOINTING MINDY STADTLANDER TO THE SUPPORTIVE HOUSING SERVICES
TRI-COUNTY PLANNING BODY (TCPB)

Date: March 29, 2023
Department: Housing
Meeting Date: April 6, 2023

Presenter(s): Liam Frost

ISSUE STATEMENT

In May 2020, voters in greater Portland approved the Supportive Housing Services ballot measure (26-210) to generate revenue to fund for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness. Community members and leaders from around the region developed the measure, recognizing that individuals and families need support to find and stay in their homes.

As part of the ballot measure's intent to increase regional coordination to address homelessness, the measure requires the creation of a "Tri County Planning Body" (TCPB). The TCPB is charged with developing a regional plan, providing direction on policy, and directing five percent of ballot measure revenue towards regional coordination.

The TCPB charter development, member recruitment and member selection process was conducted by Metro, Clackamas, Multnomah and Washington county staff in a collaborative effort. The charter requires the committee to be comprised of seventeen members, including an elected official from each of the counties and Metro.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

When the original slate of candidates was first developed for the TCPB, James Schroeder was included due to his role as CEO at Health Share and his expertise in the topic of the Medicaid Waiver. When Governor Tina Kotek assumed office in January, 2023, she selected James Schroeder as Interim Director of the Oregon Health Authority, at which point he informed Metro staff that he could no longer commit to the TCPB. In James' absence at Health Share, Mindy Stadlander was selected as Interim CEO. Prior to assuming this role, Mindy served as Health Share Chief Operating Officer. Before joining Health Share, she spent nearly a decade at CareOregon in a variety of roles — including directing Medicaid strategy for the Portland Metro Region and leading the Provider Network. She has worked in and around the safety net in primary care innovation, quality improvement, and data analysis since 2004. Mindy received her MPH in Epidemiology with a Certificate in Program Evaluation from the University of Pittsburgh. The three counties and Metro staff are agreed that Mindy would provide valuable insight to the work of the TCPB.

BACKGROUND

Metro staff recommends that Metro Council approve Mindy Stadtlander's appointment to the TCPB.

ATTACHMENTS

- Tri County Planning Body Charter

Tri-County Planning Body Charter

BACKGROUND

In May 2020, voters in Multnomah, Clackamas, and Washington counties approved the [Metro Supportive Housing Services Measure 26-210 \(the Measure\)](#). Through the passage of this measure, Metro's new Supportive Housing Services (SHS) Program will aim to reduce rates of chronic and short-term homelessness and address racial disparities within the homelessness service continuum across the Tri-County region.

This program brings a groundbreaking level of regional coordination and scale to address this region wide challenge. Multnomah, Clackamas and Washington Counties developed local implementation plans (Plans) which are high level framework documents. Plans were developed through inclusive engagement that centered people with lived experience of homelessness and BIPOC communities, were informed by engagement with community and local practitioners, incorporated an analysis of local conditions and needs, and included an equity analysis to create the framework for programmatic strategies and investments. Plans were endorsed by local advisory bodies, boards of county commissioners, the SHS Regional Oversight Committee and approved by Metro Council.

The local implementation plans support a local response specific to the needs of each county. The Measure also contemplated a regional dimension of the SHS program and incorporated the Tri-County Planning Body (TCPB) to strengthen coordination and alignment of program implementation across the Metro region. The purpose of the TCPB is not to supplant the community-centered work that informed the Plans, but rather to strengthen the effectiveness of the Plans by helping the counties regionalize the appropriate aspects of the SHS program.

SHS GUIDING PRINCIPLES

Metro's adopted SHS Work Plan incorporates values developed by the SHS stakeholder advisory committee. The following values outlined in the SHS Work Plan are incorporated into all local implementation plans and guide the program implementation at all levels:

- Strive toward stable housing for all
- Lead with racial equity and work toward racial justice
- Fund proven solutions
- Leverage existing capacity and resources
- Innovate: evolve systems to improve
- Demonstrate outcomes and impact with stable housing solutions
- Ensure transparent oversight and accountability
- Center people with lived experience, meet them where they are, and support their self-determination and well-being
- Embrace regionalism: with shared learning and collaboration to support systems coordination and integration
- Lift up local experience: lead with the expertise of local agencies and community organizations addressing homelessness and housing insecurity

TRI-COUNTY PLANNING BODY PURPOSE AND AUTHORITY

The Measure recognized the regional nature of the SHS program and called for the creation of a Tri-County Planning Body *responsible for developing and implementing a tri-county initiative that will be responsible for identifying regional goals, strategies, and outcome metrics related to addressing homelessness in the region*. The TCPB will be created and supported administratively by Metro. The TCPB's regional plan and ongoing role will be to guide the investments of the Regional Investment Fund (RIF) to support the counties and Metro in achieving SHS program alignment, coordination and outcomes at a regional level. To the extent aligned with the counties Plans, this may include supporting

- *Regional capacity*: strategies to strengthen regional supportive housing capacity, including but not limited to, supporting the development and implementation of a regional model of long-term rental assistance program, aligning SHS resources with the regional affordable housing bond and other sources, and expanding system capacity for culturally specific housing and services;

- *Systems alignment*: strategies to coordinate and integrate housing and homeless service systems, as well as other systems serving people experiencing homelessness, including the healthcare, education, workforce and criminal justice systems;
- *Standards and metrics*: establishing systems to collect, report on and evaluate data at the regional level that demonstrates progress toward regional goals and metrics, the impact of specific program types, regional system indicators to measure changes in the population experiencing homelessness, consistency in program evaluation standards and procedures, standards for culturally responsive services, and standardized data definitions, data collection methods and quality control.

Additionally, the SHS Work Plan incorporated the following regional goals and outcomes. These goals are reflected in LIP's and will be incorporated into the Regional Plan to support implementation and coordination at a regional scale:

A. Housing stability Measurable goals:

- Housing equity is advanced by providing access to services and housing for Black, Indigenous and people of color at greater rates than Black, Indigenous and people of color experiencing homelessness
- Housing equity is advanced with housing stability outcomes (retention rates) for Black, Indigenous and people of color that are equal or better than housing stability outcomes for non-Hispanic whites
- The disparate rate of Black, Indigenous and people of color experiencing chronic homelessness is significantly reduced

Outcome metrics:

- Number of supportive housing units created and total capacity, compared to households in need of supportive housing. This will measure change in supportive housing system capacity and need over time
- Number of households experiencing housing instability or homelessness compared to households placed into stable housing each year. This will measure programmatic inflow and outflow

- Number of housing placements and homelessness preventions, by housing intervention type (e.g. supportive housing, rapid rehousing) and priority population type. This will measure people being served
- Housing retention rates. This will measure if housing stability is achieved with supportive housing
- 'Length of homelessness' and 'returns to homelessness'. These will measure how effectively the system is meeting the need over time
- Funds and services leveraged through coordination with capital investments and other service systems such as healthcare, employment and criminal justice. This will measure leveraged impact of funding in each county.

B. Equitable service delivery

Measurable goals:

- Increase culturally specific organization capacity with increased investments and expanded organizational reach for culturally specific organizations and programs
- All supportive housing services providers work to build anti-racist, gender-affirming systems with regionally established, culturally responsive policies, standards and technical assistance.

Outcome metrics:

- Scale of investments made through culturally specific service providers to measure increased capacity over time
- Rates of pay for direct service roles and distribution of pay from lowest to highest paid staff by agency to measure equitable pay and livable wages
- Diversity of staff by race, ethnicity, sexual orientation, gender identity, disability status and lived experience.

C. Engagement and decision-making

Measurable goals

- Black, Indigenous and people of color are overrepresented on all decision-making and advisory bodies

- Black, Indigenous and people of color and people with lived experience are engaged disproportionately to inform program design and decision making

Outcome metrics:

- Percent of all advisory and oversight committee members who identify as Black, Indigenous and people of color or as having lived experience of housing instability or homelessness.

TCPB RESPONSIBILITIES

1. Develop a Regional Plan for approval by the Regional Oversight Committee that incorporates regional strategies, metrics, and goals as identified in Metro SHS Workplan and the counties' Local Implementation Plans.
2. Review proposals from the counties that outline programmatic strategies and financial investments from within the Regional Investment Fund that advance regional goals, strategies and outcome metrics
3. Provide guidance and recommendations to the counties on the implementation of strategies to achieve regional goals and outcomes
4. Approve and monitor financial investments by the County Local Implementation Partner from the Regional Investment Fund
5. Provide guidance on the operationalization of SHS values at the regional level
6. Monitor and provide guidance on the implementation of the Regional Plan

COMMITTEE MEMBERSHIP

The TCPB consists of 17 members. Consistent with the SHS measure, section 6(4), membership shall represent the following perspectives (the use of the plural does not mean that more than one person representing each perspective must be on the committee, and one individual may represent multiple perspectives):

- People with lived experience of homelessness and/or extreme poverty
- People from Black, Indigenous and people of color and other marginalized communities
- Culturally responsive and culturally specific service providers

- Elected officials, or their representatives, from the counties and cities participating in the regional affordable housing bond.
- Representatives from the business, faith and philanthropic sectors
- Representatives of county/city agencies responsible for implementing housing and homelessness services, and that routinely engage with unsheltered people
- Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use from culturally responsive and culturally specific service providers
- Representation ensuring geographic diversity

ESTABLISHING AND MANAGING MEMBERSHIP:

Metro staff will lead a recruitment process for TCPB membership. County staff will review applications and recommend candidates in collaboration with Metro staff to submit a final list of candidates for approval. Metro Council will appoint and codify the committee.

This process will be replicated in the recruitment, selection and appointment of future members.

TERMS OF SERVICE

Eight of the initial committee members will be appointed to serve a one-year term and may be reappointed to serve up to two additional two-year terms. Nine committee members will be appointed to serve two-year terms and may be reappointed to serve up to two additional two-year terms. The committee will be dissolved in 2031 or upon the issuance of a final report by the committee after all funds authorized by Ballot Measure 26-210 have been spent, whichever is earlier.

EXPECTATIONS OF MEMBERSHIP

- TCPB meetings will take place on a monthly basis through June 30, 2023. Starting July 1, 2023, the meeting schedule will be revisited and adjusted as necessary on an annual basis.

- Regular attendance is required. Members may miss up to two meetings in each fiscal year. A member may be removed from the TCPB if a third meeting is missed within a fiscal year.
- Members are expected to apply SHS values in their participation on the TCPB.

CHAIRPERSON(S) ROLE

Chairperson(s) to support and provide guidance on content and ideas to meet the committee goals, support decision making procedures, and help develop agendas and the work program of the committee. Chairperson(s) will not be an elected official or staff person from the Counties.

ELECTED MEMBERS

Jurisdictional elected members of the TCPB will participate as a general member, and transfer knowledge and communication directly to their respective jurisdictions. One representative from each of the following jurisdictions will serve on the committee as voting members:

- Metro Council
- Clackamas County Board of Commissioners
- Multnomah County Board of Commissioners
- Washington County Board of Commissioners

TCPB JURISDICTIONAL LEADERSHIP TEAM

The jurisdictional leadership team (JLT) will be composed of staff from of the Counties and Metro. Membership includes but is not limited to:

- Program staff
- Elected official staff or government relations (as needed)
- Legal staff (as needed)
- Finance staff (as needed)

JLT Responsibilities include:

- Develop the content for agendas and meeting materials in collaboration with co-chairs
- Respond to direction and guidance provided by the TCPB
- Lead the development of policies and strategies to advance regional coordination for consideration by TCPB
- Participate in subcommittees as necessary
- Act as liaison to jurisdictional leadership
- Provide leadership and stewardship on the implementation of the Regional Plan

METRO COUNCIL AND STAFF ROLE

- Metro staff will provide ongoing staffing, facilitation, and logistical support to convene the TCPB and support its planning and coordination efforts.
- Metro staff will convene and participate in the JLT meetings
- Metro staff will provide implementation and fiscal updates to the Regional Oversight Committee and Metro Council as part of the quarterly reporting process
- Metro Council will appoint the TCPB membership
- Metro Council will provide oversight and accountability to assure consistency between implementation and the Tri-County Plan.
- Metro Council will approve the TCPB charter and any future amendments

COUNTY BOARD AND STAFF ROLE

County/Local Implementation Partners will:

- Develop proposals that effectively meet the regional goals, strategies, and outcome metrics identified by the TCPB in the Regional Plan
- Within one year of the adoption of the Regional Plan, and as needed thereafter, each county will bring forward any necessary amendments to its

Local Implementation Plan that incorporate relevant regional goals, strategies, and outcomes measures

- County staff will participate in the TCPB jurisdictional leadership committee
- County staff will provide fiscal and programmatic Regional Plan updates as part of the quarterly reporting process
- Each County will administer a separate Regional Strategy Implementation Fund equal to 5% of the annual program funds and invested in furtherance of the Tri-County Plan.
- County boards of commissioners will approve the TCPB charter and any future amendments




ACCOUNTABILITY

All TCPB meetings and materials will be available and accessible to the public, and appropriate notice will be given to inform all interested parties of the time, place and agenda of each meeting. Committee members are considered public officials under Oregon law and are responsible for complying with provisions in Oregon law, including:

- Use of position: Committee members are prohibited from using or attempting to use their position (including access to confidential information obtained through their position) to obtain a financial benefit for themselves, for a relative or for a business with which the member or relative is associated.
- Conflicts of interest: Committee members must publicly announce any potential or actual conflicts of interest on each occasion that they are met with the conflict. A conflict of interest occurs when a member's official actions on the committee could or would result in a financial benefit or detriment to themselves, a relative or a business with which the member or relative is associated. In the case of an actual conflict of interest, committee members must refrain from participating in any discussion or taking any action on the issue.

DECISION MAKING

Decision Making Method: Modified consensus is the goal for decision making; we achieve this by using the *Thumb vote* method described in the chart below. Each member may cast one vote per decision. Following the process outlined below, the majority vote decides the decision.

THUMB VOTE CHART	
	A thumb up vote means “Yes. I support the decision and support moving forward with the proposed action.”
	A sideways thumb vote means “Yes. I support the decision, but with hesitation or caution; I support moving forward with the proposed action.” The voter is given the opportunity for more discussion if needed.
	A thumb down vote means “No. I oppose this decision and have significant concerns about moving forward with the proposed action.” The voter is given the opportunity to explain their concerns and propose an alternative solution.

This charter will be reviewed on an annual basis and updated as necessary. Amendments to this charter may be made with the approval of the governing boards of Multnomah, Washington and Clackamas Counties and Metro Council.

Relevant Contextual Documents

1. SHS Measure
2. IGA
3. LIP's

History of Charter Revisions

DATE	CHARTER REVISION	COMMENTS

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Consideration of the September 8, 2022 Council Meeting Minutes
Consent Agenda

Metro Council Meeting
Thursday, April 6th, 2023

Metro

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



Metro

Minutes

Thursday, September 8, 2022

10:30 AM

**<https://zoom.us/j/615079992> (Webinar ID: 615079992) or
929-205-6099 (toll free)**

Council meeting

1. Call to Order and Roll Call

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

Present: 7 - Council President Lynn Peterson, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, Councilor Gerritt Rosenthal, Councilor Shirely Craddick, and Councilor Duncan Hwang

2. Public Communication

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

No members of public wanted to testify.

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

3. Consent Agenda**3.1 Consideration of the May 19, 2022 Council Meeting Minutes**

Attachments: [051922c minutes](#)

3.2 Consideration of the June 2, 2022 Council Meeting Minutes

Attachments: [060222c minutes](#)

A motion was made by Councilor Lewis, seconded by Councilor Rosenthal, to adopt items on the consent agenda. The motion passed by the following vote:

Aye: 7 - Council President Peterson, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, Councilor Craddick, Councilor Rosenthal, and Councilor Hwang

4. Presentations**4.1 Surplus Property Audit Results**

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

Attachments: [Surplus Property Audit Highlights July 2022](#)
[Surplus Property Audit July 2022](#)

Council President Peterson introduced Brian Evans (he/him),

Metro to present the Surplus Property Audit Results.

Evans mentioned that the audit was released in July. He stated that the purpose of the audit was to clarify Metro's surplus policies and procedures to promote environmental stability, efficiency, and ethical conduct. Surplus property means that the property is not useful anymore to the department that bought it. He noted that the audit was for smaller property assets. The results of the audit were that the policy did not align with Metro operations or values. Without an updated policy, the departments were making their own judgements on what values to prioritize. During the presentation, Evans discussed the three objectives for the audit, the four areas that would benefit from revisions, three strategies to help Metro balance its values better and the five recommendations from the audit.

Ryan Kinsella (he/him), Metro Director of Capital Asset Management Department mentioned that the campus operations team, while transitioning to a hybrid workplace during the Pandemic, spent time thinking about how to dispose of items that were not needed. He noted that staff agreed with the findings and recommendations of the audit. Kinsella stated that the revised policies would help with cost efficiency and alignment with Metro's goals and ethical practices but will also require some tradeoffs. He mentioned that staff will work with stakeholders to update policies and to implement them.

Council Discussion

Councilor Hwang asked for clarification on the current process on surplus property. He also asked if individual employees have discretion to dispose of home office property provided by Metro or if they need to return it to Metro.

Rosalie Roberts (she/they), Metro stated that disposal of home office furniture was not within the scope of their office. Staff clarified that staff were focused on roles and large quality of items that might be surplus by departments. She mentioned that the original policy executive order was outdated and did not align with current Metro operations and values.

Councilor Hwang commented that there might be some process in the future that employees would return home office property would be returned to Metro. He also commented on the three values and if staff are taking account equity and other values. He wondered if there would be more thought into disposing of surplus property to be reused by community partners or donating it to community warehouse. He asked about why the three values were considered over other values.

Kinsella stated that these values came from the auditor Evans, but staff will take into consideration how to include equity into the revised policy. He noted that there are logistical challenges of doing donations, but staff can think about how to be efficient and direct those donations to people in the revised policy.

Councilor Craddick suggested that the Chief Operating Officer to take this seriously. She commented on the need to align the new policies around racial equity. Councilor Craddick noted that Metro has several partnerships and relationships, so there are opportunities for Metro to give them the surplus property that they might need or want. Councilor Craddick gave an example of when the Oregon Convention Center was replacing their chairs and there was a huge demand for them. She asked if there needed to be a

motion by Council.

President Peterson mentioned that she was going to ask about a revised draft recommendation for surplus property. She suggested that they should have a conversation about the values and outcomes of the revised surplus property policy but noted there did not need to be a motion now.

Councilor Rosenthal commented that it would be valuable to have a standard series of simple protocols of what to go through. For example, including a question if the property can be reused in a different part of the department or by another department. He asked if the audit was recommending a standard set of protocols for evaluation. He also suggested that another question could be if the department had to ability to store the asset.

Evans stated that the intent of the audit was to provide standard protocols but mentioned that the departments have different abilities to store and maintain assets. He noted that the departments have different types and quantities of items. Evans stated that the 1995 policy sort of assumed one policy for the entire agency, but Metro has grown and that is not realistic. He explained that the audit is recommending general guidelines and allowing for departments to have some leeway to address their individual needs and assets.

President Peterson asked Rory Greenfield (she/her), to comment. She also thanked staff for their work.

Rory Greenfield (she/her), Program Director for campus operations of the Metro Regional Center thank staff for their work. She mentioned that the policy was very outdated and that caused a burden on campus operations staff.

5. Resolutions

- 5.1 Resolution No. 22-5280, For the Purpose of Amending the FY 2022-23 Budget and Appropriations Schedule and Fiscal Year 2022-23 Through Fiscal Year 2026-7 Capital Improvement Plan to Provide Changes in Operations

Presenter(s): Patricia Rojas (she/her), Metro
Rachael Lembo (she/her), Metro

Attachments: [Resolution No. 22-5280](#)
[Exhibit A](#)
[Exhibit B](#)
[Staff Report](#)

Council President Peterson called on Patricia Rojas (she/her), Metro Rachael Lembo (she/her), Metro, to present to Council.

Staff pulled up the *Resolution 22-5280: FY 2023-23 Budget Amendment Presentation* to present to Council.

Patrick Dennis (he/him), Metro, stated that Rojas and Lembo would present the Planning, Development & Research Amendment part of the presentation. Then, he would present the Capital Asset Management Amendment part.

Rojas explained the progress Metro has made in for the 2018 Affordable Housing Bounds and the 2020 Supportive Housing Services Measure. She noted that Metro has completed 82% of the 3,900 affordable housing goal with spending 55% of the budget. She also noted that in the first year of supportive housing services, more than 1,600 people found housing and more than 9,000 received eviction prevention service that helped them to avoid homelessness. The FY23 adopted budget included four new FTE staff, including Housing Assistant Director. Rojas

described each of these positions. She mentioned that the Housing Assistant Director position has been filled by Liam Frost and the other three positions are in the HR process.

Rojas explained that the proposed Amendment to add two FTE for SHS data framework development and two support positions for SHS regional plan development. She described that new positions and why they are important to the Housing Department. She mentioned that they will come back to Council if they need additional staff. The presentation also included the proposed organizational chart for the Housing Team. Red positions are the proposed FTE and the Blue positions are FTE that already exist. For the next steps, Rojas explained in the future the program will need additional staff one position for housing information support and one for technical assistance. She explained that they will work with Council to understand the vision and needs. Staff will give Council a recommendation no later than November.

Council Discussion:

Councilor Craddick thanked staff for their work. She commented on the need for a data system to show the region the successes and identify Metro's challenges. She mentioned that if the three counties used the same system it would help to better coordinate and communicate with each other. She also mentioned that it could help identify patterns and to learn more about individuals.

Rojas agreed with Councilor Craddick on the focus on data. She shared that all three counties are in the system. Rojas mentioned that the Tri-County Planning body will also be helpful at elevating the data to a regional system level. She

added that there was the opportunity to make the system work better and to use data in a meaningful way.

Councilor Rosenthal mentioned that the report shows that they are on the right track, and he appreciated depth of the presentation.

Councilor Gonzales commented that he was excited about the data framework development, but it needs work on reporting and the regional approach to transparency and accountability. Councilor Gonzales mentioned that each of the counties contributed to a regional fund, but that is also within the allocation for the counties as a different line item. He asked if the FTEs would work on planning of sub-funds within the allocation or if there is another kind of regional plan. He also asked if each county had their own FTE for the regional plan or is Metro the first dollar in.

Rojas stated that the 5% regional investment fund that each county must have to fund initiatives from the approved plan. The funding is used for the implementation of the plan. Metro's FTE would be coming from our administrative allocation because they need to staff and supporting the SHS system. For staffing of the counties, she expected that they will add staff. She stated that she would ask the county partners about how they will support implement and development of the regional plan.

Councilor Lewis noted that they have made progress on the four positions. She mentioned that the budget note that she submitted should be going through the bureaucratic system. Councilor Lewis stated that if they are experiencing barriers that they should flag them because the positions are

approved. She commented that technical assistance will be critical because all three counties are facing their own struggles and need assistance. Councilor also commented that they have a duty to know what is happening in the counties and to use data to make the program better.

President Peterson stated that she appreciated Rojas for explaining the positions.

Lembo continued the presentation by explaining the impacts to the budget. She mentioned the budget will increase to approximately \$287,000 and three FTE but the contingency in the fund will cover the increase. The Affordable Housing bond will increase by approximately \$70,000 and one FTE but it will also be covered by the contingency. She clarified that the amendment includes the four new FTE and a reallocation of the existing FTE.

Dennis explained that the Capital Asset Management (CAM) needed 1 FTE for a Senior Program Analyst. The FY Proposed Amendment for CAM would use be funded this FTE through the contingency and would increase the FTE from 26.40 to 27.40.

Council Discussion:

Councilor Nolan asked about the changes in outcomes because of the additional funding. They gave examples such as how many people will be served or how many people would be housed.

President Peterson stated that Metro does not provide direct services, so she suggested that Rojas mention the impacts to Metro's oversight.

Rojas noted that there are goals in the LIPs through the counties and the work plans. The new work plans consider the projected an unanticipated funding. She offered to go look through the work plan and go over it with Councilor Nolan. Rojas also mentioned that she would ask the question to their partners.

Councilor Nolan commented that this is a challenging task, but the voters care about how many fewer people are sleeping on the street. They commented that result of all this administration should be less people sleeping on the street. Councilor Nolan wanted to see how they measure their success with the money they spend.

Rojas stated that staff would agree that the goal is to end homelessness for as many people as possible.

Councilor Craddick asked if there are plans to review the work plans made by the counties with the Metro Council.

Rojas stated that they could brief the Council on the proposed budget for SHS and each county's plan for investment and each counties work plan goals.

Councilor Lewis asked why there is a need for additional FTE for CAM.

Marissa Madrigal (she/her), Metro, Chief Operating Officer, stated that the FTE is needed for additional capacity and to have a connection to the CAM department.

President Peterson thanked staff and mentioned that they can get the data and oversight they asked for because they have positions.

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

A motion was made by Councilor Rosenthal, seconded by Councilor Lewis, that this Resolution was adopted. The motion carried by the following vote:

Aye: 7 - Council President Peterson, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, Councilor Rosenthal, Councilor Craddick and Councilor Hwang

6. Ordinances (First Reading and Public Hearing)

- 6.1 Ordinance No. 22-1483, For the Purpose of Amending Metro Code Section 2.01.055 to Clarify Attendance and Participation of Council Members by Electronic Means

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

Attachments: [Ordinance No. 22-1483](#)
[Exhibit A](#)
[Staff Report](#)
[Attachment 1](#)

Council President Peterson called on Kristin Dennis (she/her), Metro, to present to Council.

Dennis explained that the Metro Council have been meeting electronically under an emergency declaration under Metro code and state law, but they are looking to end the emergency declaration. Staff has been working to transition into hybrid meetings for the Metro Council, where people can attend in person or over zoom. Metro Code Section 2.01.055 only allows for councilors to participate electronically in extraordinary circumstances and approved by the Council President. The code also requires that four councilors to be present to be a quorum. Dennis stated that the ordinance would amend the code to allow the Council members to attend and participate in Council meetings electronically after Metro Regional Center reopens and the

emergency declaration ends. The ordinance will also make it so that the quorum requirement can be met regardless of councilors meeting in person or electronically. Dennis mentioned that councilors will need to give notification to the Council President and the Chief Operating Officer if they want to participate electronically. Staff recommends the adoption of the ordinance.

Council Discussion:

President Peterson clarified that other things they will be discussed on how they run council and keep each other accountable in normal resolution for organization. She added that any questions beyond quorum issues will go into their own rules.

Councilor Hwang asked if they are considering updates to JPAC or other advisory committees or is it only for quorum for Council. He commented that attendance and accessibility has increased.

Carrie MacLaren (she/her), Metro Attorney stated that the code adjustment applies just to the Metro Council. She mentioned there were discussions about a hybrid model for other public meetings for Metro, but there is no action need from Metro. This section of the code is only covering Council governance, but there are other sections that relate to advisory committees.

Dennis noted that staff are trying to make it technical and physically possible, so changes will be forthcoming.

Councilor Craddick asked for clarification on letter D in Exhibit A. She asked if Letter D meant practices like the public calling in to testify that are already available.

Councilor Craddick commented that the hybrid meetings increase public involvement and public testimony.

MacLaren stated that Councilor Craddick was correct in interpreting the code. She also stated that it is about making that process clear in the code.

President Peterson mentioned that the flexibility is need for Metro councilors, so they do not have to drive long hours in traffic and can focus. She commented that councilors are part-time and have other commitments, however they need to be accountable to the public. President Peterson also mentioned that need they too have expectations of each other.

Councilor Nolan mentioned the benefit of reducing carbon emissions. They commented that when the Council goes into serious policy questions, the Council loses the complexity of it when they participate electronically. They also commented that in person time and meetings add value to the conversation.

President Peterson remarked that would be good to bring up in their discussion rules of conduct and expectations of each other.

Public Hearing:

Council President Peterson opened the meeting to members of the public wanting to testify on Ordinance No. 22-1483

No members of the public wanted to testify.

Council President Peterson stated that the Second reading and vote were scheduled for Thursday, September 15, 2023.

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

7. Chief Operating Officer Communication

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

- Thanked the President Peterson and the Council for creating a flexible environment for everyone.
- Update on the Planning, Development and Research director recruitment. They will connect with stakeholders, including Council, to determine characteristics and competencies that will be used in the job posting in the second week of October.
- Several changes to Covid policies. She mentioned change to the guidance and instructions for Metro employees, for example Metro employees that exposure do not need to isolate but can wear a high-quality mask for 10 days. It is important for people to stay home when sick and to wear masks.

Council Discussion:

Councilor Hwang mentioned that there were reports of Monkeypox at facilities and community not a Metro. He asked if there are any other public health guidelines recommended for Monkeypox outbreak.

Madrigal stated that she would check in with Metro's Emergency Manager to see if there are directives from Multnomah County on Monkeypox beyond the public communication. She suggested still staying home when sick to prevent spread of diseases. She also mentioned that they have received good feedback from staff on the conversion of COVID sick time to normal sick time.

8. Councilor Communication

Councilors provided updates on the following meetings and

events:

- **Councilor Lewis** provided an update on the MERC meeting and mentioned that the Oregon Convention Center rates were set through fiscal year 2028. She also gave an update on an Oregon Zoo Foundation meeting.
- **Councilor Rosenthal** also gave an update on the MERC meeting. He also mentioned the Tualatin Chamber of Commerce meeting dealing with transportation and tolling. Councilor Rosenthal also had a meeting with a community warehouse in Tualatin.
- **Councilor Hwang** mentioned that there will be an 82nd Avenue stakeholder committee meeting next Tuesday. He also mentioned that there was a community clean up event in August that was funded by Metro's Regional Refresh Grant program. Councilor Hwang state that they filled about four 60-foot dumpsters.
- **Councilor Gonzales** mentioned that there was a TV-Highway Steering Committee meeting that day. He mentioned that he was going to be on several presentation/ panels that he will be on. For example, he and Metro staff were going to present to the Reser Family Foundation next week.
- **President Peterson** gave an update on the Regional Toll Advisory Committee meeting. She mentioned that Clackamas County sent in comments on the draft charter and that they should support Clackamas County's request. President Peterson explained that ODOT put the ODOT director as the chair on the advisory committee to ODOT. They are trying to not allow ODOT staff to have a voting role in the advisory committee.
- **Councilor Lewis** stated that usually they work through issues before signing a charter. She also mentioned that they gave themselves. She mentioned

that there were more voices from Clark County, than
Clackamas County.

9. Adjourn

There being no further business, Council President Peterson
adjourned the Metro Council Meeting at 11:58 a.m.

Respectfully submitted,

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

Jemeshia Taylor, Legislative Assistant

Materials following this page were distributed at the meeting.

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER 8, 2022

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
1.0	Powerpoint	09/08/2022	Resolution 22-5280: FY 2022-23 Budget Amendment Presentation	090822c-01

Consideration of the September 15, 2022 Council Meeting Minutes
Consent Agenda

Metro Council Meeting
Thursday, April 6th, 2023

Metro

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



Metro

Minutes

Thursday, September 15, 2022

10:30 AM

**<https://zoom.us/j/615079992> (Webinar ID: 615079992) or
929-205-6099 (toll free)**

Council meeting

1. Call to Order and Roll Call

Deputy Council President Lewis called the Metro Council Meeting to order at 10:30 a.m.

Present: 6 - Councilor Shirley Craddick, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Mary Nolan, Councilor Gerritt Rosenthal, and Councilor Duncan Hwang

Excused: 1 - Council President Lynn Peterson

2. Public Communication

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

Andrea Demico testified against the UGB urban exchange.

John Stone testified regarding his concerns around the UGB exchange and the River Terrace Project.

Brett M. provided additional context to Council, regarding the complications the exchange will cause in Washington County.

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

3. Councilor Bob Stacey Remembrance

Council shared remarks about the late former Councilor Bob Stacey.

4. Ordinances (Second Reading & Vote)

- 4.1 Ordinance No. 22-1483, For the Purpose of Amending Metro Code Section 2.01.055 to Clarify Attendance and Participation of Council Members by Electronic Means

Councilor Rosenthal asked for clarification regarding the purpose of the ordinance.

Deputy Council President Lewis provided clarification, that this ordinance would allow Council to declare a quorum even if some Councilors are attending remotely.

A motion was made by Councilor Rosenthal, seconded by Councilor Gonzalez, that this item be adopted. The motion passed by the following vote:

Aye: 6 - Councilor Craddick, Councilor Lewis, Councilor Gonzalez, Councilor Nolan, Councilor Rosenthal, and Councilor Hwang

Excused: 1 - Council President Peterson

5. Other Business

5.1 UGB Exchange process check in and proposed exchange considerations

Deputy Council President Lewis called on [Andy Shaw] [he/him], Metro, [Tim O'Brien] [he/him], Metro, and [Ted Reid] [he/him], Metro, to present to Council.

Staff pulled up the [*Tigard UGB Exchange Metro Council Presentation*] to present to Council.

Council Discussion:

Councilor Nolan asked staff to address previously expressed concerns regarding a western bypass right through the Tigard property.

Tim provided a technical overview of the proposed bypass and its intended purpose.

Councilor Gonzalez asked how many housing units the proposed expansion support would. He also asked if Staff knew how many ownership vs rental opportunities there would be.

Staff explained that the expansion would allow for 20 units per acre. The preliminary concept plan projects anywhere from 3,000-4,500 units, but it will depend on how the

project progresses. However, it does not contain any projections around ownership vs rental opportunities.

Councilor Craddick wanted to address the concerns brought up during the earlier public testimony. She clarified that the proposal is not an expansion of the Urban Growth Boundary, but an exchange of land. One person expressed concerns regarding the potential destruction of natural wetlands; she asked Staff to explain the Title XIII restrictions that prevent development of any wetlands.

Councilor Craddick then asked to hear Staff's thoughts about her own concerns, the potential impacts of building an additional road on the Northern limits of the UGB.

Staff provided a brief history of the efforts to build a bypass in that area, but reassured Council that this proposal is not a plan to build something as large as a freeway.

Councilor Rosenthal asked if Staff knew the projected capacity of the proposed extension.

Staff felt ill equipped to answer these questions, and recommended asking the City of Tigard directly, rather than speculating.

Deputy Council President Lewis asked staff to present the 4 considerations Staff brought to Council.

Staff reiterated the considerations for narrowing options:

- How long properties have been in the UGB
- Whether they were brought in for a specific purpose
- Their planning, infrastructure, and development status
- Number of exchange areas
- Property owners' wishes
- Jurisdiction's position

Councilor Rosenthal asked if they had sufficient information

about each identified area, and asked if the “island” is tradable.

Two of the considerations would disqualify the island from Staff’s list. Staff then explained their plans for the COO recommendation, which will include multiple different scenarios for Council to consider.

Councilor Nolan asked what proactive steps Staff has taken to ensure that landowners, especially from marginalized communities, who are affected by the UGB exchange have access to information and support, so they can make choices that are aligned with their interests.

Tim explained that there is a process where landowners within a certain distance of a given UGB expansion are notified.

Councilor Hwang asked if Metro encourages landowners to exert their independence, like through a land-use council. He also expressed his desire for Staff to apply Metro’s equity lens while doing this work.

Staff explained that changes to the UGB boundary do not affect property values or what one can do on their property, and were unsure if something like a land-use council would do much. However, Staff believed they could do more outreach and education for landowners.

Councilor Nolan would prefer that 2-4 parcels of land are removed, rather than 30-40 smaller parcels. They would also prefer the exchange include 350 buildable acres and 150 non-buildable acres.

Councilor Rosenthal asked if the exchange could be for 200 acres instead of 350.

Staff said yes, though this is not what Tigard is requesting.

They recommended Council speak directly with the City of Tigard regarding this question.

Councilor Craddick encouraged caution while proceeding with this exchange.

Councilor Gonzalez expressed his appreciation and support for Staff's hard work, shared his thoughts about designating land, and gave his preferences, that the exchange include as many contiguous blocks and as few jurisdictions as possible.

Councilor Craddick continued the discussion around land designation, and stated her preference that Staff avoid using the "undesigned" designation.

Deputy Council President Lewis expressed hope that Staff brings more detailed information to Council, as they engage more with local governments. She is particularly interested in their work with Oregon City, as they experience leadership turnover.

Seeing no further discussion, Deputy Council President Lewis moved on to the next agenda item.

6. Chief Operating Officer Communication

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

- The City of Portland is currently bidding to hold the NCAA women's Final Four rounds.
- Metro's condor breeding facility was within the evacuation zone of the McGuyver Fire. Many staff gave up their weekends to prepare for a possible evacuation which, thankfully, was not required.

7. Councilor Communication

Councilors provided updates on the following meetings and events:

- **Councilor Gonzalez** updated Council regarding Metro's involvement in the "Infrastructure Talent Pipeline Challenge."
- **Councilor Craddick** updated Council regarding the monthly JPACT meeting
- **Councilor Rosenthal** updated Council regarding the City of Tigard's Tigerfest.

8. Adjourn

There being no further business, Deputy Council President Lewis adjourned the Metro Council Meeting at 12:33 p.m.

Respectfully submitted,

Nathan Kim
Nathan Kim, Legislative Assistant

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF September 15, 2022

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
1.0	Testimony	9/15/2022	Lily Stone Testimony	091522c-01
2.0	Presentation	9/15/2022	Tigard UGB Exchange Metro Council Work Session Presentation	091522c-02

Consideration of the September 29, 2022 Council Meeting Minutes
Consent Agenda

Metro Council Meeting
Thursday, April 6th, 2023

Metro

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



Metro

Minutes

Thursday, September 29, 2022

10:30 AM

**Metro Regional Center, Council chamber and
<https://zoom.us/j/615079992> (Webinar ID: 615079992) or
929-205-6099 (toll free)**

Council meeting

1. Call to Order and Roll Call

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

Present: 5 - Council President Lynn Peterson, Councilor Christine Lewis, Councilor Juan Carlos Gonzalez, Councilor Duncan Hwang, and Councilor Shirely Craddick

Excused: 2 - Councilor Mary Nolan, and Councilor Gerritt Rosenthal

2. Public Communication

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

There were two members of the public that testified:

- Randy Lauer, Mayor of Troutdale mentioned thanked the staff, Councilor Craddick and others for their work on the Sandy River Greenway River front Trail project. Lauer mentioned the connections that the trail project would make and make it safer for bikers and pedestrians. Lauer noted that the grant will be the last piece of the funding for the project.
- Brad Perkins, noted the need for funding for the development of Sullivan's Gulch Trail and encouraged the Metro and the city to support the project. Perkins also mentioned their vision for high-speed rail and the work they have done so far. For example, they did an EIS study. Perkins wanted public-private partnership and the Council's support for the project to get funding from the Biden administration for the development.

President Peterson mentioned that she sits on the committee with WSDOT. She mentioned that there has been no analysis or discussion yet.

Staff noted that there will be Ultra-high- speed
Ground Transportation update.

3. Resolutions

- 3.1 Resolution No. 22-5285, For the Purpose of Approving Local Government Trails Projects Funded by the Parks and Nature Bond Competitive Grant Program

Presenter(s): Jon Blasher (he/him), Metro
Robert Spurlock (he/him), Metro

Attachments: [Resolution No. 22-5285](#)
[Exhibit A to Resolution No. 22-5285](#)
[Staff Report](#)

Council President Lynn Peterson called on called on Jon Blasher (he/him), Metro and Robert Spurlock (he/him), Metro to present to Council.

Staff pulled up the *Parks and Nature Bond Trails Grants Presentation* to present to Council.

Jon Blasher (he/him), Metro began the presentation by mentioning some property acquisitions including the waterline project at Blue Lake. Blasher noted that 380 acres have been purchased from the 2019 Parks and Nature Bond. Staff thanked voters for the 2019 Parks and Nature Bond measure. He discussed the \$20 million grant program and that the bond allowed for funding to acquire property for trails.

Robert Spurlock (he/him), Metro provided an overview of the process. He noted that projects were solicited and then selected with the joint region flexible funds. He also thanked the Council, staff, and others for their work. He explained the role of the evaluation work group in the process. The criteria for the bond were community engagement, racial equity, and climate resilience. Staff thanked their partners

for their work as well. Some of those partners were at the Council meeting.

One partner expressed concerns about her children's safety on the trails. Another partner was Ann Lane, discussed the Emerald Necklace Trail in Forest Grove. Another partner discussed the Clackamas River Trail project and Scott Creek Trail project in Happy Valley. The Parks and Trails Planning manager discussed the Marine Drive Trail: I-205 to NE 122nd Avenue project and mentioned that it will increase safety.

Spurlock continued the presentation by explaining the remaining projects, their locations, and the grant amount for each project. These projects were the North Portland Willamette Greenway: Kelley Point Park, the Columbia Slough Trail: Cornfoot Road, the Gresham-Fairview Trail, the Sandy River Greenway, the Trolley Trail, the Crescent Park Greenway and Brookwood Pedestrian Overpass, the Westside Trail: US 26 Bike/Ped Bridge and the Westside Trail: Segment 1. There were 12 projects in total.

Council Discussion

President Peterson asked the councilors if they had any questions before moving to a motion and then to comments.

The councilors did not have questions.

Councilor Craddick thanked voters for their continued support and the Metro Council. She hoped that there would be a focus on trails in a future bond measure because trails are important. She mentioned the work of support organizations. For example, one of the support organizations went along Marine drive to look at area. Councilor Craddick explained that the trail in Troutdale

would connect downtown Troutdale with I-84 and with 40-mile loop along the levy system.

Councilor Gonzales commented that the snapshots in the presentation resonated with him. He noted that these trails have relationship with their everyday lives. He thanked staff and Councilor Craddick for their work to make a streamline process. He appreciated the partners that spoke and attended the meeting and hoped that Metro will continue to invest in this.

Councilor Hwang commented on the health and human benefits of parks and nature. He highlighted that there was a lot of community engagement in the grants process. He mentioned that there were 1,500 responses and surveys in different languages.

Councilor Lewis thanked staff and partners for their work.

President Peterson mentioned that she moved here in 1993 from a city with more off-street pathways. She noted that 1993 was when the region started to work on safe streets, and they have worked to change how the country designs streets. She added that children should also be able to ride their bikes without worrying about cars. President Peterson noted that they need to commute to work fast and to enjoy being outside.

A motion was made by Councilor Craddick, seconded by Councilor Gonzalez, that this Resolution was adopted. The motion carried by the following vote:

Aye: 5 - Council President Peterson, Councilor Lewis, Councilor Gonzalez, Councilor Craddick, and Councilor Hwang

Excused: 2 - Councilor Nolan, and Councilor Rosenthal

4. Chief Operating Officer Communication

Andrew Scott, Deputy Chief Operating Officer provided an update on the following events or items:

- Thanked staff for their work to make the hybrid meeting possible

5. Councilor Communication

Councilors provided updates on the following meetings and events:

- **President Peterson** commented that she and Councilor Craddick attended the WTS Women's Transportation Seminar Gala last night. She mentioned that Metro staff recognized for their work on the Regional Congestion Pricing Study.
- **Councilor Craddick** mentioned that she was proud to be there and have Metro staff and their work to be recognized.
- **Councilor Gonzales** mentioned that they were breaking ground on the Affordable Housing project on the Cedar Mill neighborhood later that day
- **Councilor Lewis** gave an update that she is now the Chair for the Willamette Falls Locks Authority. She also gave an update on the MPAC meeting.

6. Adjourn

There being no further business, Council President Lynn Peterson adjourned the Metro Council Meeting at 11:28 a.m.

Respectfully submitted,



Jemeshia Taylor, Legislative Assistant

Materials following this page were distributed at the meeting.

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER 29, 2022

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
1.0	Powerpoint	09/29/2022	Parks and Nature Bond Trails Grants	092922c-01
2.0	Testimony	09/28/2022	The Confederated Tribes of the Grand Ronde Community of Oregon Testimony	092922c-02
3.0	Testimony	09/29/2022	40 Mile Loop Land Trust Testimony	092922c-03

**Resolution No. 23-5323, For the Purpose of Authorizing the Sale of General Obligation
Refunding Bonds**
Resolutions

Metro Council Meeting
Thursday, April 6th, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF	)	RESOLUTION NO. 23-5323
AUTHORIZING THE SALE OF)	
GENERAL OBLIGATION	)	Introduced by Marissa Madrigal, Chief
REFUNDING BONDS	)	Operating Officer, with concurrence of
	)	Council President Lynn Peterson

WHEREAS, Metro previously issued its General Obligation Bonds, Series 2012A (the “Refundable Bonds”) for projects that were authorized by approving vote of the electors of Metro; and

WHEREAS Metro may be able to reduce its debt service expense and/or favorably restructure its debt by refunding all or a portion of the outstanding maturities of its Refundable Bonds; and

WHEREAS, Metro is authorized by Oregon Revised Statutes (“ORS”) Sections 287A.360 to 287A.380 to issue bonds to refund outstanding general obligation bonds; and,

WHEREAS, it is now desirable to authorize the sale of bonds to refund all or a portion of the Refundable Bonds.

BE IT RESOLVED by the Metro Council as follows:

Section 1. Bonds Authorized.

The Metro Council hereby authorizes the issuance of general obligation refunding bonds (the “Bonds”) to refund all or any portion of the Refundable Bonds. The Bonds may be issued in an amount that is sufficient to refund all or any portion of the Refundable Bonds and to pay costs related to issuing the Bonds and refunding the Refundable Bonds. The Bonds shall be sold and issued as provided in this resolution pursuant to ORS Sections 287A.360 to 287A.380 and other applicable provisions of ORS Chapter 287A.

Section 2. Delegation.

The Chief Operating Officer, the Chief Financial Officer, or the person designated by either of those officers to act under this resolution (the “Metro Official”), on behalf of Metro and without further action by Metro Council, may:

- 2.1 Select the Refundable Bonds to be refunded.
- 2.2 Issue the Bonds in one or more series that may be sold at different times.
- 2.3 Solicit competitive bids for the purchase of each series of Bonds and award their sale to the bidder offering the most favorable terms to Metro, or select one or more underwriters or lenders, negotiate the terms of the sale of each series of Bonds, and sell that series.

- 2.4 Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates, record date and other terms of each series of the Bonds.
- 2.5 Prepare, execute and deliver a bond declaration or bond purchase agreement for each series of Bonds specifying the terms under which each series of Bonds is issued, and entering into covenants for the benefit of Bond owners.
- 2.6 Apply for ratings for each series of Bonds, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Bonds, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 2.7 Issue any qualifying series of Bonds as “tax-exempt bonds” bearing interest that is excludable from gross income under the Internal Revenue Code of 1986, as amended, (the “Code”) and enter into covenants for the benefit of the owners of those series to maintain the excludability of interest on those series from gross income under the Code.
- 2.8 Issue any series of Bonds as “taxable bonds” bearing interest that is includable in gross income under the Code.
- 2.9 Participate in the preparation of, authorize the distribution of, and deem final the preliminary and final official statements and any other disclosure documents for each series of the Bonds.
- 2.10 If applicable, undertake to provide continuing disclosure for each series of the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- 2.11 Engage the services of and enter into agreements with verification agents, escrow agents, paying agents, registrars, and any other professionals and service providers that the Metro Official determines are desirable in connection with the Bonds.
- 2.12 Provide for the call, defeasance, and redemption of any Refundable Bonds that are refunded and enter into related agreements and take related actions.
- 2.13 Issue, sell and deliver the Bonds and execute any documents and take any other action in connection with the Bonds that the Metro Official finds will be advantageous to Metro in accordance with this resolution.

Section 3. Security For Bonds.

The Bonds shall be general obligations of Metro. Pursuant to ORS 287A.315, Metro hereby pledges its full faith and credit and taxing power to pay the Bonds. Metro hereby covenants for the benefit of the Bond owners to levy a direct ad valorem tax upon all of the taxable property within Metro which is sufficient, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes, to pay all Bond principal and interest when due. Metro covenants to levy this tax each year until all the Bonds are paid. This

tax shall be in addition to all other taxes of Metro, and this tax shall not be limited in rate, amount or otherwise, by Sections 11 or 11b of Article XI of the Oregon Constitution.

Section 4. Effective Date.

This resolution shall take effect on the date of its passage by the Metro Council.

ADOPTED by the Metro Council this 6th day of April, 2023.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NO. 23-5323, FOR THE PURPOSE OF
AUTHORIZING THE SALE OF GENERAL OBLIGATION REFUNDING BONDS

Date: March 21, 2023
Department: Finance and Regulatory
Services
Meeting Date: April 6, 2023

Prepared by: Brian Kennedy, Chief
Financial Officer
Presenter(s), (if applicable): Josh
Harwood (he/him), Fiscal and Tax Policy
Director
Length: 15 minutes

ISSUE STATEMENT

The purpose of this resolution is to authorize the issuance of general obligation refunding bonds to refund all or any portion of the outstanding Oregon Zoo Infrastructure 2012A series bonds.

ACTION REQUESTED

Council adoption of Resolution 23-5323.

IDENTIFIED POLICY OUTCOMES

Council authorization for the sale of general obligation refunding bonds.

POLICY QUESTION(S)

Should Metro refund all or any portion of the outstanding Oregon Zoo Infrastructure 2012A series bonds in order to generate savings and increase flexibility for managing Metro's outstanding and future general obligation debt?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the refunding all or any portion of the outstanding Oregon Zoo Infrastructure 2012A series bonds.
2. Do not approve the refunding.

STAFF RECOMMENDATIONS

Staff recommends that Council approve Resolution 23-5323 to refund a portion or all of the 2012A series bonds.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Metro staff regularly evaluate all outstanding debt to consider whether refunding will benefit the agency. Currently, market interest rates are lower than the rates of the existing bonds and refunding the outstanding debt will generate positive net present value savings. It is currently projected that refunding the outstanding principal amount of \$50,120,000 will generate a savings of approximately \$940,000 or about 1.81% of the refunding proceeds. Actual savings will be determined based on the interest rates at the time of issuance.

- Is legislation required for Council action? ☒ Yes ☐ No
- If yes, is draft legislation attached? ☒ Yes ☐ No

**Ordinance No. 23-1492, For the Purpose of Amending Metro Code Chapter 7.05 to Improve
Clarity Regarding Penalties and Interest and Other Housekeeping Updates
and Declaring an Emergency**

Ordinances (Second Reading and Vote)

Metro Council Meeting
Thursday, April 6th, 2023

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 23-1492
CODE CHAPTER 7.05 TO IMPROVE CLARITY)	
REGARDING PENALTIES AND INTEREST	)	Introduced by Chief Operating Officer
AND OTHER HOUSEKEEPING UPDATES AND	)	Marissa Madrigal and Councilors Christine
DECLARING AN EMERGENCY	)	Lewis, Juan Carlos González, Gerritt
	)	Rosenthal, Duncan Hwang, and Ashton
	)	Simpson in concurrence with Council
	)	President Lynn Peterson
)	

WHEREAS, On February 25, 2020, Metro Council adopted Ordinance 20-1442, which among other things imposed a personal income tax of one percent beginning in tax year 2021 for high income earners (the “Personal Income Tax”); and

WHEREAS, before the taxes imposed by Ordinance 20-1442 could take effect, they required approval by Metro area voters; and

WHEREAS, on May 19, 2020, the Metro area voters approved the personal income tax; and

WHEREAS, the revenue derived from the Personal Income Tax imposed by Ordinance 20-1442 funds Metro’s Supportive Housing Services Program; and

WHEREAS, Metro Code Chapter 7.05 (“Income Tax Administration for Personal Income and Business Taxes”) administers Metro’s Supportive Housing Services business and personal income taxes; and

WHEREAS, Metro Code Chapter 7.05 imposes penalties and interest in certain tax situations, including, among others: a failure to file a tax return, late filing of a tax return, late payment of taxes owed, and underpayment of taxes owed; and

WHEREAS, via an Intergovernmental Agreement, the City of Portland’s Revenue Division acts as Metro’s “Administrator” for purposes of administering and enforcing Metro’s Personal Income Tax Law; and

WHEREAS, because neither Metro nor its Administrator can know in advance who will meet the income threshold for tax liability, Metro relied on media articles, outreach to accountants and employers, and web updates to inform people of the Supportive Housing Services personal income tax before the April 18, 2022, tax due date deadline; and

WHEREAS, while most Oregon accountants, tax attorneys, and employers were aware of the tax, Metro’s outreach proved to be insufficient notice for some taxpayers; and

WHEREAS, many taxpayers were unaware of the launch of the Supportive Housing Services personal income tax and felt it was therefore unfair to have penalties and interest assessed on delinquent tax filings; and

WHEREAS, penalties and interest should be waived for the first tax year (TY 2021) of the Metro personal income tax, and, further, penalties and interest should be waived for estimated taxes for tax year 2022 of the personal income tax; and

WHEREAS, housekeeping updates to the tax code are also necessary; and

WHEREAS, providing accurate tax information to affected taxpayers and ensuring that correct interest rates are in effect before delinquencies occur affects the welfare of Metro area taxpayers; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 7.05 is amended to waive penalties and interest for tax year 2021 and for estimated taxes for tax year 2022, as set forth in the attached as Exhibit A in tracked changes.
2. Metro Code Chapter 7.05 is amended to correct certain cross-reference errors and provide other housekeeping updates as set forth in the attached Exhibit A
3. That this ordinance being necessary for the immediate preservation of public health, safety and welfare to ensure consistent and uninterrupted collections and enforcement of Metro's Personal Income Tax Law, an emergency is declared to exist, and this ordinance takes effect immediately upon adoption, pursuant to Metro Charter Section 38(1).
4. If a court of competent jurisdiction finds that any portion of this ordinance is invalid or unenforceable as a matter of law, that finding does not invalidate or render unenforceable any other provisions of this ordinance.

ADOPTED by the Metro Council this 6th day of April 2023.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Connor Ayers, Recording Secretary

Carrie MacLaren, Metro Attorney

New language for Chapter 7.05 is indicated by underlined text, and deleted language is indicated by strikethrough text.

CHAPTER 7.05

INCOME TAX ADMINISTRATION FOR PERSONAL AND BUSINESS TAXES

Section	Title
7.05.010	Purpose and Applicability
7.05.020	Definitions
7.05.030	Conformity to State Income Tax Laws; Tax Guidance
7.05.040	Nexus
7.05.050	Tax as a Debt; Collection Authority
7.05.060	Administration
7.05.070	Administrative Authority
7.05.080	Ownership of Taxfiler Information
7.05.090	Confidentiality
7.05.100	Persons to Whom Information May Be Furnished
7.05.110	Taxfiler Representation
7.05.120	Representation Restrictions
7.05.130	Information Request; Examination of Books, Records or Persons
7.05.135	Subpoena Powers
7.05.140	Taxfiler Records Retention
7.05.150	Deficiencies and Refunds
7.05.160	Protests and Appeals; Penalty Waiver
7.05.170	Return Due Date; Extensions
7.05.180	Payment of Estimated Tax
7.05.190	Schedule for Payment of Estimated Tax
7.05.200	Tax Return Payment; Minimum
7.05.210	Payment Plan; Fee
7.05.220	Settlement Offers and Agreements
7.05.230	Changes to Federal or State Tax Returns
7.05.240	Criminal Penalties
7.05.250	Civil Penalty for Unauthorized Access of Tax Information
7.05.260	Penalties for Violations of Business Income Tax Law
7.05.270	Penalties for Violations of Personal Income Tax Law
7.05.280	Interest
7.05.290	Payments Applied
7.05.300	Interest on Refunds
7.05.310	Accountability of Funds; Audits
7.05.320	Severability

7.05.010 Purpose and Applicability

The purpose of this chapter is to provide consistent, efficient and transparent administration of Metro's Business Income Tax Law and Personal Income Tax Law (collectively, "Metro's Income Tax Laws."). The provisions of this chapter apply to the administration of both the Business Income Tax Law and Personal Income Tax Law, as applicable, unless Chapter 7.06 or Chapter 7.07 specifically exempts a provision.

7.05.020 Definitions

For the purpose of this chapter and Metro Code Chapters 7.06 and 7.07, the terms used are defined as provided in this section unless the context requires otherwise.

Administrator means Metro's agent for purposes of administering and enforcing the Business and Personal Income Tax Laws.

Appeals Board means the hearings body designated by the Administrator to review taxfiler appeals from final determinations by the Administrator.

Business means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

Business Income has the same meaning as "apportionable income" defined in Oregon Revised Statutes 314.610.

Business Income Tax Law means the taxes imposed on businesses under the provisions of Metro Code Chapter 7.07.

Chief Financial Officer means the Metro Chief Financial Officer and the Officer's designee(s).

Chief Operating Officer means the Metro Chief Operating Officer and the Officer's designee(s).

District means all the territory within the jurisdictional boundary of Metro as provided by law.

Doing Business means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the

manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on their own behalf.

Domicile means the place an individual considers to be the individual's true, fixed, permanent home. Domicile is the place a person intends to return to after an absence. A person can only have one domicile at a given time. A person's domicile continues as their domicile until the person demonstrates (1) an intent to abandon the current domicile and acquire a new domicile, and (2) then actually resides in the new domicile. Factors that contribute to determining domicile include family, business activities and social connections. A person is domiciled in the District if the person's domicile is located within the District.

Employee means any individual who is classified for Oregon tax purposes as an employee. [Ord. 21-1465.]

Gross Receipts means all income from whatever source derived.

Individual means a natural person, including a natural person who reports that person's income to the State of Oregon in a joint personal State income tax return. In such case, Individual refers to the joint taxfiler.

Metro means the Metropolitan Service District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter.

Metro Income Tax Laws means, collectively, the Business Income Tax Law, the Personal Income Tax Law and the code chapters and administrative rules that administer and govern those taxes.

Metro Taxable Income means income attributable to sources within the District less deductions from income attributable to sources within the District. This includes, but is not limited to:

- (a) Wages received by a nonresident taxfiler attributable to work performed within the District;
- (b) Items reported to a nonresident taxfiler attributable to the taxfiler's ownership interest in a pass-through entity that does business in the District and reports tax items attributable to that ownership interest to the taxfiler on a Schedule K-1; and
- (c) Income and expenses from a sole proprietorship or disregarded entity attributable to business in the District and reported on a nonresident taxfiler's individual return.

Net Operating Loss means the negative taxable income that may result after the deductions allowed by the Business Income Tax Law in determining net income for the tax year.

Nonbusiness Income has the same meaning as “nonapportionable income” defined in Oregon Revised Statutes 314.610.

Nonresident means an individual who is not a resident of the District.

Notice means a written document mailed by first class by the Administrator or District to the last known address of a taxfiler as provided to the Administrator or District in the latest registration form or tax return on file with the Administrator. Alternatively, notice may be delivered in person, by facsimile, email, or other means with taxfiler consent.

Oregon Taxable Income means the taxable income of residents or part year residents as reported or as reportable to the State of Oregon for personal income tax purposes.

Part-year Resident means a taxfiler who changes status during a tax year from resident to nonresident or from nonresident to resident.

Person means, but is not limited to, an individual, a natural person, married couple filing jointly, proprietorship, partnership, limited partnership, family limited partnerships, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business. Each person who is not a natural person must designate a natural person in writing as its designated representative who is authorized to act and testify on behalf of such person.

Personal Income Tax Law means the personal income taxes imposed on District residents and nonresidents under the provisions of Metro Code Chapter 7.06.

Received means the postmark date affixed by the United States postal service if mailed, the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.

Resident means (1) an individual whose domicile is within the District for the entire taxable year unless the individual maintains no permanent place of abode in the District, does maintain a permanent place of abode outside of the District, and spends on aggregate not more than 30 days per tax year in the District; or, (2) an individual who is not domiciled in the District but maintains a permanent place of abode in the District and spends in the aggregate more than 200 days or any part of a day of the tax year in the District unless the individual proves that the individual is in the District for only a temporary or transitory purpose. Resident does not include: an individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year; the spouse of a qualified individual under Section 911(d)(1) of the Internal Revenue Code, if the spouse is not a resident of the District; a resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under Section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States; a member of the Armed Forces who performs active service as defined in 10 U.S.C.

101(d)(3), other than annual training duty or inactive-duty training, if the member's residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside the District.

Tax Year means the taxable year of a person for Federal or State income tax purposes.

Taxfiler means any person whose income in whole or in part is subject to Metro Income Tax Laws and is required to file a return under Metro Income Tax Laws. [Ord. 22-1485.]

7.05.030 Conformity to State Income Tax Laws; Tax Guidance

- (a) The Administrator will construe the Business Income Tax Law, when applicable, in conformity with the laws and regulations that govern the Multnomah County Business Income Tax as those laws existed for that tax year. The Administrator will construe the Personal income Tax Law, when applicable, in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income as those laws existed for that tax year.
- (b) Any interpretation under subsection (a) may not conflict with any provision of this chapter, Chapter 7.06, or Chapter 7.07.
- (c) The Administrator has the authority by written policy to connect to or disconnect from any legislative enactment regarding income or excise taxation or the definition of income.

7.05.040 Nexus

The taxes imposed by Chapter 7.06 and Chapter 7.07 apply to all taxpayers that have substantial nexus with the District, subject only to constitutional limitation on Metro's authority.

7.05.050 Tax as a Debt; Collection Authority

- (a) The taxes imposed by Chapter 7.07 and Chapter 7.06 become a debt due to Metro at the time such liability for the tax is incurred. This includes any penalties and interest.
- (b) The Chief Financial Officer or Administrator is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.
- (c) Metro or the Administrator, as appropriate, may assign a delinquent tax account to a collection agency for collection.
- (d) Any assignment to an outside collection agency is subject to a reasonable collection fee, as allowed by law, above and beyond any amount owed to Metro.

7.05.060 Administration

- (a) The Administrator is the administrator of record and has the authority to administer and enforce the Metro Income Tax Laws including, but not limited to, administrative return processing, auditing, and determinations; collection of taxes, penalties and interest (including instituting legal action in any court of competent jurisdiction by or on behalf of Metro); and protests and appeals.
- (b) The Administrator has access to and maintains all tax filings and records under this chapter and the Metro Income Tax Laws on behalf of Metro. The Administrator may, upon taxfiler's written request and at the sole discretion of the Administrator, interpret how this chapter or the Metro Income Tax Laws apply to taxfiler's facts and circumstances. Nothing in this chapter or Chapters 7.06 and 7.07 preclude or is intended to preclude, the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Administrator.

7.05.070 Administrative Authority

- (a) The Administrator may ~~implement~~ adopt procedures, forms, and written policies ~~for~~ to administer the provisions of the Business Income Tax Law and Personal Income Tax Law.
- (b) The Administrator will coordinate with Metro to adopt administrative rules relating to matters within the scope of this chapter to administer compliance with the Business Income Tax Law and Personal Income Tax Law.

7.05.080 Ownership of Taxfiler Information

Metro is the sole owner of all taxfiler information under the authority of the Metro Income Tax Laws. The Chief Operating Officer, Metro Attorney, Chief Financial Officer, Administrator, and their agents have the right to access all taxfiler information for purposes of administration.

7.05.090 Confidentiality

- (a) No Metro elected official, employee, or agent, nor any person who has acquired information pursuant to the Metro Income Tax Laws, may divulge, release, or make known in any manner any financial information, social security numbers or any other elements of a tax return or tax account, including fact of filing and collection activity submitted or disclosed to Metro or the Administrator under the provisions of this chapter, the Metro Income Tax Laws, and any applicable administrative rules, unless otherwise provided in this chapter or as required by law.
- (b) Nothing in this section prohibits:
 1. The disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxfiler;

2. The filing of any legal action by or on behalf of the Administrator or Metro to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or
 3. The assignment to an outside collection agency of any unpaid account balance receivable provided that the Administrator notifies the taxfiler of the unpaid balance at least 60 days before the assignment of the claim.
- (c) Any person that violates this section may be subject to criminal penalties as set forth in Section 7.05.240.

7.05.100 Persons to Whom Information May Be Furnished

- (a) The Administrator and Metro Chief Operating Officer may disclose and give access to information described in Section 7.05.090 to an authorized representative of the Department of Revenue, State of Oregon, or of any local government of the State imposing taxes upon or measured by gross receipts or net income, for the following purposes:

1. To inspect the tax return of any taxfiler;
2. To obtain an abstract or copy of the tax return;
3. To obtain information concerning any item contained in any return;
4. To obtain information of any financial audit of the tax returns of any taxfiler; or
5. To maintain compliance with State or Federal Law (such as providing social security numbers to the Internal Revenue Service with 1099G filings for refunds issued).

Disclosure and access will be granted only if the laws, regulations or practices of the other jurisdiction maintain the confidentiality of this information at least to the extent provided by the Business Income Tax Law or Personal Income Tax Law, as applicable.

- (b) Upon request of a taxfiler, or authorized representative, the Administrator will provide copies of any tax return information filed by the taxfiler in the Administrator's possession to the taxfiler or authorized representative.
- (c) If a court of competent jurisdiction issues a court order requiring the disclosure of a taxfiler's tax return information, the Administrator will comply with the terms of that court order after providing written notice to the taxfiler at taxfiler's last known address.
- (d) The Administrator may also disclose and give access to information described in Section 7.05.090 to:
1. The Metro Attorney, the Attorney's assistants and employees, or other legal representatives of Metro, to the extent disclosure or access is necessary for the performance of the duties of advising or representing Metro.

2. The Administrator's Attorney, the Attorney's assistants and employees, or other legal representatives of the Administrator, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.
 3. Other Metro employees and agents, to the extent disclosure or access is necessary for such employees or agents to perform their duties regarding or under contracts or agreements between Metro and the Administrator.
 4. The Administrator's employees, agents and officials, to the extent the Administrator deems disclosure or access necessary for such employees, agents or officials to:
 - A. Aid in any legal collection effort on unpaid accounts;
 - B. Perform their duties under contracts or agreements between the Administrator and Metro or between the Administrator and any other department, bureau, agency or subdivision of the Administrator relating to the administration of the Metro Income Tax Laws; or
 - C. Aid in determining whether a Metro Income Tax Law account is in compliance with all City, County, State and Federal laws or policies.
- (e) All employees and agents specified in Section 7.05.100(d) above, prior to the performance of duties involving access to financial information submitted to Metro or the Administrator under the terms of the Personal Income Tax Law or Business Income Tax Law, must be advised in writing of Section 7.05.240 relating to penalties for the violation of Sections 7.05.090 and 7.05.100. Such employees and agents must execute a certificate in a form prescribed by the Chief Operating Officer or Administrator, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of Sections 7.05.090 and 7.05.100.
- (f) No person described in subsection (a) to whom disclosure or access to financial information has been given may make a disclosure under this section unless that person:
1. Is advised in writing of Section 7.05.240 relating to penalties for the violation of Section 7.05.090; and
 2. Executes a certificate in a form prescribed by the Chief Operating Officer or Administrator, stating these provisions of law have been reviewed and that person is aware of the penalties for the violation of Section 7.05.090. The Chief Operating Officer's or Administrator's signature on the certificate, required by this subsection, constitutes consent to disclosure to the persons executing the certificate.
- (g) Any person that violates this section may be subject to criminal penalties as set forth in Section 7.05.240.

7.05.110 Taxfiler Representation

Third parties, such as attorneys or certified public accountants, may represent taxfilers before the Administrator. The Administrator may establish procedures for taxfilers to authorize a third party to represent the taxfiler, which may include a written authorization submitted to the Administrator. The Administrator is not required to recognize a third party who claims to represent a taxfiler if that third party does not comply with the established procedures.

7.05.120 Representation Restrictions

- (a) No employee or official of Metro, the Administrator, or any public agency authorized to collect taxes imposed by this chapter may represent any taxfiler in any matter before the Administrator. This restriction against taxfiler representation continues for two years after termination of employment or official status.
- (b) Members of the appeals board may not represent a taxfiler before the appeals board. No member of the appeals board may participate in any matter before the board if the appellant is a client of the member or the member's firm.

7.05.130 Information Request; Examination of Books, Records or Persons

- (a) The Administrator may require a taxfiler to produce documents. The Administrator may also examine any books, papers, records, or memoranda, including State and Federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Administrator has the authority, after notice, to:
 - 1. Require the attendance of any person required to file a tax return under the Metro Income Tax Laws, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Administrator may designate;
 - 2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
 - 3. Require proof for the information sought, necessary to carry out the provisions of this chapter.
- (b) The Administrator will designate the employees who have the power to administer oaths under this section.

7.05.135 Subpoena Powers

- (a) The Administrator may subpoena and examine witnesses, administer oaths, and require the production of any books or papers in the hands of any person, company or corporation, whenever necessary for the prosecution of any inquiries deemed necessary or proper.
- (b) If any person fails to comply with any subpoena of the Administrator or refuses to testify when the Administrator requires that person to testify, the Administrator may apply to a court of competent jurisdiction for an order to the person to produce the books and papers or attend and testify, or otherwise comply with the demand of the Administrator.
- (c) The Administrator will apply to the court by ex parte motion, upon which the court will make an order requiring the person against whom it is directed to comply with the Administrator's request or demand within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order will be served upon the person to whom it is directed in the manner required by the State of Oregon or other applicable jurisdiction for service of process, which is required to confer jurisdiction upon the court.
- (d) Upon petition of the person subpoenaed, the court will make an order determining if the evidence sought by the subpoena is relevant to the pending proceeding and, if requested by the person subpoenaed, an order as required in the interests of justice to protect the confidentiality of the information subpoenaed. Upon failure of the subpoenaed person to show cause for noncompliance, the court will make an order requiring the person to comply with the demand of the Administrator within such time as the court directs.
- (e) Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, that may exist.
- (f) The Administrator will designate the employees who have the power to administer oaths under this section.

7.05.140 Taxfiler Records Retention

Every person required to file a return under the Business Income Tax Law or Personal Income Tax Law must keep and preserve for not less than seven years such documents and records, including State and Federal income and excise tax returns, accurately supporting the information reported on the taxfiler's return and calculation of tax for each year.

7.05.150 Deficiencies and Refunds

- (a) The Administrator may assess deficiencies and grant refunds any time within the periods set forth for deficiencies or refunds under ORS Chapter 314. The Administrator may by agreement with the taxfiler extend the time periods to the same extent as provided by statute.
- (b) When no tax return has been filed, there is no time limit for a notice of deficiency or

the assessment of taxes, penalty and interest due.

- (c) Notwithstanding subsections (a) and (b), the Administrator is not required to accept any tax return for any tax period from a taxfiler if:
1. The Administrator obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
 2. The Administrator or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
 3. The tax return is for a taxable year that is the subject of the general money judgment; and
 4. The Administrator gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Administrator (or its designee) filed a lawsuit for those particular taxable years.

7.05.160 Protests and Appeals; Penalty Waiver

- (a) A taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the initial notice of determination to the taxfiler. Failure to file such a written notice within the time permitted is deemed a waiver of any objections, and the Administrator will dismiss the appeal. The protest must state the name and address of the taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 30 days after the protest is filed with a final determination. The Administrator's final determination must include the reasons for the determination and state the time and manner for appealing the final determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator for good cause. Requests for extensions of time must be received before the original 30-day protest deadline expires. The Administrator will give written notice to the taxfiler if the Administrator's deadline is extended.
- (b) A taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.
- (c) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:
1. The reasons the Administrator's determination is incorrect; and
 2. What the correct determination should be.
- Failure to file this written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

- (d) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within 10 days after the Administrator files it with the appeals board.
- (e) The ~~appeals board~~Administrator must provide the appellant written notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the board deems appropriate.
- (f) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.
- (g) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.
- (h) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.
- (i) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in subsections 7.05.160(a) through 160(h). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce or waive penalties within 60 days from the date the written request is received. ~~As provided in subsections 7.05.260(f) and 7.05.270(e), the Administrator may waive or reduce penalties in certain situations.~~ If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board. [Ord. 22-1485.]

7.05.170 Return Due Date; Extensions

- (a) Tax returns must be on forms provided or approved by the Administrator. All tax returns must be filed together with payment of the specified tax by the fifteenth day of the fourth month following the end of the tax year. If the due date falls on a weekend or Federal or State holiday, the due date is the first business day following the weekend or holiday. With respect to the Business Income Tax Law, for cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Administrator must conform to the due date under Oregon tax law.
- (b) The Administrator may, for good cause, grant extensions for filing returns. However, no extension may be granted for more than six months beyond the initial

due date. This extension does not extend the time to pay the tax. Payments made after the due date may be subject to interest and penalties as provided in this chapter.

- (c) The tax return must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- (d) The Administrator will prepare blank tax returns and make them available upon request. Failure to receive a form does not relieve any person from the obligation to pay a tax under either the Business Income Tax Law or Personal Income Tax Law.

7.05.180 Payment of Estimated Tax

- (a) Every taxfiler expecting to have a tax liability under Chapter 7.06 or Chapter 7.07 of \$1,000 or greater must estimate and pay the taxfiler's tax liability for the current tax year as follows:
 - 1. Quarterly payments as provided in Section 7.05.190; or
 - 2. Employer provided withholding from taxfiler's wages as provided in Section 7.06.120.
- (b) If a taxfiler is required to remit estimated tax payments, ~~such the~~ amounts remitted must total either the lesser of ninety percent of the taxfiler's current year tax liability or one hundred percent of the taxfiler's reported prior year tax liability.
- (c) The Administrator will not impose underpayment ~~penalties or~~ interest for failure to make quarterly estimated payments for tax year 2021 (tax year beginning on or after January 1, 2021) and tax year 2022 (tax year beginning on or after January 1, 2022). For tax years beginning on or after January 1, ~~2022~~2023, the Administrator will impose penalties and interest as provided in this chapter.

7.05.190 Schedule for Payment of Estimated Tax

- (a) A taxfiler required under Section 7.05.180 to make payments of estimated tax must make the payments in installments as follows:
 - 1. One quarter or more of the estimated tax on or before the fifteenth day of the fourth month of the tax year;
 - 2. One quarter or more of the estimated tax on or before the fifteenth day of the sixth month of the tax year;
 - 3. One quarter or more of the estimated tax on or before the fifteenth day of the ninth month of the tax year; and
 - 4. For business income taxfilers, the balance of the estimated tax must be paid on or before the fifteenth day of the twelfth month of the tax year;
 - 5. For personal income taxfilers, the balance of the estimated tax must be paid on or before the fifteenth day of the first month of the subsequent tax year.

- (b) Any payment of the estimated tax received by the Administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.
- (c) If the due date falls on a weekend or federal holiday, the due date is the first business day following the weekend or holiday. [Ord. 21-1465.]

7.05.200 Tax Return Payment; Minimum

- (a) Business Income Tax. Each business income tax return must be accompanied by a tax payment at the rate established in Metro Code Section 7.07.030, provided that each tax return must be accompanied by a minimum tax of \$100. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.
- (b) Personal Income Tax. Each personal tax return must be accompanied by a tax payment at the rate established in Metro Code Section 7.06.040.

7.05.210 Payment Plan; Fee

If a person fails to pay the Business Income Tax or Personal Income Tax when due, the Administrator may establish a payment plan pursuant to written policy. The Administrator may charge a setup fee for each payment plan established.

7.05.220 Settlement Offers and Agreements

- (a) The Administrator may, upon good and sufficient cause, make settlement agreements with taxfilers in the recomputation of taxes payable or in the collection of those taxes. These agreements must be consistent with ORS 305.150 and 305.155 and corresponding OARs. The Administrator will provide applications for settlement offers to taxfilers proposing settlement offers.
- (b) In addition to the general power granted under this section, the Administrator may, upon a showing of good and sufficient cause, grant a taxfiler's request when the Oregon Department of Revenue has granted relief to a taxfiler under ORS 316.368 or ORS 316.369. In such case, a taxfiler who is granted relief will be treated as a single taxfiler for purposes of the tax imposed under this Chapter.

7.05.230 Changes to Federal or State Tax Returns

- (a) If a taxfiler's reported income under applicable State laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the State Department of Revenue, or amended by the taxfiler to correct an error in the original Federal or State return, the taxfiler must file a report of that change with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the Federal or State agencies. The

report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.

- (b) The Administrator may assess deficiencies and grant refunds resulting from changes to any relevant Federal, State or local income tax return within the time periods provided for in Section 7.05.150, treating the report of change in Federal, State or business income tax return as the filing of an amended tax return.
- (c) The Administrator may assess penalties and interest on the additional tax due as provided in Sections 7.05.260, 7.05.270, and 7.05.280 or may refuse to grant a refund of taxes as a result of the amended return if the amended return is not filed with the Administrator within the time limits set forth in subsection (a).

7.05.240 Criminal Penalties

A violation of Section 7.05.090 or Section 7.05.100 is punishable, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. In addition, any Metro employee convicted for violation of Section 7.05.090 or Section 7.05.100 is subject to possible dismissal from employment and a possible prohibition from employment for a period of five years thereafter. Any agent of Metro who is convicted is ineligible for participation in any Metro contract for a period of five years thereafter.

7.05.250 Civil Penalty for Unauthorized Access of Tax Information

- (a) Definitions. As used in this section, the following definitions apply:

Computer Database means any computer application(s) used by the Administrator to calculate or store business, personal, and financial data collected under the authority granted by Metro Income Tax Laws.

Loss means any reasonable cost incurred by Metro or the Administrator, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

- (b) Any individual who intentionally accesses the Computer Database without authorization will be fined:
 1. \$10,000 if the individual acquires any information regarding any business or personal account found in the Computer Database;
 2. \$10,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
 3. \$10,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Computer Database, and, as a result of such conduct, causes damage to the Computer Database.

7.05.260 Penalties for Violations of Business Income Tax Law

- (a) A penalty will be assessed if a person:
1. Fails to file a tax return or extension request at the time required under Section 7.05.170(a) or 7.05.230(a); or
 2. Fails to pay a tax when due.
 3. The penalty under subsection (a) is:
 - A. Five percent of the total tax liability if the failure is for a period less than four months;
 - B. An additional penalty of twenty percent of the total tax liability if the failure is for a period of four months or more; and
 - C. An additional penalty of one hundred percent of the total tax liability of all tax years if the failure to file is for three or more consecutive tax years.
- (b) A penalty will be assessed if a person who has filed an extension request:
1. Fails to file a tax return by the extended due date; or
 2. Fails to pay the tax liability by the extended due date.
 3. The penalty under subsection (b) is:
 - A. Five percent of the total tax liability if the failure is for a period of less than four months; and
 - B. An additional penalty of twenty percent of the total tax liability if the failure is for a period of four months or more.
- (c) A penalty will be assessed if a person:
1. Fails to pay at least ninety percent of the total tax liability by the original due date; or
 2. Fails to pay at least one hundred percent of the prior year's total tax liability by the original due date.
 3. The penalty under subsection (c) is five percent of the tax underpayment, but not less than \$5.
- (d) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this chapter:
1. Failure to file any tax return within 60 days of the Administrator's original written notice to file; or
 2. Failure to pay any tax within 60 days of the Administrator's original written notice for payment; or
 3. Failure to provide either documents or information as required by this chapter or Chapter 7.07 within 60 days of the Administrator's original written notice to provide the documents or information; or

4. Failure to fully complete any form required under the Business Income Tax Law; or
 5. Failure to fully comply with the requirements of any section of Chapter 7.05 or Chapter 7.07 unless the section has a separate penalty calculation.
- (e) The Administrator may impose a civil penalty under subsection (d) only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- (f) The Administrator may waive or reduce any penalty determined under subsections (a) through (d) for good cause, according to and consistent with written policies.
- (g) Frivolous Return Position. If the Administrator determines that taxfiler has taken a frivolous position in preparing the taxfiler's tax return, the Administrator will add a \$500 penalty to the amount of tax required to be shown on the tax due under this chapter or Chapter 7.07. For purposes of this subsection, a tax return position is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316-0652(2) are adopted by direct reference, but are not a definitive list of those positions.
- (h) The provisions set forth in Metro Code Chapter 2.03 do not apply with respect to any penalty that maybe be assessed under this chapter or the Business Income Tax Law.

7.05.270 Penalties for Violations of Personal Income Tax Law

The Administrator will assess the following penalties upon personal income taxfilers:

- (a) Failure to File a Return; Failure to Pay Tax When Due. If a taxfiler fails to file a return or fails to pay a tax by the date on which the filing or payment is due, the Administrator will add a delinquency penalty of:
1. Five percent of the amount of the unpaid tax, ~~if the failure is for a period less than four months;~~
 2. ~~An additional penalty of twenty percent of the unpaid tax if the failure is for a period of four months or more; and~~
 - 3.2. An additional penalty of one hundred percent of the unpaid tax of all tax years if the failure to file is for three or more consecutive tax years.
 - 4.3. For purposes of this section, unpaid tax is the taxfiler's tax liability reduced by payment of tax and any credit against tax that is claimed on the return.

The Administrator may for good cause waive all or any part of the penalty imposed under this subsection according to and consistent with written policies.

- (b) Underpayment of Tax. A penalty will be assessed if a person:

1. Fails to pay at least ninety percent of the total tax liability by the original due date; or
2. Fails to pay at least one hundred percent of the prior year's total tax liability by the original due date.
3. The penalty under subsection (b) is five percent of the tax underpayment, but not less than \$5.

The Administrator may for good cause waive all or any part of the penalty imposed under this subsection according to and consistent with written policies.

- (c) Intent to Evade. If a taxfiler fails to file a return with the intent to evade the tax imposed under this chapter or Chapter 7.06, or a taxfiler prepares or causes to be prepared a return and files that return with the intent to evade the tax imposed under this chapter or Chapter 7.06, the Administrator will impose a penalty in the amount of one hundred percent of any deficiency that the Administrator determines is due.
- (d) Substantial Understatement of Tax. If the Administrator determines that there is a substantial understatement of tax due under this chapter or Chapter 7.06, the Administrator will add to the amount of tax required to be shown on the return a penalty equal to twenty percent of the amount of any underpayment of tax attributable to the understatement.
 1. For purposes of this subsection, a substantial understatement of tax exists if the amount of the understatement exceeds \$1,000 of tax otherwise due.
 2. In the case of any item attributable to an abusive tax shelter: no reduction of the amount of the understatement will be made with regard to that item regardless of the existence of substantial authority for the treatment of the item by the taxfiler; and, no reduction of the amount of the understatement will be made with regard to that item regardless of the disclosure of the facts affecting the tax treatment of the item unless, in addition to the disclosure, the Administrator determines in the Administrator's sole discretion, that the taxfiler reasonably believed that the tax treatment of the item was more likely than not the proper treatment. This chapter expressly adopts the definitions contained in ORS 314.402 and the administrative rules thereunder.
 3. The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the taxfiler that there was reasonable cause for the understatement or any portion thereof, and that the taxfiler acted in good faith.
- (e) Frivolous Return Position. If the Administrator determines that taxfiler has taken a frivolous position in preparing the taxfiler's tax return, the Administrator will add a \$500 penalty to the amount of tax required to be shown on the tax due under this chapter or Chapter 7.06. For purposes of this subsection, a tax return position is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is

substantially incorrect. Examples of “frivolous positions” as provided in Oregon Administrative Rule 150-316-0652(2) are adopted by direct reference, but are not a definitive list of those positions.

- (f) Failure of Administrative Compliance. The Administrator may impose a penalty of up to \$500 for the following violations of this chapter:
1. Failure to file any tax return within 60 days of the Administrator's original written notice to file;
 2. Failure to pay any tax within 60 days of the Administrator's original written notice for payment;
 3. Failure to provide either documents or information as required by this chapter or Chapter 7.06 within 60 days of the Administrator's original written notice to provide the documents or information;
 4. Failure to fully complete any form required under the Personal Income Tax Law; or
 5. Failure to fully comply with the requirements of any section of Chapter 7.05 or Chapter 7.06 unless the section has a separate penalty calculation.

The Administrator may impose a civil penalty under this subsection only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice. The Administrator may waive all or any part of the penalty imposed under this paragraph on a showing by the taxfiler that there was reasonable cause for the Failure of Administrative Compliance, and that the taxfiler acted in good faith.

- (g) Penalties cumulative. Each penalty imposed under this section is in addition to any other penalty imposed under this section.
- (h) The provisions set forth in Metro Code Chapter 2.03 do not apply with respect to any penalty that maybe be assessed under this chapter or the Personal Income Tax Law.

7.05.280 Interest

- (a) Interest will be assessed on any unpaid tax at the rate in subsection (c), computed from the original due date of the tax to the date of payment.
- (b) Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Section 7.05.180 and Section 7.05.190 at the rate in subsection (c), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- (c) Unless specifically provided otherwise by administrative rule as provided in subsection (d), the interest rate is 0.833% simple interest per month or fraction thereof (ten percent per annum).
- (d) If the Administrator determines that the interest rate provided in subsection (c) is at least one percentage point more or less than the effective interest rate on January

1 charged by the State of Oregon Department of Revenue, the Administrator may adjust the interest rate by administrative rule to match the State of Oregon Department of Revenue interest rate. The Administrator may not adjust the interest rate more than once in a calendar year. The adjusted interest rate applies to unpaid tax or underpaid estimated payments outstanding on or after the effective date of the adjusted interest rate.

- (e) Notwithstanding subsection (b), there is no interest on underpayment of quarterly estimated payments if:
 1. The total tax liability of the prior tax year was less than \$1,000;
 2. An amount equal to at least ninety percent of the total tax liability for the current tax year was paid in accordance with Section 7.05.190; or
 3. An amount equal to at least one hundred percent of the prior year's total tax liability was paid in accordance with Section 7.05.190.
- (f) For purposes of subsection (b), the amount of underpayment is determined by comparing ninety percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if one hundred percent of the prior year's total tax liability is paid to the Administrator by the due date of the fourth quarterly payment, the Administrator may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- (g) For purposes of subsection (a), the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Section 7.05.170(a) or Section 7.05.190.
- (h) Interest at the rate specified in subsection (a) accrues from the original due date without regard to any extension of the filing date.
- (i) The Administrator may not waive or reduce any ~~Any~~ interest amounts properly assessed in accordance with this section ~~may not be waived or reduced by the Administrator,~~ unless specifically provided for by written policy. The Administrator must consult with the Metro Chief Financial Officer before adopting a written policy that waives or reduces interest amounts. [Ord. 21-1465]

7.05.290 Payments Applied

Tax payments received will be applied first to any penalty accrued, then to interest accrued, then to taxes due, unless the Administrator determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account. The Administrator will apply tax payments received without a designation for a specific period to the oldest periods first in the order set forth above.

7.05.300 Interest on Refunds

When a taxfiler is entitled to a refund of a portion or all of a tax paid to the Administrator, the taxfiler will receive simple interest on that amount at the rate specified in Section 7.05.280(c), subject to the following:

- (a) Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four months after the later of:
 - 1. The due date of the tax return;
 - 2. The date the tax return was filed or the refund was otherwise requested; or
 - 3. The date the tax was paid, to the date of the refund.
- (b) Any overpayments of taxes that are the result of an amended return being filed will be refunded with interest for each month or fraction thereof for the period beginning four months after the date the taxfiler filed the amended return. This subsection applies to tax returns that are amended due to a change to any relevant Federal, State or local income tax return.

7.05.310 Accountability of Funds; Audits

- (a) Every year a public accounting firm must conduct a financial audit of the revenue generated by the Business Income Tax and Personal Income Tax Laws and the distribution of that revenue. Metro will make the audit public as well as any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit required under this section.
- (b) The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Metro Auditor.

7.05.320 Severability

If a court of competent jurisdiction finds that any part, section or provision of this chapter is unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the chapter and the remaining parts, sections or provisions remain in full force and effect. [Ord. 20-1454.]

IN CONSIDERATION OF

- ORDINANCE 23-1492, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.05 TO IMPROVE CLARITY REGARDING PENALTIES AND INTEREST AND OTHER HOUSEKEEPING UPDATES AND DECLARING AN EMERGENCY

Date: March 9, 2023
Department: Finance & Reg. Services
Meeting Date: March 23, 2023

Prepared by: Josh Harwood
Presented by: Josh Harwood
Shane Abma
Length: 20 minutes

ISSUE STATEMENT

Through the course of enforcement activities following the first year of Supportive Housing Services (SHS) tax collection, it became apparent that there were significant numbers of potential taxpayers that were unaware of the personal income tax. A similar outcome was experienced by Multnomah County in reference to its Preschool for All (PFA) tax. In response, both Metro and Multnomah County agreed to waive penalties and interest for personal income taxes for tax year 2021. Furthermore, no penalties or interest will be assessed for underpayment of estimated personal income taxes¹ for tax year 2022.

For FY 2021-22, over \$240 million was collected in personal and business taxes. In order to collect the taxes in the most efficient, cost-effective manner possible, Metro entered into an intergovernmental agreement with the City of Portland Revenue Division to administer the taxes. Meanwhile, the Division executed a data-sharing agreement with the Oregon Department of Revenue that would ease enforcement and compliance activities by identifying those taxpayers that filed state returns suggesting that they may owe SHS and/or PFA personal income taxes as well, but had not filed an SHS return by the due date.

Because the personal income tax is new and a significant number of taxpayers appear to have not been aware of the tax, staff is proposing code amendments to codify administrative actions already in place that eliminate personal income tax penalties and interest associated with tax years 2021 and 2022. In addition, staff proposes to eliminate the additional 20% penalty added for delinquent payments over four months, and, finally, make minor housekeeping revisions. Additionally, Metro staff will coordinate with the Portland Revenue Division to regularly update the interest rate charged on delinquent taxes to that which the state assesses – currently 6% versus Metro code, which has a statutory 10% interest rate but allows for adjustment by administrative rule.

ACTION REQUESTED

Staff requests that Metro Council adopt Ordinance No. 23-1492.

¹ Taxpayers that owe at least \$1,000 in SHS taxes must either have taxes withheld or make estimated payments. The process is similar to state and federal income taxes.

IDENTIFIED POLICY OUTCOMES

The proposed amendments to the Metro personal income tax code sections codify the administrative actions taken by the chief operating officer, chief finance officer, and the City of Portland to waive all penalties and interest for personal income taxes for tax year 2021 and for non-payment of estimated or withholding taxes for tax year 2022. The proposed code changes do four things related to the personal income tax code:

- 1) Waive all penalties and interest assessed for tax year 2021 (the first year the tax was in place);
- 2) Waive penalties and interest related to underpayments of taxes for tax year 2022. This eliminates charges that accrue due to underpayment of taxes either through inadequate withholdings or estimated payments;
- 3) Eliminate the additional 20% penalty that accrues after four months of delinquency (an initial 5% penalty is assessed for late filing/payment. This penalty is overly punitive for personal income taxes and, due to timing, will often be triggered because the data that is received from the State Department of Revenue that support enforcement actions can be delayed by more than four months; and,
- 4) Minor housekeeping amendments and revision related to plan and inclusive language.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- Adopt this ordinance. This codifies the administratively enacted relief to taxpayers that would otherwise be charged penalties and interest.
- Adopt this ordinance with revisions or modifications as described by Council.
- Reject this ordinance with other direction to staff. The existing income tax code would remain in place and proposed amendments would not be made.

STAFF RECOMMENDATIONS

Staff recommend that Metro Council adopt Ordinance No. 23-1492.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Tax collection began in April 2021, but the first tax filings were not due until April 2022. As of March 3, 2023, nearly \$400 million in total has been collected for Supportive Housing Services, with more than \$225 million of that coming from personal income taxes.

To date, roughly 20,000 non-filer letters have been sent by the Portland Revenue Division (Metro's tax administrator) to potential taxpayers. It is important to note that not all the notices will result in taxes owed. The information that triggered the letter to taxpayers only includes the income amount from the Oregon tax return, not the comprehensive federal and state tax information necessary to determine with certainty that someone is liable for the tax.

In response to taxpayer and Council concerns, Metro directed the City of Portland Revenue Division to waive penalties and interest for tax year 2021 and underpayment penalties and interest for estimated taxes for the 2022 tax year. Subsequently, staff have worked with the Portland Revenue Division and Multnomah County to implement the waivers and provide refunds for those that have already paid penalty and/or interest for tax year 2021.

BACKGROUND

In May 2020 voters in greater Portland approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness. The program is funded by two separate taxes: a 1% personal income tax on taxable income above \$125,000 for individuals and \$200,000 for those filing jointly, and a 1% business income tax on net income for businesses with gross receipts above \$5 million.

During the development of the tax code and intergovernmental agreement with the Portland Revenue Division, the Portland Revenue Division reached a data sharing agreement with State of Oregon Department of Revenue that enhances enforcement activities by identifying those taxpayers whose state tax return indicates they may also be liable for SHS personal income tax, but failed to file a SHS tax return. In fall 2022, the Revenue Division received the first data for tax year 2021. Subsequently approximately 20,000 potential taxpayers were identified and the process for notifying those taxpayers began.

After passage of the measure in May 2020, Metro and the City of Portland's Revenue Division made several efforts to educate impacted taxpayers. Staff also coordinated this work with Multnomah County because Multnomah County passed a similar personal income tax to fund early childhood education.

One challenge is that, of the nearly one million state income tax filers, only about 5% will be liable for the SHS personal income taxes in a given year. Furthermore, many taxpayers will have a one-time event that may make them liable for the tax only once. Similar to state and federal income taxes, but unlike property taxes, there is not a database of high-income earners to identify ahead of the tax due date. Below is a brief list of efforts made to reach both businesses and households prior to the tax due date.

Business Letters. In Winter 2021, a letter was sent to all registered businesses in the Metro jurisdiction. The letter detailed both the business and personal income taxes, as well as any employer responsibilities regarding employee payroll withholding. While we cannot mandate businesses outside of the Metro jurisdiction to withhold, opt-in forms are available for those employees to use with their employer. Staff is also looking at opportunities for additional outreach to local employers to expand income tax withholding compliance.

CPA/Tax Preparation Organizations. Metro and the Portland Revenue Division contacted the following organizations and who subsequently notified their membership:

- Oregon Society of CPAs
- Portland Business Alliance
- Prosper Portland
- Oregon Association of Minority Entrepreneurs
- Council on State Taxation
- Oregon State Bar
- Oregon Association of Tax Consultants
- Oregon Association of Independent Accountants

Software Vendors. The Portland Revenue Division is in regular contact with software providers and repeated requests have been made to have SHS forms included in tax software. Many software providers – particularly those with consumer products like Turbo Tax and H&R Block – will not upload forms for the first year of a tax because there can be significant changes once a tax is in place. While we do not expect significant changes, every effort is being made to encourage inclusion in the software packages. For tax preparers, this includes pending action to mandate efilings for those tax preparers completing at least ten returns. By instituting this mandate, software providers will be encouraged to include the forms in order to meet the needs of its clients.

Webinar/Conferences. Staff provided conference seminars and a webinar for interested parties.

No additional materials were distributed at the meeting.