

# Memo



**Metro**

600 NE Grand Ave.  
Portland, OR 97232-2736

Date: Friday, March 1, 2019  
To: JPACT and Interested Parties  
From: Ken Lobeck, Funding Programs Lead, 503-797-1785  
Subject: March 2019 MTIP Formal Amendment plus Approval Request of Resolution 19-4971

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## STAFF REPORT

FOR THE PURPOSE OF ADDING OR AMENDING EXISTING PROJECTS TO THE 2018-21 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM INVOLVING THREE PROJECTS IMPACTING GRESHAM, OREGON CITY, AND WILSONVILLE (MR19-07-MAR)

## BACKGROUND

### What This Is:

The March 2019 Formal Metropolitan Transportation Improvement Program (MTIP) Amendment bundle (for FFY 2019) contains required changes and updates impacting Gresham, Oregon City, and Wilsonville. Three projects comprise the amendment bundle.

### What is the requested action?

**TPAC requests JPACT approval recommendation to Metro Council for Resolution 19-4971 enabling the three identified projects to be amended correctly into the 2018 MTIP with final approval to occur from USDOT.**

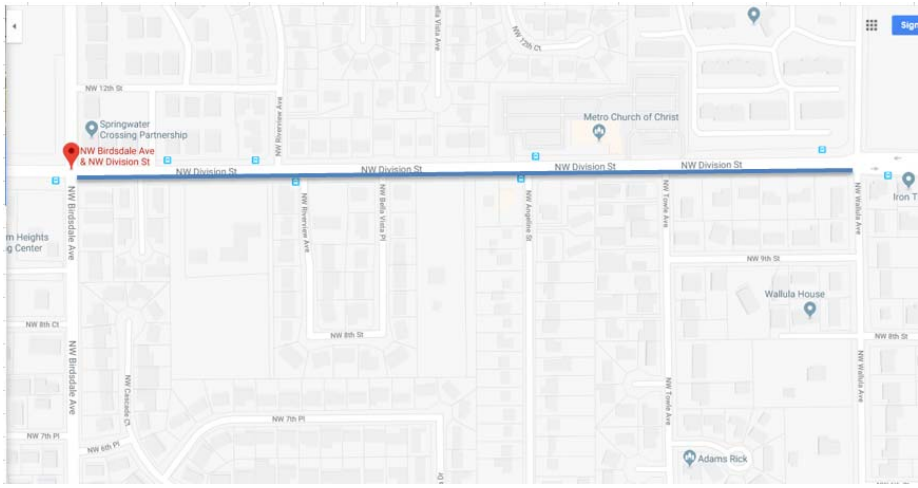
The summary of the three projects is shown in the below table:

Proposed March 2019 Formal Amendment Bundle Amendment Type: <b>Formal/Full</b> Amendment #: <b>MR19-07-MAR</b> Total Number of Projects: 3					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
16986	70542	Gresham	<del>Division Street Corridor Improvements (Gresham)</del> <b>SE Division St Improvements: Wallula-Birdsdale</b>	Construct sidewalks and bicycle lanes on each side of Division Street between Gresham/Fairview Trail and NW Wallula Ave.	<b>ADD FUNDING:</b> The project received a Metro Local Funds Project Development Grant which is being added to the Planning phase for project development activities including pre-NEPA environmental work and pre-Project Specifications, & Estimates (PS&E) design work up to 30% design.

<b>Proposed March 2019 Formal Amendment Bundle</b> <b>Amendment Type: Formal/Full</b> <b>Amendment #: MR19-07-MAR</b> <b>Total Number of Projects: 3</b>					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
21423 NEW	TBD	Oregon City	Meyers Rd: OR213 - High School Ave (Oregon City)	Construct 2,100 feet of new Meyers Rd between OR213 and just west of High School Ave. Add a southbound left turn lane on OR213. Add 1,400 feet of new northbound through-lane on OR213. Replace traffic signal at the OR213/Meyers Rd intersection to accommodate the new east leg of the intersection.	<b>ADD NEW PROJECT:</b> The formal amendment adds this new project to the 2018 MTIP.
20816	70883	Wilsonville	I-5 Bike/Ped O-xing: SW Barber - SW Town Center Loop	14-foot wide pedestrian and bicycle bridge spanning 290 feet over SW Boones Ferry Road and Interstate 5 connecting SW Barber Street with SW Town Center Loop West	<b>REMOVED PROJECT:</b> The project is a 2019-21 RFFA federally awarded project. Per discussions with FHWA, Metro agreed to a fund exchange and de-federalized the project. The project will be monitored by Metro through Metro's Locally Funded Project program. With no federal approvals required, the project is being removed from the MTIP through this amendment.

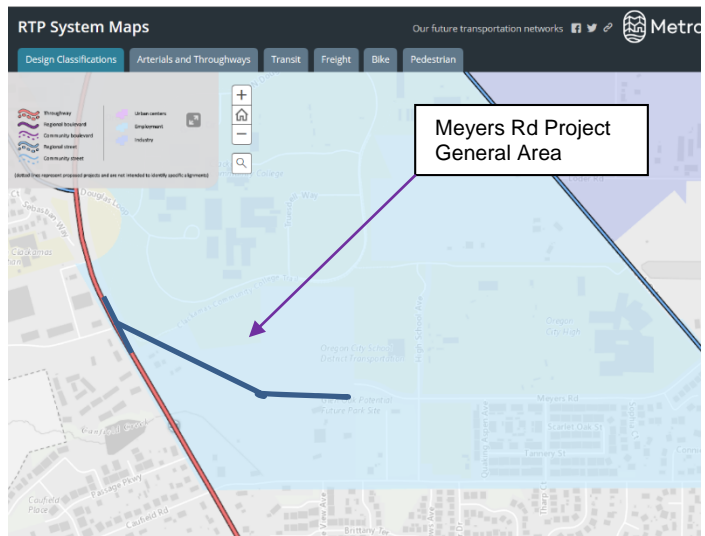
A detailed summary of the two projects being amended is provided in the tables on the following pages.

<b>Project 1:</b> <b>Division Street Corridor Improvements (Gresham)</b> <b>SE Division St Improvements: Wallula - Birdsdale</b>	
Lead Agency:	<b>Gresham</b>
ODOT Key Number:	<b>16986</b>
	MTIP ID Number: 70542
Projects Description:	<b>Project Snapshot:</b> <ul style="list-style-type: none"> <li>Proposed improvements: In the city of Gresham on Division Street between Gresham/Fairview Trail (GFT) and NW Wallula Ave, construct sidewalks and bicycle lanes on each side of Division Street (Project Development Activities). Completion of this project will address a key gap in the regional bicycle and pedestrian network, and is consistent with the Division BRT project. (Current funding is for project development activities only.)</li> <li>Source: Existing MTIP project</li> <li>Funding: Federal Transportation Community and System Preservation (TCSP) funds</li> <li>Type: Active Transportation project</li> <li>Location: In the city of Gresham on SE Division Street</li> <li>Cross Streets: from Wallula Ave to Birdsdale Ave</li> <li>Mile Post Limits: N/A</li> </ul>

	<ul style="list-style-type: none"> <li>• Current Status Code: 2 = Pre-design/project development activities (pre-NEPA) (ITS = ConOps)</li> <li>• STIP Amendment Number: TBD</li> <li>• MTIP Amendment Number: MR19-07-MAR</li> </ul>
<p>What is changing?</p>	<p><b>AMENDMENT ACTION: ADDING FUNDING</b></p> <p>The amendment adds local funds in the amount of \$207,500 to the MTIP Planning phase in support of project development pre-National Environmental Policy Act (NEPA) activities and to initiate preliminary design up to 30%.</p> <p>With this Metro project development support grant, Gresham is attempting to re-start this project and move forward to deliver the project. The amendment also includes project renaming from the Division Street Corridor Improvements Project (Gresham) to be “SE Division St Improvements: Wallula-Birdsdale” to reflect the update limits identified in the project development grant.</p>  <p>The project was originally awarded \$832,640 federal Transportation Community and Systems Preservation (TCSP) funds and was first programmed in the MTIP in early 2012. The estimated total project cost then was \$1,310,600. The PE phase was obligated in June of 2013. \$179,460 of TCSP funds were obligated for the PE phase in 2013.</p> <p>The TCSP funds were awarded to the project with a shelf-life use it or lose it obligation requirement. During 2017, the TCSP funds lapsed and a request for their extension was denied by FHWA. As a result a formal amendment occurred to remove the remaining TCSP funds (totaling \$653,180) and local match from the remaining phases the TCSP funds were programmed.</p> <p>Metro agreed to carry-over the project into the 2018 MTIP with \$100,000 of local funds in the PE phase while Gresham worked on developing a funding plan for the project.</p> <p>The Metro grant of \$100,000 for project development work will help Gresham take a step forward in developing their funding plan for the project.</p> <p>Per the 2018 RTP, the SE Division St Improvement project revised total estimated cost is now \$5,936,128 and represents a significant increase from the TCSP funded version at \$1,310,600.</p>

Additional Details:	<p>The award and use of federal transportation funds often comes with numerous conditions. Example: Federal Congestion Mitigation Air Quality improvement funds must clearly demonstrate appropriate reductions in four air pollutants for the funds to be declared eligible to the committed project.</p> <p>Another key condition for the use and reimbursement of all FHWA managed federal transportation surrounds Directive 5020.1A which involves the Repayment of Preliminary Engineering Costs for federally funded projects that do not make adequate progress through the federal transportation project delivery process. Directive 5020.1A, dated June 8, 2018 provides policy and procedures concerning the repayment of Federal-aid funds expended on preliminary engineering (PE) projects when on-site construction or right-of way (ROW) acquisition does not commence within 10 years of the date on which Federal funds were first made available.</p> <p>The TCSP funds for the PE phase were obligated on 1/29/2013. The project will need to have commenced the ROW phase before the end of FFY 2023 (or specific deadline established by FHWA) to ensure the remaining obligated TSCP are not subject to the 10-year PE Repayment Requirement as stated in Directive 5020.1A. Per Gresham's project development grant IGA, the 30% design update final deliverable is scheduled to occur as of September 2021. The window to complete PE and move on to the ROW phase will be tight to avoid the PE payback requirement, and also assumes the project will have a sufficiently developed project financial plan.</p>
Why a Formal amendment is required?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, Cost changes for FHWA funded projects with an active-year programming cost less than \$500,000 require a formal amendment if the cost change is in excess of 50%. Adding the \$207,500 of local funds into 2019 represents a 51.8% cost change to the project and is above the 50% threshold.
Total Programmed Amount:	The total project programming amount increases from \$100,000 to \$407,500 of which \$200,000 is reflected as prior obligated funds from years outside of the current 2018 MTIP.
Added Notes:	

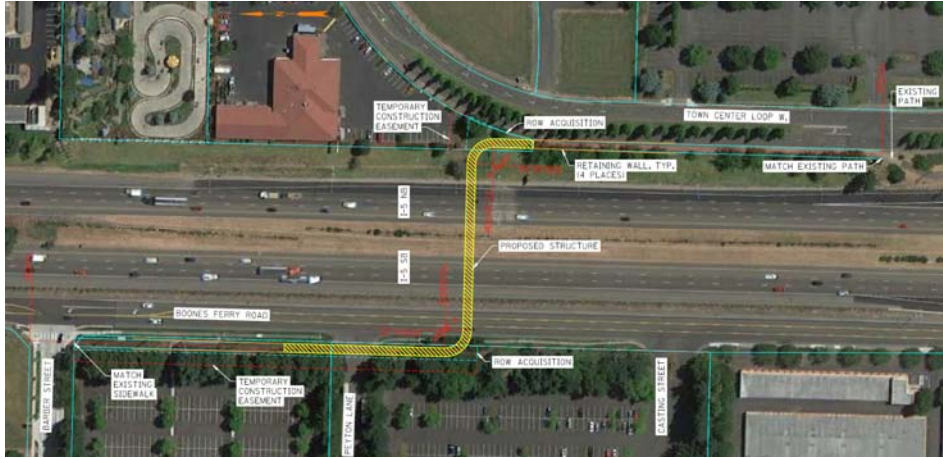
<b>Project #2:</b>	<b>Meyers Rd: OR213 - High School Ave (Oregon City) (New Project)</b>		
Lead Agency:	<b>Oregon City</b>		
ODOT Key Number:	<b>21423</b>	MTIP ID Number:	TBD
Project Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> <li>Proposed improvements: Construct 2,100 feet of new Meyers Rd between OR213 and just west of High School Ave. Add a southbound left turn lane on OR213. Add 1,400 feet of new northbound through-lane on OR213. Replace traffic signal at the OR213/ Meyers Rd intersection to accommodate the new east leg of the intersection..</li> <li>Source: Local arterial in Oregon City</li> <li>Funding: Primarily local funds from Oregon City with a \$250,000 State Immediate Opportunity Fund (IOF) grant from ODOT</li> <li>Type: Modernization/capacity enhancing</li> <li>Location: In Oregon City On OR213 from north of OR213/Meyers Rd and on Meyers Rd to west of High School Ave</li> <li>Cross Streets: Meyers Rd east to just west of High School Ave</li> <li>Mile Post Limits: 3.71 to 3.89</li> </ul>		

	<ul style="list-style-type: none"> <li>• Current Status Code: 6 (Pre construction activities)</li> <li>• STIP Amendment Number: 18-21-2137</li> <li>• MTIP Amendment Number: MR19-07-MAR</li> </ul>
What is changing?	<p><b>AMENDMENT ACTION: ADD NEW PROJECT:</b></p> <p>This project is primarily a locally funded project with a small State IOF grant. The purpose of the "Immediate Opportunity Fund" (IOF) is to support primary economic development in Oregon through the construction and improvement of streets and roads. The 1987 Oregon Legislature created state funding for immediate economic opportunities with certain motor vehicle gas-tax increases. Access to this fund is discretionary and the fund may only be used when other sources of financial support are unavailable or insufficient. The IOF is not a replacement or substitute for other funding sources. The IOF is designed to meet the following objectives:</p> <ul style="list-style-type: none"> <li>• Provide needed street or road improvements to influence the location, relocation or retention of a firm in Oregon.</li> <li>• Provide procedures and funds for the Oregon Transportation Commission (OTC) to respond quickly to economic development opportunities.</li> <li>• Provide criteria and procedures for Business Oregon, other agencies, local governments and the private sector to work with the Oregon Department of Transportation (ODOT) in providing road improvements needed to ensure specific job development opportunities for Oregon or to revitalize business or industrial centers.</li> </ul> <p>This project falls under the category of Type B: Benefits in terms of a revitalized business district or industrial center through the construction of road improvements.</p> <p>The project is identified in the 2018 RTP in ID 11544, <i>"Construct new 3 lane roadway, sidewalks, buffered bike lanes, WB right turn lane and center turn lanes to serve adjacent Clackamas Community College &amp; underdeveloped industrial properties. (TSP D46)"</i>. Because the project is located in a Metro defined "Employment Area" within the Arterials and Throughways Modeling Network, the project is considered Regionally Significant and MTIP Programming is required. It appears that federal approvals are not required allowing only the construction phase with the IOF funds needing to be programmed.</p> <p>The project will construct 2,100 feet of new Meyers Rd between OR213 and just west of High School Ave. Add a southbound left turn lane on OR213. Add 1,400 feet of new northbound through-lane on OR213. Replace traffic signal at the OR213/Meyers Rd intersection to accommodate the new east leg of the intersection.</p> 

	<p>The Construction phase estimate is \$7,854,142. The total project cost including all other phases is \$9,352,514. MTIP programming only requires the construction phase to be programmed.</p> <table border="1"> <tr> <td>Preliminary Engineering</td><td>\$667,163.00</td></tr> <tr> <td>Permitting and Miscellaneous Expenses</td><td>\$173,324.00</td></tr> <tr> <td>Bonneville Power Administration Tower Modifications</td><td>\$265,885.00</td></tr> <tr> <td>Right-of-Way Acquisitions</td><td>\$392,000.00</td></tr> <tr> <td>Construction</td><td>\$7,854,142.00</td></tr> <tr> <td><b>Total Project Cost</b></td><td><b>\$9,352,514.00</b></td></tr> </table>	Preliminary Engineering	\$667,163.00	Permitting and Miscellaneous Expenses	\$173,324.00	Bonneville Power Administration Tower Modifications	\$265,885.00	Right-of-Way Acquisitions	\$392,000.00	Construction	\$7,854,142.00	<b>Total Project Cost</b>	<b>\$9,352,514.00</b>
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Additional Details:	<p>Benefits of the project include:</p> <ul style="list-style-type: none"> <li>• Relieving congestion on Glen Oak Road.</li> <li>• Providing a new access through the area to foster future development of industrial land parcels adjacent to the road and helping to spur the creation of over 1,600 family-wage jobs.</li> <li>• Providing greater access to a regionally-vital employment area that will enhance the flow of commerce.</li> <li>• Helping address transportation capacity concerns and alternative mobility targets at the intersection of Oregon 213 and Beavercreek Road.</li> <li>• Providing an additional access for the Oregon City School District Transportation and Maintenance Facility, connectivity to the future City park at the corner of Meyers Road and High School Avenue, and an additional access (on the south end of the campus) to Clackamas Community College and the expanded Transit Center under construction on their campus.</li> </ul>												
Why a Formal amendment is required?	Per the FHWA/FTA/ODOT/MPO MTIP & STIP Amendment Matrix, adding a new project to the MTIP requires a formal amendment.												
Total Programmed Amount:	The total project programming amount is \$7,854,142. The total estimate project cost is \$9,352,514.												
Added Notes:	OTC approval was required in awarding the IOF grant and occurred during their January 2019 meeting.												

<b>Project 3:</b>	<b><del>I-5 Bike/Ped O-xing: SW Barber - SW Town Center Loop</del></b>		
Lead Agency:	<b>Wilsonville</b>		
ODOT Key Number:	<b>20816</b>	MTIP ID Number:	70883
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> <li>• Proposed improvements: Construct a 14-foot wide pedestrian and bicycle bridge spanning 290 feet over SW Boones Ferry Road and Interstate 5 connecting SW Barber Street with SW Town Center Loop West</li> <li>• Source: Existing MTIP project</li> <li>• Funding: Initially a RFFA federal award and then fund exchange for local funds</li> <li>• Type: Active Transportation project</li> <li>• Location: In the city of Wilsonville over Interstate 5</li> <li>• Cross Streets: Between Barbur St and Casting Street</li> <li>• Mile Post Limits: MP 284.2 to MP 284.4</li> <li>• Current Status Code: 3 = (PE) Preliminary Engineering (NEPA) activities initiated</li> <li>• STIP Amendment Number: TBD</li> <li>• MTIP Amendment Number: MR19-07-MAR</li> </ul>		
What is changing?	<p><b>AMENDMENT ACTION: REMOVE PROJECT</b></p> <p>The amendment removes the project from the 2018 MTIP. The city of Wilsonville's I-5 Bike/Pedestrian Overcrossing project is a 2019-2021 Regional Flexible Fund</p>		



	<p>Allocation (RFFA) award recipient. The project was awarded \$1,550,000 of federal funds from the RFFA Step 2 Funding Category.</p>  <p>However, early project reviews with ODOT and Metro indicated that Wilsonville's funding plan for the ROW, Construction, and Utility Relocation could present issues for the project as it progressed through the federal National Environmental Policy Act (NEPA). Questions also arose if the estimated total project cost was reasonable, or if the project was underfunded. Since the RFFA award only funded the Preliminary Engineering phase, discussions continued on whether the project should be recommended to take a step back and complete additional pre-NEPA project development activities, or be de-federalized.</p> <p>Subsequent discussions with FHWA supported project de-federalization. FHWA provided their opinion that the project could proceed as a locally funded project outside of the federal transportation project delivery process. The city of Wilsonville opted for project de-federalization and completed a local fund exchange with Metro. The fund exchange shifted the federal funds from the I-5 project to Wilsonville's Kinsman Rd – SW Boeckman to SW Barbur project for local funds from the Kinsman Rd project.</p> <p>Along with expected faster project delivery, the city of Wilsonville advocates that de-federalizing the I-5 Bike/Pedestrian Overcrossing project will result in a lower total project cost to construct and deliver the overcrossing.</p> <p>Metro has developed a separate locally funded Intergovernmental Agreement (IGA) with Wilsonville to complete the project and will monitor the project through their Local Funded Project Delivery Program. To avoid monitoring conflicts with ODOT, Metro is removing the project from the MTIP at this time.</p>
Additional Details:	
Why a Formal amendment is required?	Per the FHWA/FTA/ODOT/MPO Amendment Matrix, removing/cancelling a project from the MTIP requires a formal amendment.
Total Programmed Amount:	The total project programming amount decreases from \$1,727,405 to \$0 in the MTIP.
Added Notes:	

Note: The Amendment Matrix located on the next page is included as a reference for the rules and justifications governing Formal Amendments and Administrative Modifications to the MTIP that the MPOs and ODOT must follow.

## 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 as required to programmed in the MTIP:
  - Awarded federal funds and is considered a transportation project
  - Identified as a regionally significant project.
  - Identified on and impacts Metro transportation modeling networks.
  - Requires any sort of federal approvals which the MTIP is involved.
- Passes fiscal constraint verification:
  - Project eligibility for the use of the funds
  - Proof and verification of funding commitment
  - Requires the MPO to establish a documented process proving MTIP programming does not exceed the allocated funding for each year of the four year MTIP and for all funds identified in the MTIP.
- 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
  - RTP project cost consistent with requested programming amount in the MTIP
  - If a capacity enhancing project – is identified in the approved Metro modeling network
- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP
- 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.
  - Adheres to conditions and limitation for completing technical corrections, administrative modifications, or formal amendments in the MTIP.
  - Is eligible for special programming exceptions periodically negotiated with USDOT as well.

ODOT-FTA-FHWA Amendment Matrix	
<b>Type of Change</b>	
<b>FULL AMENDMENTS</b>	
1. Adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized	
2. Major change in project scope. Major scope change includes:	
• Change in project termini - greater than .25 mile in any direction	
• Changes to the approved environmental footprint	
• Impacts to AQ conformity	
• Adding capacity per FHWA Standards	
• Adding or deleting worktype	
3. Changes in Fiscal Constraint by the following criteria:	
• FHWA project cost increase/decrease:	
• Projects under \$500K – increase/decrease over 50%	
• Projects \$500K to \$1M – increase/decrease over 30%	
• Projects \$1M and over – increase/decrease over 20%	
• All FTA project changes – increase/decrease over 30%	
4. Adding an emergency relief permanent repair project that involves substantial change in function and location.	
<b>ADMINISTRATIVE/TECHNICAL ADJUSTMENTS</b>	
1. Advancing or Slipping an approved project/phase within the current STIP (If slipping outside current STIP, see Full Amendments #2)	
2. Adding or deleting any phase (except CN) of an approved project below Full Amendment #3	
3. Combining two or more approved projects into one or splitting an approved project into two or more, or splitting part of an approved project to a new one.	
4. Splitting a new project out of an approved program-specific pool of funds (but not reserves for future projects) or adding funds to an existing project from a bucket or reserve if the project was selected through a specific process (i.e. ARTS, Local Bridge...)	
5. Minor technical corrections to make the printed STIP consistent with prior approvals, such as typos or missing data.	
6. Changing name of project due to change in scope, combining or splitting of projects, or to better conform to naming convention. (For major change in scope, see Full Amendments #2)	
7. Adding a temporary emergency repair and relief project that does not involve substantial change in function and location.	



- Programming determined to be reasonable of phase obligation timing and is consistent with project delivery schedule timing.
- MPO responsibilities completion:
  - Completion of the required 30 day Public Notification period:
  - Project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.
  - Acting on behalf of USDOT to provide the required forum and complete necessary discussions of proposed transportation improvements/strategies throughout the MPO.

## APPROVAL STEPS AND TIMING

Metro's approval process for formal amendment includes multiple steps. The required approvals for the February 2019 Formal MTIP amendment will include the following:

<u>Action</u>	<u>Target Date</u>
● Initiate the required 30-day public notification process.....	February 25, 2019
● TPAC notification and approval recommendation.....	March 1, 2019
● <b>JPACT approval and recommendation to Council.....</b>	<b>March 21, 2019*</b>
● Completion of public notification process.....	March 26, 2019
● Metro Council approval.....	April 4, 2019

### Notes:

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

### USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
● Metro development of amendment narrative package .....	April 8, 2019
● Amendment bundle submission to ODOT for review.....	April 8, 2019
● Submission of the final amendment package to USDOT.....	April 8, 2019
● ODOT clarification and approval.....	Mid-April, 2019
● USDOT clarification and final amendment approval.....	Late April-early May, 2019

## ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:** Amends the 2018-2021 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 17-4817 on July 27, 2017 (For The Purpose of Adopting the Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds.
4. **Metro Budget Impacts:** None to Metro

## RECOMMENDED ACTION:

**JPACT recommends the approval of Resolution 19-4971.**

### Attachments:

1. Project Location Maps
2. OTC Letter for Key 21423 – OTC Approval of IOF Funds