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Memorandum Date: September 8, 2009  
Meeting Date: September 23, 2009

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TO: Board of County Commissioners

DEPARTMENT: Public Works

PRESENTED BY: Celia Barry, Transportation Planning & Traffic

AGENDA ITEM TITLE: DISCUSSION AND ACTION/Providing Direction on a Process to Develop a Proposed Charter for the Formation of a Lane County Area Commission on Transportation

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I. MOTION

Move approval of staff recommendation.

II. AGENDA ITEM SUMMARY

Staff is providing alternatives and seeking Board direction on a process to develop a proposed Area Commission on Transportation (ACT) Charter to form a Lane County ACT, to be delivered to the Oregon Transportation Commission (OTC) by September 30, 2010 pursuant to Senate Bill (SB) 944.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The 2009 Oregon Legislative session enacted SB 944, requiring Lane County, in consultation with other elected local officials and with transportation stakeholders in Lane County, to develop, not later than September 30, 2010, a proposed charter for the formation of an ACT.

Since July 15, 2009, ODOT and Lane County staff held meetings on the topic with individual Board members, including Commissioners Fleenor, Sorenson, Handy, and Stewart, to gather preliminary thoughts about process options. Commissioner Handy invited Rob Zako to attend two of these meetings. Commissioner Handy expressed support for the West Eugene Collaborative process in which Dr. Zako played a leadership role. He sought and submitted a draft proposal from Dr. Zako for inclusion in these materials, Attachment A.

On August 19, 2009 the Board of Commissioners invited the SB 944 legislation sponsors, Senator Prozanski and Representative Holvey, to attend a work session in order to discuss the legislation. At the work session some Commissioners expressed support for hiring a consultant, in particular Dr. Zako. After the August 19 work session, the Board directed staff to return within approximately five weeks with alternatives. The Board also expressed support for staff to meet with City Managers and Mayors to gather their preliminary input, stating it could occur before or after staff returned with alternatives.

Commissioners Sorenson and Handy provided emails with requests to staff for information as

part of the alternatives formulated for Board consideration. Specifically:

- Include an alternative where ODOT takes the lead/spends the staff time on forming the ACT and charter; and
- County staff take the lead and spend the staff time and county resources on forming the ACT.

On September 4, Oregon Department of Transportation (ODOT) and Lane County staff met with the County Administrator and all but two City Managers and Administrators from Lane County cities (Westfir and Dunes City managers did not attend). Attachment B is the material County staff prepared and distributed for that meeting. Included in the materials is a memorandum and table prepared by ODOT staff, summarizing Oregon ACTs and their charters (note this is a work in progress). Also included is the OTC Policy on Formation and Operation of ACTs, a map showing ACT boundaries, and SB 944.

The City Managers held a round table discussion and recommended:

- that City Mayors and the Board Chair meet to develop a proposal for a proposed ACT charter spelling out the process to form an ACT. They believe that as elected officials, Mayors and the Board Chair would be an appropriate group to come up with the process that best involves cities and identifies other key stakeholders.
- that representatives from Lane Transit District (LTD), the Port of Siuslaw, and Native American Tribes also be included in these initial discussions.
- Once the proposed charter and ACT formation process is developed, identify and involve others as appropriate.
- that ultimately the proposed charter be submitted to each City Council for a formal resolution on the matter. (The City of Florence has already passed a resolution in support of formation of an ACT).
- Focus the ACT charter on the areas of influence that the locals actually have, i.e., as an advisory body to the OTC.

The following tasks for staff came out of the meeting. The associated follow-up that will occur is provided:

1. Gather information about the advantages/disadvantages of various ACT processes. Jerri Bohard, ODOT, can assist. ODOT staff are investigating when and how Ms. Bohard's assistance can be provided.
2. Ask existing ACTs how their membership has changed over time and specifically what business is being transpired. The Rogue and Mid Willamette Valley ACT would be good candidates for getting feedback. ODOT staff have succeeded in confirming the presence of at least one ACT representative at your meeting. Staff's goal is to have at least three ACTs represented.
3. In staff's preparation for an upcoming meeting with Mayors, provide links to the ODOT ACT web site and various ACT web sites. Be sure mayors receive the appropriate level of education about ACTs before being asked to provide input. ODOT staff noted that one initial Mayoral meeting was held last winter.

ODOT and County staff asked the city managers for input about ACT composition. Their suggestions are in the notes from the meeting included in Attachment C.

## **B. Policy Issues**

SB 944 provides legislative direction. One of the policy issues is whether to spend Road Fund

resources on the ACT formation process. The expenditure is Road Fund eligible. The resources would be allocated from the existing adopted budget for Transportation Planning and Road Fund Reserves would be used for any shortfalls. If appropriate, an Order reflecting Board direction can be prepared once the Board decides how to proceed.

#### C. Board Goals

The following two goals from the Strategic Plan, page 13, are relevant:

- *Provide opportunities for citizen participation in decisionmaking, voting, volunteerism and civic and community involvement.*
- *Contribute to appropriate community development in the areas of transportation and telecommunications infrastructure, housing, growth management, and land development*

The Lane County Board of Commissioners met in March and again in July of 2008 to discuss the County's priorities and set goals to guide the organization for the coming one to two years. Goals for 2008 to 2010 include:

- *Build public trust through intensive communication and engagement.*

#### D. Financial and/or Resource Considerations

The following alternative staffing for the process have been suggested and Commissioners have asked these alternative staffing scenarios to be addressed in this memo:

##### 1. ODOT

ODOT staff has suggested they not take the lead in this effort lest there be a perception that the OTC or ODOT is forcing a specific process or specific proposed charter upon local officials or their stakeholders. They indicated having the County as the lead agency is more appropriate, and recommend the model be continued.

ODOT has been actively working with local staff and officials in the meetings described above and in providing informational resources. ODOT staff indicate they are committed to providing continued staff support, as requested, in the form of information and advice, scheduling and hosting of meetings, taking and distributing of meeting minutes, and preparation of draft documents. ODOT has been clear, including in the County's previous work session, that they will not, however, be paying for or reimbursing County costs associated with developing the proposed charter to form the ACT, including not contributing to any costs associated with hiring of a consultant or facilitator to aide in the process.

If ODOT is asked to take the lead in this effort then Area Manager Sonny Chickering and Sr. Region Planner Savannah Crawford from the Springfield ODOT office would assume the lead roles and responsibilities. This option would require significant participation and assistance from County staff, and would likely result in substantially the same outcome(s) as a County led process. ODOT is concerned, and County staff agree, that an ODOT-led process could reduce the level of trust and acceptance perceived by the local agencies and stakeholders involved in the process.

It is also important to understand that having ODOT take the lead in facilitating the process to create a proposed ACT charter will not remove the ultimate responsibility of completing the task from the Lane County Board of Commissioners.

##### 2. Lane County Public Works Transportation Planning

Whether ODOT or an outside facilitator takes the lead in staffing the effort, or whether County

staff takes the lead, County staff expects to be involved in order to provide oversight, ensure fulfillment of obligations and Board expectations, to ensure that the Board receives timely information, materials are prepared to required guidelines, and meetings are scheduled supporting the Board's ability to meet the requirements of SB 944. To date County staff time equates to approximately one week (40 hours, Transportation Planning manager).

The cost to the County is in time not devoted to other Transportation Planning work, or work deferred, in order to make progress on this project. Division work products include program area oversight (planning, development review, road inventory maintenance), metro area regional partner coordination, strategic management, operations, budget planning, and revenue research and programming activities. Indirect oversight of traffic and geographic information systems is unlikely to be effected.

### 3. A Private Consultant

Some Commissioners expressed interest in inviting an independent consultant/facilitator, with an estimated ceiling cost of \$30,000, to staff the proposed charter and ACT formation process. Dr. Rob Zako in particular was named as a possible candidate. The value was stated as providing a third party, "local honest broker" who brings expertise in transportation, not only in facilitation. This expense would likely come from the Road Fund reserve.

Lane Manual 21.117 and 21.118 (Attachment D), Personal and Professional Service Contracts requirements apply when hiring a private consultant:

1. The County may contract directly with any qualified contractor without competitive selection for \$10,000 or less, except that the County may contract without competitive selection for \$25,000 or less for any qualified architect, engineer, land surveyor, or provider of related services for public improvement projects involving a highway, bridge "or other transportation".
2. Contracts valued at greater than \$25,000 and up to and including \$50,000 require three quotes.
3. Contracts valued at greater than \$50,000 up to and including \$100,000 require a written solicitation (Request for Proposals, RFP).

If the Board decides that an outside consultant is most appropriate, and is willing to allocate more than \$25,000 to the effort, you have the option of soliciting additional proposals either by asking for three proposals from identified sources or through an RFP process. However, this would increase the time devoted to this initial step of complying with SB 944.

### E. Analysis

In addition to actually developing a proposed charter for the formation of an ACT, the most critical outcome of the process used to propose a charter for the formation of an ACT is buy-in, support, and trust from the broad community, as represented by those ultimately composing the ACT. The process chosen and whether the result is community buy-in, support, and trust, is possibly the single most important outcome over which the Board has influence.

The Board's decision as to staffing the effort is viewed as an opportunity to begin the ACT process collaboratively. In other words, even this decision is one that ought to be made by a larger representation from the community to eliminate all perception of bias. The Board can maximize the potential of success in development of the charter and forming an ACT by deferring the staffing decision, and making it collaboratively with City Mayors.

Since SB 944 requires that the proposed charter for the formation of an ACT be developed in consultation with other elected officials, the proposal that Mayors be convened with the Board Chair and others would allow compliance with SB 944. As primarily elected officials, the group would have excellent knowledge to develop a preliminary list of other community stakeholders.

Given the importance of process to the success of this endeavor, it makes sense to consider each procedural decision as critically important to the success of the effort. It allows the Board to obtain additional information without giving away its decision making authority. If, after meeting with other elected officials, it is determined that a consultant is appropriate, this option is still available to the Board. The consultant would have additional information to inform the process, information that would have been gathered later anyway.

The city managers also expressed the perspective that the ACT ought to keep its focus on the tasks that are typical of all ACTs. Here again the Board may wish to consider what other elected officials think. The Board may wish to consider that it is quite possible that drafting the charter through two or so meetings among mayors, the Board Chair, and representatives from LTD, the Port, and Tribes may streamline the process for complying with SB 944. Doing so would not preclude the ACT, once up and running, from expanding its purpose, including other stakeholders, and otherwise evolving to attain higher aspirations for community dialogue and outcomes. This could include assistance from a private consultant.

Endorsement by the OTC of the charter is also necessary. Provided the proposed charter complies with OTC's policy (Attachment B.2.), OTC endorsement will occur. SB 944, Section (4) provides that If the proposed charter establishes procedures that are all consistent with the Policy on Formation and Operation of ACTs the OTC may not reject the proposed charter based on the composition of its membership.

SB 944 Section 3 requires ODOT to provide staff support. ODOT has committed to providing the staff support necessary to ensure consistency with OTC policy but is clear that the agency will not fund a consultant nor anything beyond ODOT staff time, meeting space, information, and other basic support. Staff recommends the County continue to maximize use of this resource. This minimizes use of County resources. State legislators also indicated in your work session they would be unlikely to support forcing ODOT to provide additional resources.

County staff's involvement is likely inevitable no matter what option is chosen. Whether or not the Board chooses to use a consultant, County and ODOT staff would wish to be included in these discussions if only to listen and ensure fulfillment of staff obligations. ODOT has already provided significant support. The materials in Attachment B.1. list all the elements of a charter. It is anticipated that initial direction on developing a charter and forming an ACT could occur among a group such as that suggested by the city managers without significant staff preparation.

In summary, there are three general options for staffing the process to develop a charter and form an ACT, and no matter which option is used it is likely that County staff will continue to be necessary and desirable. Involvement of a consultant at this point in time may be premature and may permanently preclude broad community support for the ACT process. The decision to hire a consultant may best be deferred until hearing from other jurisdictions, and will not eliminate the possibility of hiring a consultant in the future.

## **F. Alternatives/Options**

1. The Board could choose now how to start up the proposed charter development process,

using an outside consultant to develop and facilitate the process. If a decision is made to retain a consultant at this time, staff would pursue the necessary steps as to contractual arrangements based upon Lane Manual requirements.

2. The Board Chair could convene a meeting with City Mayors and representatives from LTD, the Port, and Tribes, who would be supported by their respective staff. This group would provide initial direction on whether:

- to retain a private consultant;
- to consider the proposal in Attachment A;
- the charter should focus on typical ACT work or consider tasks outside those normally handled by ACTs statewide;
- to begin identifying other stakeholders; and
- to proceed with proposed charter development.

3. The Board could develop a third alternative or group of people using the options listed above as a starting point.

4. Do nothing.

#### **IV. TIMING/IMPLEMENTATION**

It is important to make continued, timely progress in this matter in order to meet the timelines spelled out in SB 944. September 30, 2010 is the required deadline to develop a proposed charter for the formation of an ACT.

#### **V. RECOMMENDATION**

Option 2. Essentially staff recommends that a more inclusive process occur before the Board decides to hire a consultant or chart a specific course without involvement from other elected officials, to ensure a step isn't taken that spells failure for this effort. Option 2 would allow for that to happen. If that group so determined, an outside facilitator could be brought in at a later time if that's the direction that results from the more inclusive process.

This approach is recommended because it is supported by key players -the small cities, and in order for the Board to demonstrate its commitment to a partnership approach. It is important that the ACT be a partnership for it to be successful.

This approach would also allow for a streamlined yet effective process to include appropriate stakeholders. The existing ACT model allows for flexibility, inclusivity, and change as time progresses. Nothing would be set in stone, so stakeholders and ACT operations could be changed as time goes on. This would create a "win-win" for the Board by including key players in all steps of decision-making, and not precluding the Board's ideas of hiring a consultant, and/or aspiring to a pioneering ACT model.

#### **VI. FOLLOW-UP**

If the Board agrees with the staff recommendation then the next step is to schedule a meeting with the Mayors, LTD, Port, and Tribal representatives. County staff would work with ODOT to contact the appropriate regional and city staff to make this happen.

If the Board provides direction to hire a consultant then depending on whether Dr. Zako is

specifically chosen, and cost ceiling, the necessary steps to comply with Lane Manual's contracting requirements will be taken.

## **VII. ATTACHMENTS**

- A. Proposed Process for Forming a Lane County ACT, dated August 31, 2009, submitted by Commissioner Handy
- B. Materials Distributed to Lane County Administrator and City Managers/Administrators on September 4, 2009:  
September 2, 2009 Memorandum and Attachments
  - 1. Savannah Crawford's August 24, 2009 Memo Summarizing Oregon ACTs
  - 2. OTC Policy on Formation and Operation of ACTs
  - 3. ACT Map
  - 4. SB 944, Lane County ACT legislation
- C. Notes from September 4, 2009 Regional Managers meeting
- D. Lane Manual 21.117-118

# Proposed Process for Forming a Lane County ACT

August 31, 2009

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## Outcome

The formation of an up-and-running Lane County Area Commission on Transportation (ACT) with a charter approved by the ACT itself, the Lane County Board of Commissioners, and the Oregon Transportation Commission (OTC).

## When

October 2009 – June 2010 (9 months)<sup>1</sup>

## Who

The formation of the Lane County ACT is to be led and facilitated by a Project Team consisting of:

1. **Independent consultant / facilitator:** Leads project, familiar with ACTs and transportation decision-making, facilitates meetings.
2. **ODOT staff:** Provides technical and other support.
3. **Lane County staff:** Oversees project, reports to Lane County Board of Commissioners.

The project will engage government officials and staff, other stakeholders, invited experts familiar with ACTs, and potentially the interested public.

## How

The Lane County ACT is to be formed through a “bootstrapping” process aimed to get the right people around a table “owning” their own charter and working well together.

In more detail, the process includes the following major steps:

- I. **Identification of Preliminary List of Stakeholders:** Lane County Board of Commissioners, other jurisdictions, and other identified stakeholders, with assistance from the Project Team, develop a preliminary list of stakeholders to include in a “Pre-ACT.” [October 2009]
- II. **Formation of “Pre-ACT”:** The Lane County Board of Commissioners invites representatives from the identified stakeholders to join a Pre-ACT, a short-lived, *ad hoc* body charged with developing a proposed charter for the eventual ACT. [November 2009]
- III. **Development of Proposed Charter for Lane County ACT:**
  - **Purpose Statement:** The Pre-ACT develops a proposed purpose statement specifying the general mission and specific responsibilities of the Lane County ACT. [December 2009]
  - **Coordination:** The Pre-ACT develops proposed procedures for how the Lane County ACT coordinates with other groups, including the Lane County Board of Commissioners,

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<sup>1</sup> SB 944 provides: “The governing body of Lane County ... shall develop, not later than **September 30, 2010**, a proposed charter for the formation of an area commission on transportation for Lane County.” SB 944 further provides: “Not later than **October 31, 2010**, the Oregon Transportation Commission shall schedule a meeting with the governing body of Lane County, other elected local officials and transportation stakeholders to discuss the proposed charter.”



the Lane County Roads Advisory Committee, the central Lane Metropolitan Planning Organization (MPO), the Lane Council of Governments Board of Directors, other nearby ACTs, etc. It is expected that coordination between the Lane County ACT and the Central Lane MPO will be of great importance. [January 2010]

- **Structure:** The Pre-ACT develops a proposed structure specifying the members, non-voting members, officers, committees and staff of the Lane County ACT. In particular, the Pre-ACT might revise the preliminary list of stakeholders in light of the proposed purpose statement. The Pre-ACT might also adjust its *own* membership to more closely match that proposed for the future Lane County ACT. [February 2010]
- **Operation:** The Pre-ACT develops proposed operating agreements for the Lane County ACT. Note that the Pre-ACT will have an opportunity to “test run” how the proposed operating agreements work. A key issue is how to make decisions, and whether to vote using a simple majority or supermajority rule, to work by consensus, or some hybrid approach. Other key issues are conflict resolution and public involvement. [March 2010]

#### IV. **Approval of Proposed Charter:**

- **Pre-ACT** approves the proposed charter. [April 2010]
- **Lane County Board of Commissioners** approves the proposed charter. [April 2010]

#### V. **Formation of Lane County ACT:**

- **Select Initial Members:** Initial members of the Lane County ACT are selected, following the provisions of the proposed charter. (Presumably, there will be procedures for filling specific seats on the ACT.) It is anticipated that some but not all members of the Pre-ACT will carry over to the Lane County ACT, and that some new members will be part of the Lane County ACT. Ideally, there will be enough continuity from the Pre-ACT to the ACT that the ACT will be able to hit the ground running. [May 2010]
- **Ratify Charter:** The Lane County ACT will ratify its own proposed charter. This step is important, if somewhat perfunctory, as the Lane County ACT will be an autonomous body and will need to accept its own charter in order to operate effectively. [May 2010]

#### VI. **Presentation of Proposed Charter to OTC for Final Approval** [June 2010]

Note that the Project Team will provide information on how other ACTs formed and function to the Lane County Board of Commissioners and the Pre-ACT.

Note that both the Pre-ACT and the eventual ACT should approve the proposed charter by consensus: If stakeholders couldn't even agree on who should be involved in an ACT and how they should work together, then the ACT itself would be formed crippled. (Think of the original states each ratifying the U.S. Constitution and agreeing to abide by its provisions before it took effect.)

Note that as the Pre-ACT develops a proposed charter, Lane County staff will check in with the Lane County Board of Commissioners, giving them an opportunity to follow and advise the development of a charter. In the end, the aim is for the Pre-ACT / ACT to “own” its own charter. But, as provided by SB 944, the Lane County Board of Commissioners is ultimately responsible for the development of a proposed charter.



# Lane County

Public Works Department / Transportation Planning Division  
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Phone: 541-682-6936/ fax: 541-682-8554

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ACT FORMATION - BOARD AGENDA COVER MEMO ATTACHMENT B

September 2, 2009

To: Lane County Regional Managers

CC: Sonny Chickering, ODOT Area 5  
Savannah Crawford, ODOT Area 5  
David Warren, ODOT Area 5  
Alex Cuyler, Lane County  
Marsha Miller, Lane County  
Andrea Riner, LCOG  
Paul Thompson, LCOG  
Byron Vanderpool, LCOG

From: Celia Barry, Lane County Public Works, Transportation Planning

Re: Formation of an Area Commission on Transportation in Lane County

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Thank you in advance for convening on Friday September 4, to assist the Lane County Board of Commissioners by providing feedback on the formation of a local Area Commission on Transportation (ACT) and a corresponding Charter. Sonny Chickering and Savannah Crawford from Oregon Department of Transportation, and I will attend. We anticipate an informal roundtable discussion to solicit your thoughts, in particular about the composition of the ACT, and any other feedback.

Senate Bill 944 requires, “. . . Lane County, in consultation with other elected local officials and with transportation stakeholders in Lane County, shall develop, not later than September 30, 2010, a proposed charter for the formation of an area commission on transportation for Lane County. . . “

All feedback provided prior to the County Board discussion scheduled for either September 22 or 23, will be delivered to the County Board prior to or at that work session.

Attached are materials that may be of use in formulating your ideas. Attachment 1 may be of particular interest. It is a summary and table about Oregon ACT structures, procedures, and charters. Please be aware it is a document in progress.

My apologies for the lateness of these materials; this meeting was assembled quickly in order to meet legislative deadlines. Any thoughts you may have after the meeting will also be welcome, and it is a certainty there will be more meetings and discussion on this matter providing additional opportunities for your input.

Thanks again. We look forward to meeting with you on Friday.

#### Attachments

1. Memo dated August 24, 2009 from Savannah Crawford
2. Policy on Formation and Operation of ACTs
3. ACT Map
4. SB 944, Lane County ACT legislation



# Oregon

Theodore R. Kulongoski, Governor

## Oregon Department of Transportation

Region 2, Area 5  
644 "A" Street  
Springfield, OR 97477

Telephone: (541) 747-1354  
FAX: (541) 744-8080

August 24, 2009

TO: Celia Barry, Lane County Transportation Planning Manager

FROM: Savannah Crawford, Sr. Region Planner

SUBJECT: Area Commission on Transportation Charter Summary

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At the request of Celia Barry, Lane County Transportation Planning Manager, ODOT prepared an Area Commission on Transportation (ACT) Charter Summary. This memo outlines the content within the ten (10) existing ACT Charters; but does not provide any recommendation on the formation of a Lane County ACT.

### **Background**

ACT formations began approximately 13 years ago to increase public involvement on transportation issues within the state. The following is an excerpt from the ACT website:

*"In 1996, the OTC authorized regionally based transportation advisory commissions known as Area Commissions on Transportation or ACTs in order to expand opportunities for local citizen involvement in ODOT's decision making. The OTC responded to local jurisdictions and other stakeholders asking for more opportunity to participate in the early stages of transportation project selection.*

*Area Commissions on Transportation (ACT) are advisory bodies chartered by the Oregon Transportation Commission (OTC). ACTs address all aspects of transportation (surface, marine, air, and transportation safety) with primary focus on the state transportation system. ACTs consider regional and local transportation issues if they affect the state system. They work with other local organizations dealing with transportation-related issues."*

### **ACT Charter Outline**

After review of the ten (10) ACT Charters within the State of Oregon, content generally consists of the following information:

**Purpose** – Describes the purpose of the ACT, area(s) served by the ACT, and when the ACT was formed.

**Authority** – Describes how the ACT serves the Oregon Transportation Commission (OTC) per ORS 184.610 to 184.666.

**Roles/Responsibilities** – Describes ACT duties and responsibilities, including, but not limited to, public engagement, recommendations to ODOT and OTC, considerations in decision making, role in review of transportation plans, and policy making recommendations.

**Organization** – Describes the membership make-up, including, but not limited to, alternates, chairs, vice-chairs, member appointment/election, member participation, executive committees, and technical committees. See attached spreadsheet for more detail. A list of each ACT membership make-up follows:

*North West ACT (Clatsop, Tillamook, Columbia, and western rural Washington Counties)*

- ❖ Voting (28 total): One county commissioner per county (4 total), One city official per county (4 total), One community/small city official per county (4 total), Two ODOT area managers (2 total), one port members from each county (3 total), one transit district per county (3 total), two citizen reps at large per county (8 total), and one tribe member per county (0 total).
- ❖ Non-Voting: Adjacent ACT members, MPO, Cities of Cornelius, City of Forest Grove, Clatsop Tribe, Congressional Delegates, Economic development council, legislators, NEW Oregon Regional partnership, OTC.

*Mid-Willamette Valley ACT (Marion, Polk, and Yamhill Counties)*

- ❖ Voting (17 total): One member from each MPO jurisdiction (6 total), One elected official per transportation corridor (5 total), one elected official from Yamhill County (1 total), One member from Yamhill Transit Area (1 total), one member from Confederated Tribes of the Grand Ronde (1 total), and three citizens at large (3 total).
- ❖ Non-Voting: Metro Portland Region (JPACT), Representatives of other adjoining regional communities, state legislators for the mid-Willamette area.

*Cascades West ACT (Benton, Linn, and Lincoln Counties)*

- ❖ Voting (40 total): One County Commissioner per County (3 total), One City Official per incorporated city (24 total), One representative per port (3 total), one tribal council (1 total), two citizens at large from each county (6 total), representative from the transit districts (2 total), One ODOT area Manager (1 total).
- ❖ Non-Voting: State legislators, Representatives of other groups representing regional transportation interests, Representatives of regional groups that have an interest in transportation issues, two representatives of alternative modes (bicycle, pedestrian), Chairs of the CWCOG Senior Services Advisory Council and the CWCOG Disabilities Services Advisory Council, and Executive director of each MPO within the area.

*South West ACT (Coos, Curry, and Douglas Counties)*

- ❖ Voting (40 total - divided into three sub groups):
  - Interstate 5 Corridor Group: Douglas County, Riddle, Myrtle Creek, Canyonville, Winston, Roseburg, Sutherlin, Oakland, Glendale, Yoncalla, Cow Creek Band of Umpqua Tribe, Umpqua Transit, Private Sector Members, ODOT Area Manager.
  - Highway 38/42 Group: Coos County, Drain, Elkton, Reedsport, Lakeside, North Bend, Coos Bay, Coquille, Myrtle Point and Powers, Port of Coos Bay, Port of Umpqua, Port of Coquille, Coos County Transit Agency, Confederated Tribes of Coos-Lower Umpqua-Siuslaw, Coquille Tribe, Private sector members, ODOT area manager.
  - Highway 101 South Group: Curry County, Bandon, Port Orford, Gold Beach, Brookings, Port of Bandon, Port of Port Orford, Port of Gold Beach, Port of Brookings, Private sector member, ODOT area manager.
- ❖ Non-Voting: Adjacent ACT members, State legislators, State or federal agencies, Governor's Economic Revitalization Team.

*Rogue Valley ACT (Jackson and Josephine Counties)*

- ❖ Voting (26 total): One representative from each county (2 total), one per City (13 total), ODOT representative (1 total), transit district representative (1 total), 4 private sector representatives from each county (8 total), MPO representative (1 total).
- ❖ Non-Voting: Oregon Transportation Commissioners, State legislators, Local congressional aides, Governor's Economic Revitalization Team members, State and federal agencies, City and county road districts or departments, Regional groups that have an interest in transportation issues.

*Lower John Day ACT (Gilliam, Sherman, Wheeler, and Wasco Counties)*

- ❖ Voting (14 total): One elected official per county (4 total), one city elected official per county (4 total), tribal council (1 total), ODOT district manager (1 total), one private sector representative per county (4 total).
- ❖ Non-Voting: All other members of the Lower John Day Regional Partnership, State legislators, representatives from adjoining ACTs, Central and Eastern Oregon members of the Oregon Transportation Commission, Regional community solutions team members, Public works directors and road supervisors from each county, All ports within the area.

*Central Oregon (Crook, Deschutes, and Jefferson Counties)*

- ❖ Voting (15 total): one county commissioner per county (3 total), one representative from each incorporated city (8 total), tribal council (1 total), ODOT area manager (1 total), private sector representatives (2 total).
- ❖ Non-Voting: State legislators, Congressional aides, All Oregon Transportation Commissioners, Aviation representative, special transportation issue representative, General public representative (education, special districts), Federal agency representative (BLM, U.S. Forest Service).

*South Central Oregon ACT (Klamath and Lake Counties)*

- ❖ Voting (27 total): Three county commissioners from each county (6 total), Lakeview mayor (1 total), Klamath Falls mayor (1 total), Klamath tribe (1 total), one private industry members from each county (2 total), Lake County at-large members (3 total), Klamath County at-large members (2 total), Basin Transit (1 total), higher education representative (1 total), Under/Unemployed representative (1 total), Klamath County Economic Development (1 total), Lake County Economic Development (1 total), Regional officer Oregon Department of Economic and Community Development (1 total), state representatives (3 total), state senator (1 total), ODOT area manager (1 total).
- ❖ Non-Voting: Oregon Transportation Commission liaison, Adjacent ACTs representatives, Mayors of the cities of Malin, Merrill, Paisley, Bonanza and Chiloquin, Oregon Department of Aviation, Regional officer, Oregon Department of Housing and Community Services, Regional manager, Oregon Department of Land Conservation and Development, Oregon Department of Fish and Wildlife, Regional representative of Oregon Department of Environmental Quality, Regional representative of Oregon Department of Agriculture, U.S. Forest Services, Bureau of Land Management, State of California, State of Nevada.

*North East ACT (Morrow, Baker, Union, Umatilla and Wallowa Counties; Confederated Tribes of the Umatilla Indian Reservation)*

- ❖ Voting (18 total): One county commissioner from each county (5 total), One member representing and selected by the cities of each county (5 total), Confederated Tribes of the Umatilla Indian Reservation to

be appointed by the Board of Trustees of the CTUIR (2 total), one at-large representative from each county (5 total), ODOT Area manager (1 total).

- ❖ Non-Voting: Representatives of adjacent ACTs, Eastern Oregon member of the Oregon Transportation Commission, Representative of the Oregon Department of Aviation, North East Region Community Solutions Team (1), State legislators representing districts in the region, Local congressional aides, Representatives of each county road or road district and planning departments (10), Representatives of regional groups that have an interest in transportation issues, such as housing advocates, investment boards, law enforcement agencies, etc.

*South east ACT (Grant, Harney, and Malheur Counties)*

- ❖ Voting (16 total): one per county court (3 total), one member representing the cities of Grant County (1 total), one member representing the cities of Harney County (1 total), one member representing the cities of Malheur County (1 total), at-large members from Grant County (3 total), at-large members from Harney County (2 total), at-large members from Malheur County (3 total), Burns Paiute Tribe of Harney County (1 total), ODOT Area Manager (1 total).
- ❖ Non-Voting: The Oregon Transportation Commission liaison to the ACT, Representative of the Oregon Department of Aviation, Eastern Regional Coordinator for the Governor's Office, Members of the Governor's Economic Revitalization Team, State legislators representing districts in the region, Representatives of each county road department or road district, Representatives of regional groups such as housing advocates and law enforcement agencies.

**Executive Committees** – Provides assistance in agenda development, monitors work plan, monitors member performance. Executive Committees are usually ACT members and can meet regularly or when requested by Chair.

**Technical/Sub Committees** – Provides guidance/recommendations to ACT. ACT can choose to have a permanent Technical Committee or form one for specific review items.

**Operations** – Describes the decision-making authority, meeting schedules, quorum requirements, and special meetings. See attached spreadsheet for more detail.

**Stakeholder/Public Involvement** – Describes who from the community (interest groups, public, etc.) should be invited to participate in the meetings, meeting advertisement, public comment, public notice, and media relations.

**Staffing** – Describes responsibility for staffing meetings and preparing materials.

**Coordination** – Describes various organizational bodies the ACT shall coordinate with, including, but not limited to, OTC, other ACTS, ODOT Advisory Committees, MPO's, stakeholder groups, and local governments.

## **Summary**

This memo provides a content description of ACT charters with the State of Oregon. Further detail on the formation of an ACT or ACT charter development can be found in the *Policy on Formation and Operation of Area Commission on Transportation*.

If you have any questions, please contact me at 541-747-1354 or [savannah.crawford@odot.state.or.us](mailto:savannah.crawford@odot.state.or.us). Thank you.

Savannah Crawford  
Sr. Region Planner

## ACT Charter Summary

	Voting Membership*	Officers	Selecting Membership	Office Term	Attendance Requirement	Decision Making	Quorum	Meeting Dates
NWACT	28 Voting	Chair; Vice-Chair; 2nd V-Chair; serve one year term (can be re-elected); members elect	Jurisdictions appoint; citizen representatives are appointed by County Commission following public advertisement	2 years	Attend each meeting; 72 hr. RSVP if unable to attend; contact jurisdiction if member is absent three consecutive meetings	Consensus preferred; majority vote if consensus cannot be reached	9 or more members or alternates must be present to conduct a vote.	Monthly
MWACT	17 Voting	Chair; Vice-Chair; elected annually**	Jurisdictions appoint; citizen representatives are appointed by respective County Commission	X	X	X	X	X
CWACT	40 Voting	Chair; Chair Elect; County Commissioners only; annual rotation	Jurisdictions appoint; citizen representatives are appointed by respective County Commission	2 years	Attend each meeting; contact jurisdiction/member if member is absent two consecutive meetings	Consensus preferred; 75% concurrence of voting members present	51% of voting members in attendance	Quarterly
SWACT	40 Voting	Chair; ODOT Area Manager only	X	X	X	X	X	X
RVACT	26 Voting	Chair; one co-chair from each County (2 total); co-chairs serve two year term; members elect	Jurisdictions appoint; citizen representatives are appointed by ACT following public advertisement	X	Immediate removal for citizen representatives who have three consecutive unexcused absents.	Consensus preferred; majority vote if consensus cannot be reached; 2/3 majority vote upon request	50% membership plus one member	Monthly
LJDACT	14 Voting	X	X	X	X	X	X	X
COACT	15 Voting	Chair; Vice-Chair; County Commissioners only; annual rotation	Jurisdictions appoint; stakeholder representatives are appointed by respective County Commission	X	X	Consensus preferred; majority vote if consensus cannot be reached	50% of existing membership	Bi-Monthly
SCOACT	27 Voting	Chair; Vice-Chair; County Commissioners only; rotation every two years	Jurisdictions appoint; stakeholder representatives are appointed by respective County Commission	X	X	Majority Vote	Majority	X
NEACT	18 Voting	Chair; Vice-Chair; members elect; rotation every three years	X	X	X	Consensus preferred; majority vote if consensus cannot be reached	51% of voting members	Bi-Monthly
SEACT	16 Voting	Chair; Vice-Chair; members elect annually**	Jurisdictions appoint	X	X	X	X	Monthly

\* See memo for non-voting membership and membership make-up

\*\* Not obtained from ACT Charter

X - Not in Charter, further research required

## **POLICY ON FORMATION AND OPERATION OF AREA COMMISSIONS ON TRANSPORTATION (ACTs)**

### **INTRODUCTION**

The Oregon Transportation Commission (OTC) established the Area Commissions on Transportation (ACTs) to improve communication and interaction between the OTC and local stakeholders who share a transportation focused community of interest. That dialogue will include the OTC, local officials, legislators, the business community and appropriate stakeholders and the Oregon Department of Transportation (ODOT).

By increasing stakeholder commitment and understanding of transportation programs, funding and issues, the OTC expects to:

- Broaden opportunities for advising the OTC on policy issues
- Improve project recommendations and coordination at the local level
- Broaden the Regional transportation perspective
- Increase stakeholder support for and commitment to projects
- Control project costs
- Support timely completion of projects
- Meet expectations for quality projects
- Facilitate private sector capital investments
- Maximize ODOT's capacity to deliver projects
- Improve Oregon's economy by addressing transportation challenges

The OTC adopted *Policy on Formation and Operation of Area Commissions on Transportation*<sup>1</sup> to provide answers to common questions about the purpose, formation and function of ACTs and to encourage a reasonable degree of consistency statewide in their role and operation.<sup>2</sup> The document is intended to provide statewide consistency for the ACTs while balancing local needs for flexibility and uniqueness. Each ACT will adopt Operating Agreements to further define its operating procedures. Topics addressed include the following:

- I. Mission
- II. Roles and Responsibilities
- III. Authority
- IV. ACT Structure and Membership
- V. Operations of the ACT
- VI. Basis for Decision Making
- VII. Coordination

As the need arises, the OTC may review this document and update as appropriate.

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<sup>1</sup> This statement assumes future adoption of this document by the OTC

<sup>2</sup> See Attachment B.



The OTC will give significant weight to recommendations from the ACTs that follow the procedures described in this document. The ACT, however, is an advisory body to the OTC, and the OTC is the final decision-maker. Geographic areas that do not have an ACT or MPO must adhere to the same standards of accountability as ACTs and demonstrate to the OTC that recommendations were developed in accordance with ACT obligations. Prior to starting the process to prioritize project recommendations, the appropriate ODOT Region and the non-ACT geographic area will reach consensus on the process for determining compliance with this policy. This process could utilize previously adopted documents as appropriate.

In order to clarify the document, a glossary was prepared which defines the terms Region, Regional, Area, Transportation System and a series of verbs used throughout the document. The verbs convey varying levels of action or responsibility and include the following: must, shall, will, should, and may. See Attachment D, Glossary of Terms, for further definition and usage examples.

## **POLICY ON FORMATION AND OPERATION OF AREA COMMISSIONS ON TRANSPORTATION (ACTs)**

### **I. MISSION**

The mission of the ACTs is to provide a forum for the discussion and coordination of current and future transportation issues and to make recommendations to the OTC. An ACT plays a key advisory role in the development of the Statewide Transportation Improvement Program (STIP). The ACTs shall recommend priorities for state transportation infrastructure and capital investments based on state and local transportation plans related to the geographic boundary of the ACT.

### **II. ROLES AND RESPONSIBILITIES**

ACTs have a primary role of making recommendations to the OTC regarding project selection for projects of local or Regional significance. ACTs may also be requested to provide input to the OTC on projects of statewide importance and on statewide policy issues.

#### **A. Primary Role of the ACTs**

At a minimum, ACTs shall perform the following:

- Provide a forum to advance the public's awareness and understanding among transportation stakeholders of transportation issues.
- Establish a public process that is consistent with state and federal laws, regulations and policies.
- Provide recommendations to the OTC regarding program funding allocations for the STIP, balancing local, Regional and statewide perspectives<sup>3</sup>.
- Prioritize Area Modernization project recommendations for the Development STIP and Construction STIP based on state and local transportation plans related to the Area.
- Make recommendations to ODOT regarding special funding opportunities and programs.
- Communicate and coordinate Regional priorities with other organizations, including the following:
  - Other ODOT Regions and ACTs
  - Metropolitan Planning Organizations (MPOs)
  - Community Solutions Team (CST)
  - Regional Partnerships and Regional Investment Boards
  - ODOT advisory committees

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<sup>3</sup> Techniques ACTs may use to achieve statewide perspective include: interacting with other ACTs, hosting forums on statewide issues such as access management and highway segment designations, and having the ODOT Director or OTC liaison attend and participate in ACT meetings. By using criteria established by the OTC and adherence to those standards, ACTs achieve a statewide vantage point.

- As applicable, consider all modes and aspects of the Transportation System in formulating recommendations, taking into account the provision of elements and connections between air, marine, rail, highway, trucking, transit, bicycle and pedestrian facilities.  
The Transportation System includes the following modes and aspects:
  - Air, marine, rail (freight and passenger)
  - Highway (trucks, buses, cars)
  - Transit
  - Bicycle/Pedestrian
- Provide documentation to the OTC of the public process and resulting recommendations forwarded by the ACT including alternatives for solutions and outcomes of decisions.
- Provide a report to the Oregon Transportation Commission at least once every two years.

### **B. Optional Activities of the ACTs**

In addition to the above, ACTs may choose to provide advice on activities such as:

- ODOT corridor plans or local transportation system plans (TSPs) that contain projects of Regional significance (for example, a new highway bypass).
- Review projects and policies for other STIP funding programs and categories that have advisory committees or processes in place and advise ODOT on any special circumstances or opportunities that apply. These programs include Preservation, Safety, Bridge, Operations, Public Transportation, Freight, Rail, Bicycle/Pedestrian, Transportation Enhancement, Scenic Byways, Federal Lands Highways, and Fish Culverts.
- Advise the OTC on state and Regional policies affecting the Area's Transportation System, including proposed ODOT policies & their implementation.
- Input into prioritization of long-range planning projects (especially refinement plans) in the ODOT Region planning work programs.
- Establishment and monitoring of benchmarks for Regional transportation improvements.
- Other transportation related policy or funding issues relevant to a particular ACT that would benefit from the coordinated committee discussion afforded by the ACT structure.

See Attachment C for a flowchart showing ACT involvement in the typical process elements for the STIP.

### **C. Role of OTC**

Success of the ACT is linked to communication with the OTC. The OTC role includes:

- Designating one OTC member as the liaison to the ACT.
- Encouraging the OTC liaison to attend ACT meetings.
- Providing financial support in an amount sufficient to meet OTC expectations.
- Facilitating communication between the OTC and the ODOT representative to the ACT.
- Describing expectations and providing adequate lead time when requesting input from the ACT.

- Providing training opportunities for the ACTs to enhance understanding of statewide programs and issues.
- Giving significant weight to recommendations from ACTs that follow procedures and requirements described in this document.
- Providing feedback to the ACTs regarding decisions that were made based on the ACT recommendations.
- Conducting a biennial review of the ACT Charter and Operating Agreements.

#### **D. Role of ODOT Staff**

ODOT staff provides a key role in the successful operation of the ACT. ODOT shall assign a senior manager with good communication skills as its voting representative to the ACT. The ODOT representative shall:

- Serve as a communication liaison between the ACT, ODOT Region, and ODOT Director's Office.
- Bring a statewide perspective to discussions of local transportation issues.
- Coordinate timely preparation of agenda items for action by the ACT.
- Provide technical and policy information in a timely manner to assist the ACT in carrying out its roles and responsibilities.
- Provide information on project status.
- Coordinate presentations and education regarding state and federal programs and priorities.
- Advise the ACT of ODOT views during program and project discussions.
- Provide staff support as agreed upon (Section V. B.).
- Advise on technical or policy issues relating to transportation safety, bicycle and pedestrian facilities, passenger rail and freight, trucking, public transportation, scenic byways, motor carriers and state/local government relationships.

### **III. AUTHORITY**

ORS 184.610 to 184.666 gives the Oregon Transportation Commission the authority to establish the policies for the operation of the Oregon Department of Transportation and for the administration of programs related to transportation. The Area Commissions on Transportation are advisory bodies chartered under authority of the Oregon Transportation Commission. The OTC may charter an ACT when it demonstrates, and as long as it maintains, a structure consistent with the requirements contained in this document. The OTC retains oversight and final decision making authority to assure efficient management of the state Transportation System. ACTs provide valuable input and recommendations to that process.

An ACT is a voluntary association of government and non-government transportation stakeholders and has no legal regulatory, policy or administrative authority. The ACT process and resulting recommendations shall comply with relevant laws, regulations and policies. As an advisory body to the OTC with authority to make recommendations on policy or administration, ACTs meet the definition of a "Governing Body" and fall under the requirements of the Public Meetings Law. ORS 192.610 to 192.690. An ACT's members shall comply with the requirements of Oregon Government Standards and Practices laws concerning conflict of interest.

ACTs should apply a statewide perspective to address the Transportation System with primary focus on the state Transportation System (Glossary, Attachment D). ACTs may also consider Regional and local transportation issues. Multi-ACT collaboration may be requested to facilitate consideration of issues that have a broader geographic scope than any one ACT. The needs of urban and rural areas may be different and discussions may include ACT representatives from more than one ODOT Region to help focus discussions on corridor or system needs.

#### **IV. ACT STRUCTURE AND MEMBERSHIP**

##### **A. Geographic Coverage**

Because the ACTs (and, where applicable, the MPOs) are primary advisors to the OTC with regard to transportation policies and programs which effect them, the OTC strongly encourages coverage of the State with respect to ACT or MPO representation.

The OTC recognizes that there is strength in member familiarity with Regional issues, and thus, expects that an ACT will encompass an area that geographically represents all its interests. The rationale for ACT boundaries should be consistent with a “geographical community of interest” regarding the state Transportation System and coordinated with existing Regional inter-governmental relationships. Shared interest might include a similarity of population, economy, land use, infrastructure needs, contiguous boundaries, commute shed, political and programmatic interests, and collaborative opportunities. The geographic boundaries of an ACT or MPO may change over time and if this occurs, an amendment to the boundaries will be negotiated and agreed upon by the affected parties, and a formal request for change will be submitted in writing to the OTC for approval. Each ACT will develop an Operating Agreement (Section V. A.) and this agreement will articulate the rationale for its specific boundaries.

##### **B. Membership**

When establishing the voting<sup>4</sup> membership, an ACT needs to consider all modes and aspects of the Transportation System. An ACT will have a voting membership which is reflective of its population and interest groups and will be broadly representative of those impacted by ACT recommendations. At a minimum, ACT representation will include at least 50% elected officials from the Area. Representation shall include City, County, and MPO officials within the ACT boundaries. Tribal Governments, Port officials, and Transit officials<sup>5</sup> shall also be invited to participate as voting members and will count toward the requirement of at least 50% elected officials. The remainder of the representation should be from interested stakeholders which may represent, but are not limited to: freight, trucking, bicycle, pedestrian, public transportation system, public interest advocacy groups, environmental, land use, local citizens, business, education, public safety providers, non-profit organizations, etc. ODOT will be a voting member on each ACT. Members should be carefully selected so that transportation recommendations are coordinated with other local and Regional community development activities, creating consensus within the Area on transportation issues and priorities. The ACT will determine the total number and selection of ACT members.

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<sup>4</sup> Voting may be by consensus or majority, as defined in the individual ACT Operating Agreement (Section V. A.).

<sup>5</sup> In some geographic areas, Port and Transit officials are appointed, not elected.

In addition to the official membership, each ACT should include appropriate ex officio members and give full consideration to their comments and recommendations. Ex officio members may include:

- Oregon Transportation Commissioners, state legislators, and local congressional aides
- Community Solutions Team
- State and federal agencies such as US Forest Service, BLM, Fish and Wildlife, Department of Environmental Quality, Department of Land Conservation and Development, Department of Aviation
- City and county road district or department
- Regional groups that have an interest in transportation issues such as housing advocates, Regional Partnerships and Regional Investment Boards, law enforcement agencies, etc.

The ACT should encourage participation of adjacent ACTs and consider inviting representatives as ex officio members. Adjoining ACTs should be included on all mailing lists and be invited to attend all ACT meetings.

As an ACT experiences membership turnover, it should review representation to ensure continued balance of all groups the committee represents. When providing reports to the OTC, ACTS will be asked to describe how they have met the membership guidance. If circumstances within the ACT (e.g., small population and large geographic area) prevent the ACT from meeting the minimum membership requirements, the ACT may develop an alternate proposal for approval by the OTC during its biennial review.

### **C. Technical Advisory Committee**

Although not required, the ACT may establish a technical advisory committee to assist during project or policy discussions. The TAC may be a standing committee to the ACT or formed on an ad-hoc basis as needed. The ACT will determine membership of the TAC and its role will be defined in the Operating Agreement.

## **V. OPERATIONS OF THE ACT**

### **A. ACT Operating Agreements**

ACT operating agreements must clarify the roles and processes between members, agencies, ODOT and the OTC. They are intended to specify how members will be selected and define membership beyond that required in this document, including the total number and the voting status of each member. Operating agreements shall provide for a wide solicitation for non-elected membership, and specify the solicitation process used. In addition, Operating Agreements shall specify when, where and how meetings will be conducted, officers and terms of office, whether or not alternates will be allowed, the public involvement processes which the ACT will use, number of members required to constitute a quorum, decision making process (for example, consensus or majority vote), and whether technical advisory committees will be used and how they will be constituted.

Some ACTs may choose to have an executive/steering committee and if so, the Operating Agreement will describe the committee's authority and how it meets the requirements of this document, particularly in regard to membership and public involvement. The Operating

Agreement will articulate how the executive/steering committee will communicate with the full ACT.

The Operating Agreements shall clarify that ACTs are advisory bodies that make recommendations to the Oregon Transportation Commission.

### **B. Staffing and Financial Support**

An ACT must be staffed either by ODOT or an organization with which ODOT could contract administrative services. The ACT and ODOT will jointly agree on how the ACT will be staffed. ODOT will provide planning staff assistance to the ACT and financial support for administration of the ACT in an amount sufficient to meet OTC expectations. Where it makes financial and logistical sense, the management and technical support services of an MPO and an ACT may be combined to increase consistency, cost-efficiency, and coordination.

### **C. Public Involvement**

As an advisory body that has authority to make recommendations to the OTC on policy or administration, an ACT must comply with the requirements of Oregon's Public Meetings Law found at ORS 192.610 to 192.690. The policy underlying the law is to ensure an open governmental decision making process and so facilitate the public's awareness "of the deliberations and decisions of governing bodies and the information upon which such decisions were made." (ORS 192.620.)

The Public Involvement section gives more detail than other portions of this document. Attachment A provides the minimum and preferred public involvement requirements for different types of ACT meetings. The ACT may use Attachment A as a template to incorporate into its bylaws. The goal is to achieve statewide consistency through an open, understandable process that meets state and federal public involvement policies, while continuing to recognize Regional differences in issues and priorities. In its biennial report to the OTC, the ACT will describe how it meets the minimum requirements. The ACTs must follow all relevant federal laws, regulations and policies for public involvement, including Title VI and Environmental Justice requirements, and all applicable ODOT policies.

For ACTs to fulfill their advisory role in prioritizing transportation problems and solutions and recommending projects, the ACTs must involve the public and stakeholders in their decision making processes. As the ACTs consider local, Regional and statewide transportation issues, it is important that they use the appropriate level of public involvement and/or public information. To comply with federal Environmental Justice requirements, the public involvement process needs to identify a strategy for engaging minority and low income populations in transportation decision making. Meeting materials and facilities shall be accessible to those with disabilities pursuant to ADA standards.

The responsibility for developing agendas, distributing materials, taking minutes, website maintenance and other duties related to ACT public involvement shall be covered in the joint agreement identified in Section V. B, Staffing and Financial Support.

## VI. BASIS FOR DECISION MAKING

The ACT shall function as an advisory body to the OTC, which has final decision authority. The ACT process and resulting recommendations shall comply with relevant laws, regulations and policies. When ACTs are considering recommendations relative to the STIP, their recommendations must comply with the policies and standards adopted by the OTC. When ACTs are providing recommendations on policy, they have greater latitude in formulating their response.

Recommendations shall be based on local, state, and federal adopted transportation plans, policies and procedures including, but not limited to:

- Oregon Transportation Plan and supporting mode plans (e.g., Oregon Highway Plan and Oregon Public Transportation Plan)
- Oregon Public Meetings Law, ORS 192.610 to 192.690 (See State of Oregon, Department of Justice, *Attorney General's Public Records and Meetings Manual*)
- State corridor and facility plans
- Transportation Planning Rule, OAR 660-012
- Transportation system plans
- MPO regional transportation plans
- Federal transportation planning regulations
- Local government plans, regulations, and ordinances
- Project selection criteria and prioritization factors approved by the OTC, including Oregon Transportation Management System data
- State Agency Coordination Program, OAR 731-15
- Additional criteria established by the OTC
- Oregon Government Standards and Practices, ORS Chapter 244  
(See *Oregon Government Standards and Practices Laws, a Guide for Public Officials*, by the Oregon Government Standards and Practices Commission)

ACTs may use additional criteria to select and rank projects provided the criteria do not conflict with any criteria established by the OTC<sup>6</sup>. If an ACT chooses to use additional criteria, they must inform those developing project proposals about the criteria. ACTs shall apply Regional and statewide perspectives to their considerations, refining recommendations after consultation with any affected metropolitan planning organization.

Recommendations to the OTC shall be documented and forwarded to the OTC with the factors used to develop the recommendation, including any additional criteria used by the ACT in forming its recommendation. Documentation developed by a member whose recommendations were not incorporated into the final ACT recommendations will be forwarded to the OTC with other materials documenting ACT recommendations. Recommendations to the OTC will be made in accordance with the approved STIP Development Timeline (on the Web at: <http://www.odot.state.or.us/stip/>).

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<sup>6</sup> See footnote 3.



ODOT has established special committees and processes to apply Oregon Transportation Management System information for the identification, prioritization and development of bridge replacement/rehabilitation and pavement preservation projects. If the ACT reviews Bridge or Preservation projects based on OTC approved criteria, the role of the ACT shall be to review the recommended lists of projects and to provide information to ODOT regarding any special circumstances within the Area that may apply to the prioritized list. Due to the highly technical nature of the bridge project selection, prioritization is primarily the responsibility of the technical staff utilizing the Bridge Management System. For preservation projects, the list from the Pavement Management System is enhanced by ACT knowledge/ information that helps meet state and local objectives (e.g., leverage funding sources, bundle with other projects, coordinate with local projects).

Federal regulations require MPOs to select transportation projects within the MPO boundaries from a limited pool of projects identified in the MPO's financially constrained regional plan. Selection of other projects within the MPO boundary requires coordination with the MPO and amendment of the MPO plan and TIP prior to adding them to the STIP. Outside MPO boundaries, ACTs may draw from a larger pool of projects found in local transportation system plans, which are not necessarily financially constrained.

## **VII. COORDINATION**

Because of the fundamental importance placed on recommendations by the ACTs, coordination shall be a primary obligation and ACTs are expected to meet a high standard in this area. To ensure that recommendations have been reviewed for local, Regional and statewide issues and perspectives, ACTs should communicate with others that may have knowledge or interest in the Area. Working with a broad representation of stakeholder groups should also help provide a balance between local/Regional priorities and statewide priorities. ACT coordination should include, but not be limited to the following groups:

- Oregon Transportation Commission
- Other ACTs within and across ODOT Regions
- ODOT Advisory Committees
- Community Solutions Team
- Regional Partnerships and Regional Investment Boards
- Tribal Governments
- MPOs
- Local Governments, Transit and Port Districts
- Stakeholder groups (e.g., environmental, business, state and federal agencies with land holdings within the ACT boundary)

It is recommended that the ACT develop a diagram or flowchart showing the numerous relationships within the ACT. The diagram should be available at each meeting of the ACT.

### **A. Oregon Transportation Commission**

ACTs will provide a report to the OTC at least once every two years. The report will provide an opportunity for the Commission to review the ACT charter, operating agreements and proposed work program. If modifications are required to comply with new or updated OTC direction (e.g.,

revising processes to conform to the revised “Policy on Formation and Operation of Area Commissions on Transportation (ACT)”), changes will be incorporated at that time. An ACT or the OTC may initiate additional communication on an as-needed basis.

ACTs will forward their recommendations and supporting information to the OTC for consideration. The OTC will provide feedback to the ACTs regarding actions taken.

#### **B. ACTs Within and Across ODOT Regions**

ACTs will coordinate with other ACTs, as needed for recommendations to the OTC that may have a Regional impact (e.g., priorities along a specific highway corridor). To facilitate regular communications, adjacent ACTs should be included on the ACT mailing lists and invited to all ACT meetings. Meeting agendas and minutes should be provided to adjacent ACTs. The ACT should consider adjacent ACT representatives for inclusion as ex officio members.

#### **C. ODOT Advisory Committees**

ACTs are encouraged to keep ODOT’s specialized standing committees (e.g., Local Officials Advisory Committee, Rail, Freight, Public Transportation, Bicycle/Pedestrian, Transportation Enhancement, Scenic Byways and the Tri-Agency Committee for the Forest Highway Program) informed and to seek their comment on major policies and programs under consideration. Representatives should be included on the ACT mailing lists and invited to all ACT meetings. The committees have a mutual obligation to provide information to the ACTs regarding processes, technical data, and recommendations specific to the program.

#### **D. Community Solutions Team**

Since 1995, five state agency directors, serving as the Governor's Community Solutions Team (CST), have been actively engaged in developing an integrated and collaborative approach to community development. ACTs are encouraged to use the multi agency resources of the Regional Community Solutions Teams (RCST) early in the project review process to raise and resolve issues as appropriate. RCST may also help identify opportunities to leverage funds. The standing agencies of the CST include:

- Oregon Department of Transportation (ODOT)
- Oregon Housing and Community Services (OHCS)
- Oregon Economic and Community Development Department (OECDD)
- Department of Land Conservation and Development (DLCD)
- Department of Environmental Quality (DEQ).

Representatives of the RCST should be included on the ACT mailing lists and invited to all ACT meetings

#### **E. Regional Partnerships and Regional Investment Boards**

Regional Partnerships and Regional Investment Boards are composed of local partners in two or more counties and the cities, ports, and tribes within those counties who agree to work together to provide a forum for coordination of economic and community development planning and investments so that strategies and processes for economic and community development are leveraged to the greatest extent possible to meet agreed upon priority issues, challenges and goals.

Representatives of Regional Partnerships or Regional Investment Boards should be included on the ACT mailing lists and invited to all ACT meetings. ACTs are encouraged to either be one and the same with a Regional Partnership or be organized to work effectively with and contribute to the work of a Regional Partnership.

#### **F. Tribal Governments**

OTC recognizes that Tribal Governments represent sovereign nations. ACT recommendations will consider the needs of the Tribal Governments, as well as coordination with the tribal Transportation Improvement Program (TIP) and other projects being developed by the Tribal Governments. To provide this coordination and understanding, a tribal representative shall be invited as a voting member of the ACT, as applicable.

#### **G. MPOs**

While the ACTs provide valuable advice on project priorities and other policy issues, the MPO is responsible for carrying out the metropolitan transportation planning process within urbanized areas in cooperation with the State and transit operators (23 CFR 450.312). MPOs develop a Transportation Improvement Program (TIP) that approves all projects that are regionally significant or that include federal funds, by year and by phase within the MPO planning areas. Before FHWA and FTA can approve Federal transportation funding for projects or activities within urbanized areas, they must be consistent with the MPO's regional transportation plan (RTP) and TIP.

The MPO must have a continuing, cooperative and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated intermodal transportation system that facilitates the efficient, economic movement of people and goods. (23 CFR 450.312).

ACTs and MPOs should coordinate their efforts to assure a better decision making process which results in better coordination of projects. The form of coordination should be different depending upon where MPO and ACT boundaries fall. When ACT and MPO boundaries overlap, a higher level of clearly defined coordination is needed and it is important that ACT activities fully coordinate with the MPO planning process. The MPO and ACT should jointly agree on a process for maintaining consistency between ACT recommendations and the MPO Plan and TIP, where this occurs. An MPO representative shall be included as a voting member on the ACT if within the same geographic area as an ACT.

For ACTs that are near or adjacent to an MPO, a sufficient level of coordination can be achieved by simply communicating the priorities of each group. This might be done through ex officio membership on committees or some other mutually agreeable, less formal method.

#### **H. Local Governments, Transit and Port Districts**

Transportation recommendations will be coordinated with other local and Regional community development activities. ACT representation shall include port and transit officials from the Area. ACT representatives of these groups are responsible for providing regular updates to their respective organizations on actions and recommendations being considered by the ACTs.

## **I. Stakeholder Groups**

While it may be impractical to include representatives from every stakeholder group on the ACT, the ACT needs to make a concerted effort to hear the concerns and recommendations of stakeholders prior to making decisions regarding recommendations to the OTC. The ACT will provide easy access to technical materials and supporting documentation considered by the ACT during its decision making process and shall consider and respond to public input received during the planning and program development process. (Section V. C. and Attachment A).

## **Attachment A**

### **Public Involvement**

ACT meetings will comply with the requirements of the Oregon Public Meetings Law, ORS 192.610 to 192.690. "Meeting" means the convening of a governing body of a public body for which a quorum is required to make a decision or deliberate toward a decision on any matter." ORS 192.610(5). Meetings include information-gathering sessions, working lunches and electronic meetings. All ACT meetings will be open to public attendance and any member of the public may attend any meeting of the ACT.

#### **A. MINIMUM REQUIREMENTS FOR REGULARLY SCHEDULED MEETINGS**

The ACT will conduct all meetings in accordance with the following minimum requirements and will strive to meet the preferred standards. The regular meeting requirements will be supplemented with the methods found in Table 1 if the meeting falls into the following additional categories:

- Developing project priorities for Draft STIP using approved criteria.
- Draft STIP public hearing.
- Special meetings.
- Electronic meetings.

#### **Meeting Notice**

- Advance notice to interested persons and stakeholder groups on ACT mailing list and to news media which have requested notice.
- Notices must include time, place, agenda (principal subjects) and name of person and telephone number (including TTY number) at the public body to contact to make a request for an interpreter for the hearing impaired or for other communication aids.
- A good faith effort must be made to provide an interpreter for hearing-impaired persons on receipt of proper notice. ORS 192.630(5).

#### **Meeting Materials**

- For decision items, distribute information to everyone in attendance at the meeting.
- Provide time on the agenda for general public comment.

#### **Meeting Schedule**

- If regularly scheduled meetings are not possible, the minimum standard is to provide extra public notification by following the Preferred method of meeting notification.

#### **Meeting Location**

- Meets accessibility requirements of the Americans with Disabilities Act (ADA).
- No meeting may be held in buildings where discrimination (race, sex, age, national origin, color, creed, disability) is practiced. ORS 192.630(3).
- Generally held within the geographic boundaries of the ACT's jurisdiction. Training sessions may be held anywhere.
- Contains adequate seating and facilities to encourage attendance by the general public.

**Meeting Minutes**--Minutes shall be prepared for all ACT meetings. Minutes must include at least:

- Members present.
- All motions, proposals and resolutions proposed, and their disposition.
- Results of all votes/decisions. Secret ballots prohibited.
- Substance of all discussion.
- Reference to all documents discussed (confidentiality of records exempt from disclosure may be protected).
- After each ACT meeting the ACT shall prepare and distribute the minutes prior to the next ACT meeting.
- As appropriate to the Area, meeting minutes should be provided in languages other than English.<sup>7</sup>
- Minutes must be preserved for a reasonable time.

## **B. PREFERRED STANDARD FOR REGULAR MEETINGS**

In addition to the minimum requirements, the preferred standard for regular meetings includes:

### **Meeting Notice**

- One week advance notice.
- Notices posted at local public institutions (city hall, library, community center, etc.).
- Notice posted on ACT website, along with links to meeting agendas, past meeting minutes, technical materials and documentation.

### **Meeting Materials**

- Provide an advance agenda one week prior to the meeting, either on the ACT website or through the mail.
- For decision items, provide technical materials and supporting documentation one week prior to the ACT meeting. Materials can be distributed through the ACT website and/or through the mail.
- Provide copies of all correspondence received prior to the meeting to ACT members and the public attending the meeting.

### **Meeting Schedule**

- Regular schedule (e.g., meetings at 1:00 p.m. on the last Thursday of each month).

### **Meeting Location**

- Easily accessible by public transportation.

### **Meeting Minutes**--

- Post minutes from the meeting on the ACT website.

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<sup>7</sup> A Governor's task force is currently working on methodology for meeting the federal requirements for Limited English Proficiency. Public involvement at the ACTs will need to comply with the guidance developed.

**C. EXECUTIVE SESSIONS**

The responsibilities of the ACT do not include work permitted in an executive session (ORS 192.660).

**D. CONTROL OF MEETINGS**

- The presiding officer has inherent authority to keep order at meetings—can “reasonably” regulate the use of cameras and tape recorders.
- No smoking is permitted at any meeting of the ACT.

**E. ROLES AND RESPONSIBILITIES**

Roles and responsibilities of parties engaged in public involvement activities on behalf of ACT will be designated in the joint agreement identified in Section V.B, Staffing and Financial support.

**F. PUBLIC COMMENT**

The public shall be provided opportunities to speak to the merits of proposals before the ACT and to forward their own proposals. Public comment may be taken at any time during the ACT meeting. Copies of all correspondence received prior to the meeting should be available for ACT members and the public at the meeting. The ACT public involvement process shall demonstrate explicit consideration and response to public input during the planning and program development process.

Type of Meeting	Meeting Notice		Meeting Materials		Meeting Schedule		Meeting Location	
	Minimum	Preferred	Minimum	Preferred	Minimum	Preferred	Minimum	Preferred
<b>Developing Project Priorities for Draft STIP Using Approved Criteria</b>	-Same as Regular Meetings	-Same as Regular Meetings <b>Plus</b> -Paid Advertising	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings <b>plus</b> -In establishing outreach activities for specific projects or topics consider locations that would be frequented by that community (e.g., social service organizations, schools).
<b>Draft STIP Public Hearing</b>	-Same as Regular Meetings <b>plus</b> -Paid Advertising	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	Same as Developing Project Priorities for Draft STIP Using Approved Criteria
<b>Special Meetings</b>	-Same as Regular Meetings <b>plus</b> -Minimum 24 hours Notice	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings
<b>Electronic</b> Requirements apply to all meetings by electronic means (e.g., personal computers).	-Same as Minimum for meeting type listed above. All procedural and formal requirements apply (minutes, notices, etc.). ORS 192.670.	- Same as Preferred for appropriate meeting type listed above	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	-Same as Regular Meetings	Same as Regular Meetings <b>plus</b> -Room with "listening" device	-Same as Regular Meetings

Attachment A Table 1



## **Attachment B**

### **How An Act Is Established and Biennial Report Structure**

In establishing an ACT, local elected officials and staff work together with the ODOT Region Manager and the OTC member representing the Area to develop a proposal for the formation of an Area Commission on Transportation (ACT). The proposal should address the key questions listed below. The proposal is circulated among local jurisdictions for comment, revision and eventually expressions of support. The State Community Solutions Team reviews the proposal for coordination with the Regional Partnership Initiative. The Oregon Transportation Commission reviews the proposal. Once the Commission accepts the proposal, it adopts a resolution providing a provisional charter for the Area Commission on Transportation. The ACT selects its members and begins to function as an official advisory body to the Oregon Transportation Commission.

The Biennial Report should follow a similar process in addressing the questions below and should be reviewed by the ACT membership before submitting to the OTC.

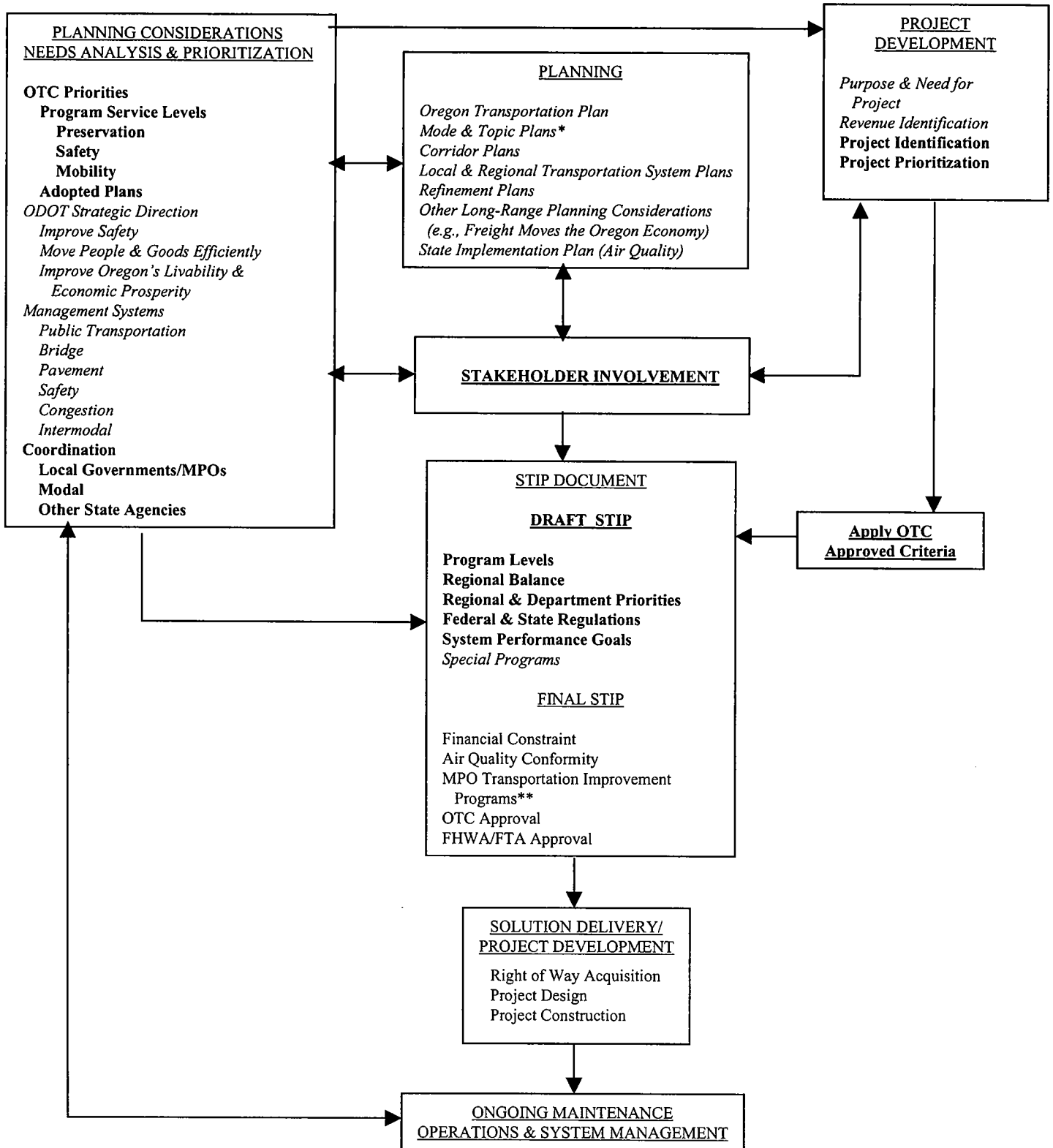
#### **Key Questions to be addressed in an ACT Proposal**

The Oregon Transportation Commission expects that for an ACT to be effective it will represent the political environment of the Area. Therefore, each ACT may look and function somewhat differently than another. However, each proposal or biennial report for an ACT should address at least the following questions:

1. What is the rationale for the geographic boundaries of the proposed ACT? If the boundaries are being modified, why?
2. What are the proposed voting and ex officio membership categories and how do they ensure coordination with existing Regional public agencies?
3. Is the membership broadly representative of local elected officials and inclusive of other key stakeholders and interests (see Section IV, Subsection B., Membership)? If key representation is not included, explain the justification.
4. How would/does the ACT coordinate with adjacent ACTs and/or MPOs and involve state legislators?
5. What is the proposed work program of the ACT?
6. How will/does the ACT meet the minimum public involvement standards as shown in Attachment A of this document?
7. Who would/does help guide the work program and agendas of the ACT? Indicate the general operational structure.
8. How would/does the ACT secure technical assistance on transportation issues?

9. What key work efforts will be /have been addressed by the ACT?
10. Who would/does provide support staff to the ACT?
11. What will be/is the decision making process used by the ACT?

**TYPICAL PROJECT ELEMENTS**  
**STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM**



\* Bicycle/Pedestrian, Highway, Public Transportation, Rail Freight, Rail Passenger, Transportation Safety Action, Aviation

\*\* MPO TIPS must be included in ODOT's STIP without modification. To ensure state priorities are considered, ODOT must be involved in the local planning project selection process.

**Bold Text = Primary Role for ACTs**

*Italicized Text = Optional Role for ACTs*

Black Text = Not covered for Formation and Operation of ACTs document

## **Attachment D**

### **Glossary of Terms**

**Area**—When capitalized, describes the geographic area of the Area Commission on Transportation.

**Region**—When capitalized, describes the Oregon Department of Transportation geographic regions.

**Regional**—When capitalized, includes considerations of other communities, regional movements and patterns of transportation.

**Transportation System**—When capitalized, includes the following modes and aspects:

- Air, marine, rail (freight and passenger)
- Highway (trucks, buses, cars)
- Transit
- Bicycle/Pedestrian

To consider all modes and aspects of the Transportation System in formulating recommendations, ACTs would take into account the provision of elements and connections between air, marine, rail, highway, trucking, transit, bike and pedestrian facilities.

#### **Verbs:**

**Obligation**—This category of terms shows the ACTs' responsibility to ensure the outcome to the OTC. The terms that fall within this category include:

- Must
- Shall
- Will

**Encouraged**—This category of terms provides the ACTs some flexibility with their responsibilities to the OTC. The terms that fall within this category include:

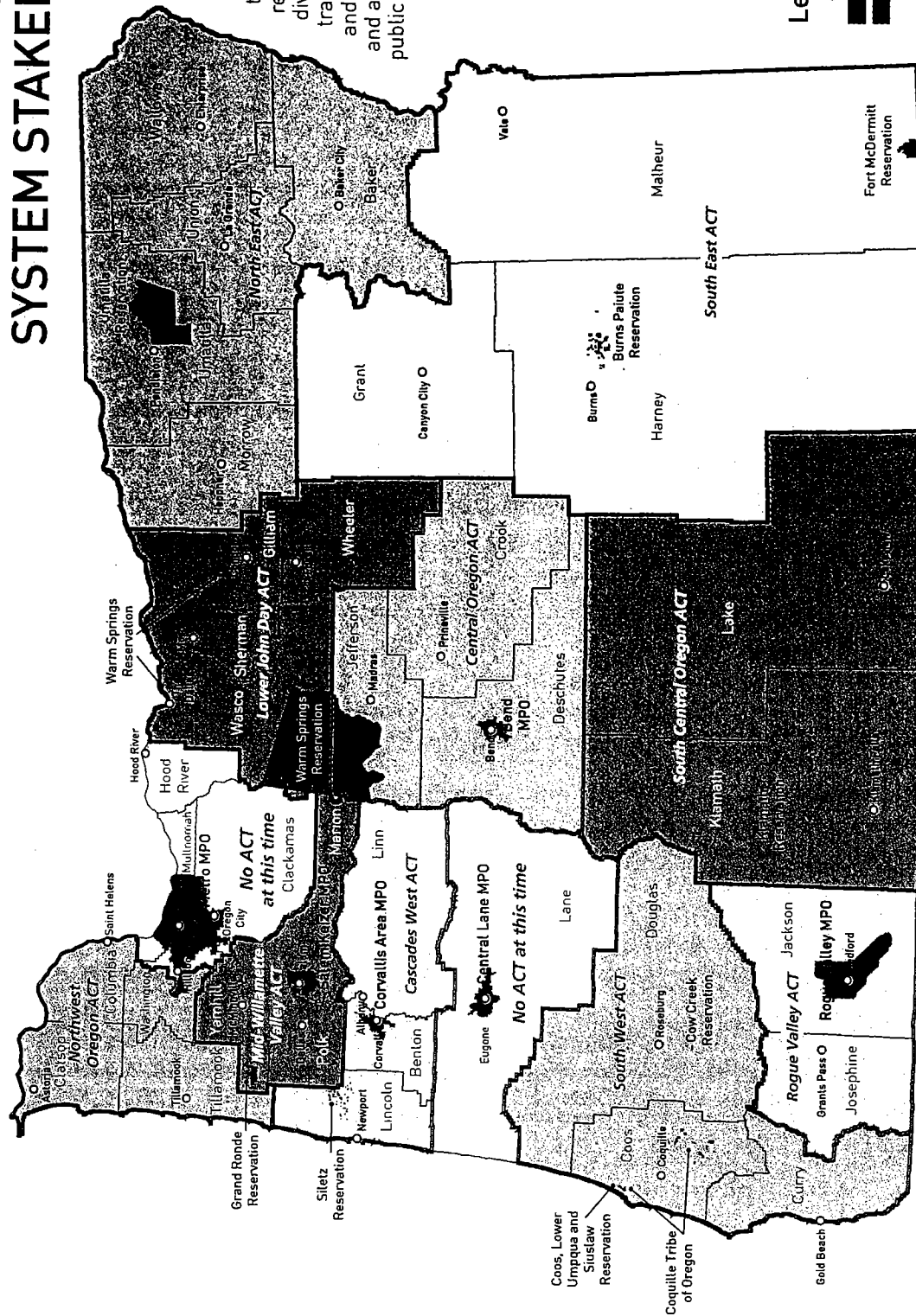
- Should

**Permitted**—This is the most flexible category of terms. It allows the ACTs to decide whether or not to engage in evaluation of the particular situation. Terms that fall within this category include:

- May

# STATE OF OREGON REGIONAL TRANSPORTATION SYSTEM STAKEHOLDERS

Effectively managing and improving the transportation system requires working with a diverse set of jurisdictions, transportation providers and operators, stakeholder and advocacy groups, the public and many others.



Source: Geographic Information Services Unit, ODOT.

75th OREGON LEGISLATIVE ASSEMBLY--2009 Regular Session

**Enrolled**  
**Senate Bill 944**

Sponsored by Senator PROZANSKI, Representative HOLVEY

CHAPTER .....

AN ACT

Relating to Lane County Area Commission on Transportation.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** (1) The governing body of Lane County, in consultation with other elected local officials and with transportation stakeholders in Lane County, shall develop, not later than September 30, 2010, a proposed charter for the formation of an area commission on transportation for Lane County.

(2) The proposed charter must comply with the policy guidelines established in the Policy on Formation and Operation of Area Commissions on Transportation as approved by the Oregon Transportation Commission on June 18, 2003, and must include:

(a) A description of the criteria that the area commission on transportation will use in prioritizing project selection and a statement of expectations regarding feedback from the Oregon Transportation Commission to the area commission on transportation when the Oregon Transportation Commission receives the area commission's priorities.

(b) A description of the conflict resolution process the area commission will use to produce equitable outcomes, including the prioritization of spending on urban and rural projects, and a process for tracking and maintaining records of resolutions and outcomes.

(c) A plan for regular and consistent communication and coordination among the adjacent area commissions and with metropolitan planning organizations.

(d) A plan for public involvement with the area commission.

(3) The Department of Transportation, acting through one or more representatives selected by the Director of Transportation, shall provide staff support to the governing body of Lane County for developing and submitting the proposed charter in a manner consistent with this section and the guidelines established in the Policy on Formation and Operation of Area Commissions on Transportation.

(4) The governing body of Lane County shall submit the proposed charter to the Oregon Transportation Commission for deliberation and action. If the proposed charter establishes a process for establishing membership, terms of office and voting procedures that are all consistent with the policy guidelines established in the Policy on Formation and Operation of Area Commissions on Transportation as approved by the Oregon Transportation Commission, the Oregon Transportation Commission may not reject the proposed charter based on the composition of its membership.

(5) Not later than October 31, 2010, the Oregon Transportation Commission shall schedule a meeting with the governing body of Lane County, other elected local officials and transportation stakeholders to discuss the proposed charter.

(6) Not later than October 31, 2010, the governing body of Lane County shall report to the appropriate interim committees of the Legislative Assembly on:

(a) The steps taken toward the formation of an area commission on transportation for Lane County; and

(b) The initial membership of the area commission on transportation, if the charter has been approved by the Oregon Transportation Commission, or a plan, including remaining steps and a timeline, for obtaining approval of the area commission on transportation for Lane County.

Passed by Senate May 4, 2009

Received by Governor:

Repassed by Senate June 11, 2009

.....M.,....., 2009

Approved:

.....  
Secretary of Senate

.....M.,....., 2009

.....  
President of Senate

.....  
Governor

Passed by House June 9, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

.....  
Speaker of House

.....  
Secretary of State

**LC ACT Formation**  
**Staff Notes, Regional Managers Meeting September 4, 2009**

Present: City Manager or Assistant Manager from all Lane County cities except Dunes City and Westfir  
Support Staff: Byron Vanderpool, Paul Thompson, Ann Mortenson, Central Lane Metropolitan Policy Organization (MPO); Sonny Chickering, ODOT; Celia Barry, Lane County.

(Notes are not chronological; they were organized by subject matter.)

The City Managers held a round table discussion and recommended:

- that City Mayors and the Board Chair meet to develop a proposal for a proposed ACT charter spelling out the process to form an ACT. They believe that as elected officials, Mayors and the Board Chair would be an appropriate group to come up with the process that best involves cities and identifies other key stakeholders.
- that representatives from Lane Transit District (LTD), the Port of Siuslaw, and Native American Tribes also be included in these initial discussions.
- Once the proposed charter and ACT formation process is developed, identify and involve others as appropriate.
- that ultimately the proposed charter be submitted to each City Council for a formal resolution on the matter. (The City of Florence has already passed a resolution in support of formation of an ACT).
- Focus the ACT charter on the areas of influence that the locals actually have, i.e., as an advisory body to the OTC.

**Tasks for Staff From the Meeting:**

1. Gather information about the advantages/disadvantages of various ACT processes. Jerri Bohard can assist.
2. Ask existing ACTs how their membership has changed over time and specifically what business is being transpired. The Rogue and Mid Willamette Valley ACT would be good candidates for getting feedback.
3. In staff's preparation for an upcoming meeting with Mayors, provide links to the ODOT ACT web site and various ACT web sites. Be sure mayors receive the appropriate level of education about ACTs before being asked to provide input. ODOT staff noted that one initial Mayoral meeting was held last winter.

The managers were asked to comment on the ACT composition and function.

Lane County's diversity means there are different transportation issues and dynamics when it comes to the Coast, the Mountains and the Metro area. So one representative for all the cities would not be enough. All cities might not need to be represented but representation by state facility corridor might be an effective representation. The number of votes for the County needs to be explicitly discussed.

The MPO would be adequately represented by virtue of inclusion of the jurisdictional representatives that form the Metropolitan Policy Committee (MPC).

It is difficult to represent freight with any one person or entity, since this covers a broad spectrum. Also, private businesses are by definition out for a profit and self interested, so how to affectively involve these interests in advising OTC on programming funds is difficult. Adding to the difficulty is the fact that these interests don't typically join in local transportation discussions.



It was noted that in most ACTs, the Counties appoint a citizen representative, while the Rogue Valley ACT appoints the citizen representatives (see table in Cover Memo Attachment B.1). Would the charter specify where citizen representatives come from? It would be good to have citizens represent diverse interests.

It was noted that all groups naturally start out with high aspirations and then reality sets in. In the case of ACTs, it was observed that the ACTs are purely advisory to the OTC. Starting out with this knowledge may help provide perspective in deciding how the ACT will function.

MPO staff noted that the Mid Willamette Valley ACT reviews Modal Plans in addition to other OTC advisory work that ODOT requests.

Membership could be expanded and contracted as necessary. Historically, other existing ACTs started out with a given membership and it evolved over time through a natural selection process. Start somewhere and as time goes on changes can be made.

ODOT staff suggest monthly meetings are the most workable given the Statewide Transportation Improvement Program time lines. Meetings could be standing meetings and cancelled during periods when there is no business.

The following concerns related to development of an ACT:

- There are currently good guidelines in place for ACT and charter formation. There is no need to reinvent the wheel or be unique. Keep it simple.
- There is no need to add another layer onto the ACT dealing with land use or other issues. It is unclear what the purpose of this would be given the existing regulatory framework.
- Hiring an outside facilitator is unnecessary and they would not be interested in contributing to the cost.

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5. MATURITY DATES OF SECURITIES OR BONDS.

Signed and dated at \_\_\_\_\_, Lane County, Oregon, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Depositor/Assignor)

Address: \_\_\_\_\_  
\_\_\_\_\_

ACCEPTANCE

\_\_\_\_\_ (Bank or Trust Company) hereby accepts the foregoing Assignment and Safekeeping Receipt No. \_\_, in the total amount of \$ \_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_, 20\_\_ , and hereby acknowledges receipt of the bonds or securities listed in Schedule "A" above to hold in trust for Lane County for the uses and purposes above-stated.

\_\_\_\_\_  
(Authorized Signature)

Exhibit "A" to LM 21.116(2)

*(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05)*

**21.117 Personal and Professional Service Contracts.**

- (1) Personal service contracts are those as described in LM 20.097.
- (2) Personal service contracts shall not be used to engage persons who would be deemed County employees, rather than independent contractors. Two of the primary differences are the amount of control the County has the right to exercise over the individual and the method of payment. That a County employee supervises or has the right to supervise the individual (i.e., assign work, review work, review performance) is an indicator the individual would be an employee, not an independent contractor. That the individual is paid for time and services is an indicator the person is an employee, whereas, that he or she is paid for results or for a total project is an indicator the individual is an independent contractor. All personal services contractors must meet the independent contractor standards of ORS 670.600.

(3) Generally, all personal services contracts shall require the contractor to defend, indemnify and hold the County, its officers, agents and employees harmless from all damages, losses and expenses including but not limited to attorney fees and to defend all claims, proceedings, lawsuits and judgments arising out of the contractor's performance or failure to perform the contract. When the Office of Legal Counsel determines the risk of a substantial judgment against the County is minimal, this provision may be waived.

(4) Reasonable care shall be taken in the use of personal service contracts to verify that they do not violate the terms of any collective bargaining agreement to which the County is a party. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05)*

**21.118 Selection of Personal Service Contractor.**

Personal service contracts are excluded from competitive bidding; however, the following selection procedures should be utilized unless an exemption, special

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procurement, or other LM Chapter 20 or 21 rule would allow a different competitive selection under the circumstances:

(1) Direct Contracting.

(a) Dollar Amount \$10,000 or less. The County may contract directly with any qualified contractor without competitive selection, except as provided in (b) and (c) for architects, engineers, land surveyors, other related service providers, as applicable.

(b) Dollar Amount \$25,000 or less. The County may contract directly, and without competitive selection, with any qualified architect, engineer, land surveyor or provider of related services (as defined by ORS 279C.100(6)), for public improvement projects involving a highway, bridge or other transportation, except as in (c).

(c) Qualification Based Selection Required Under ORS 279C.110(2).

The County may not solicit or use pricing information to determine the architect's, engineer's, or land surveyor's compensation until after initially selecting a qualified consultant. For public improvement projects not meeting ORS 279C.110(2), the County may consider pricing information and qualifications in selecting this type of contractor.

(2) Dollar Amounts Greater Than (1) (a) or (b) But Equal to or Less Than \$50,000. For contracts greater than the amounts in (1)(a) or (b) above and up to \$50,000, the Department Director or designated officer shall solicit at least three prospective contractors who appear to meet the minimum requirements for the proposed contract, inform each in reasonable detail of the contract and determine the prospective contractor's interest and ability to perform the contract. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. The contract should be awarded to the offeror whose quote or proposal will best serve the interests of the County, in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered, except as provided below in this rule for architects, engineers, and land surveyors. For all such contracts, quotations shall be solicited from appropriate minority, women and emerging small business enterprises certified by the State pursuant to ORS Chapter 200, and as specified through County administrative procedures. The Department shall keep a written record of the prospective contractors contacted, their responses, and basis for recommending the award.

The same condition in (1)(c) applies to qualification based selection required under ORS 279C.110(2). For such contracts, the County will begin negotiating with the highest ranked proposer on a fair and reasonable price in addition to any other contract provisions the County believes is in its best interest to negotiate. If agreement is not reached within a reasonable time, the County may move to the second highest ranked proposer for similar negotiation, and continue the process with the next in line until agreement is reached. See OAR 137-048-0210(4).

(3) Dollar Amounts Greater than \$50,000 But Equal to or Less Than \$100,000.

Where the contract is greater than \$50,000 and equal to or less than \$100,000, the Department Director or designated officer shall comply with (2) above, except that they will prepare a written solicitation, including but not limited to specification/scope of work and receive written offers. The contract should be awarded to the offeror whose quote or proposal will best serve the interests of the County, in the discretion of the County after considering any applicable criteria such as in (5) below. Pricing information may also be solicited and considered, except as provided below in this rule for architects, engineers, and land surveyors. The County shall keep the written solicitation and response documents and written basis for recommending the award. Unsuccessful offerors shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13).

The same condition in (1)(c) applies to qualification based selection required under ORS 279C.110(2). For such contracts, the County will begin negotiating with the highest ranked proposer on a fair and reasonable price in addition to any other

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contract provisions the County believes is in its best interest to negotiate. If agreement is not reached within a reasonable time, the County may move to the second highest ranked proposer for similar negotiation, and continue the process with the next in line until agreement is reached. See OAR 137-048-0210(4).

(4) Greater Than \$100,000. Where the contract is greater than \$100,000, the Department Director or designated officer shall comply with (3) above, and conduct interviews of at least the two most qualified prospective contractors, if two or more are available. Interviews may be either by telephone, in person or by written questions. Unsuccessful quoters shall have the right to protest the award decision to the Board of County Commissioners in accordance with procedures set forth in LM 21.105(13).

(5) Criteria. The following criteria shall be considered, as appropriate, in the evaluation and selection of personal or professional service contractors:

(a) Specialized experience in the type of work.

(b) Capacity and capability to perform the work within necessary time and other limitations.

(c) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules and contract administration.

(d) Availability to and familiarity with the area in which the specific work is located.

(e) Any other factors relevant to the particular contract.

(6) Requests for Professional Services (RFPS).

(a) Description. A request for professional services (RFPS) is a selection procedure used when the County requires the services of the most highly qualified professional based on demonstrated competence and qualifications, and where a fair and reasonable price rather than lowest competitive price is the focus. It may be used in the discretion of the Department Director, on a project-by-project basis, except a qualifications based process is required for selecting registered professional engineers, registered architects, registered professional land surveyors for public improvement projects where:

(i) The County receives grants, loans or moneys from the Oregon State Highway Fund or from the State that exceeds 10% of the value of the project, and

(ii) The value of the project exceeds \$900,000. ORS 279C.110(2).

(b) Requirements.

(i) An advertisement shall appear at least once in at least one newspaper of general circulation in the area where the project is to be located and/or published electronically in compliance with LM 21.105(2), and shall briefly describe the project, the services sought, where copies of the solicitation may be obtained and the deadline for submitting a response.

(ii) The solicitation document shall contain, at a minimum, the information in LM 21.118(6)(b)(i) above, specifications, project requirements, a statement of the particular professional qualifications for the project, the evaluation criteria, and the screening or evaluation method to be used. It shall also reserve the County's right, at any time during the solicitation or contract process, to reject any or all proposals or cancel the solicitation, without liability, if there is good cause or if doing so would be in the public interest. The contract terms should also be included. For a contract for architectural, engineering, or land surveying services or related services:

(A) Proposals may be opened so as to avoid disclosure of contents during, when applicable, the process of negotiation;

(B) Proposals are not required to be open for public inspection until after the notice of intent to award; however, the County may continue to withhold trade secrets as defined in ORS 192.501 and information submitted to a public body in confidence as described in ORS 192.502.

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(iii) An evaluation committee shall review, score and rank the proposals according to solicitation criteria and results of any oral interviews. Criteria may include, but is not limited to, specialized experience, capabilities and technical competence to meet project requirements, methodology to meet project requirements, availability and resources to perform the work, proportion of candidate staff's time spent on project, experience of key staff, demonstrated ability to successfully complete similar projects, references and recommendations, history in meeting deadlines, submitting accurate estimates, producing quality work, meeting financial obligations, contract administration status of licensing, proposed solutions to any perceived design or construction problems, ownership status and employment practices regarding minority, women and emerging small businesses or historically underutilized businesses; availability and familiarity with project locale, and project management approach. Proposed compensation may be included as evaluation criteria except for solicitations for professional \ engineers, architects, land surveyors services covered by ORS 279C.110.

(iv) Contract negotiations, including refining scope of services, with the highest ranked professional shall be directed toward an agreement on a compensation level which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the personal services. A department may solicit or use a compensation proposal for projects and services covered by ORS 279C.110 only after evaluating and ranking candidates.

(v) If an agreement is not reached in a reasonable time, the County may terminate negotiations with the highest ranked proposer and begin with the second ranked, and then to the third, if applicable. If no agreement is reached, the solicitation may be terminated.

(vi) A prospective contractor may protest the solicitation process or document in accordance with LM 21.105(6). Contractor may protest the contract award in accordance with process in LM 21.105(13). A proposer submitting a protest of the award must demonstrate that the protesting proposer is the highest ranked proposer because the proposals of all higher ranked proposers failed to meet the requirements of the RFPs or because the higher ranked proposers otherwise are not qualified to perform the services. Untimely protests will not be considered.

(7) Other Competitive Processes. Except when qualification based selection is required, a Department may use other methods of selection for personal service contractors including, but not limited to, formal bid, RFP, sole source, emergency, special procurement, or any other exemption in LM Chapter 20.

(8) Amendments. The selection procedures stated in LM 21.118(1) - (7) above shall be utilized for any amendment of a personal services contract which is more than 50 percent of the original contract amount, or when the aggregate of amendments are more than 50 percent of the original amount. However, they need not be utilized if the scope of the amendment was clearly included in the original selection such that prospective contractors understood this amendment may occur. In addition, they need not be used if the project described in the personal service contract consists of work that has been substantially described, planned or otherwise previously studied or rendered in an earlier contract with the consultant that was awarded pursuant to LM Chapter 20 and 21 rules and the amendment (or new contract) is a continuation of that project. A contract may be awarded directly under this circumstance pursuant to the waiver criteria in (9) below.

(9) Waiver. The selection procedures described above may be waived by the County Administrator prior to selection of the personal services contractor or to permit an amendment in excess of the 50 percent limit of LM 21.118(8) above for any of the following reasons:

(a) An emergency exists which could not have been reasonably foreseen and which requires prompt execution of a contract, or

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(b) The contractor is the only person within a reasonable area who performs this type of work, or

(c) When good cause is demonstrated to the County Administrator, such that he or she believes award of the contract without utilizing the selection procedures is in the public's interest. *(Revised by Order No. 98-12-2-4, Effective 12.2.98; 04-6-30-12, 6.30.04; 05-2-16-8, 2.28.05; 05-12-14-9, 1.1.06; 08-2-13-1; 2.13.08)*

#### **21.120 Requirements and Pricing Contracts.**

Requirements contracts, or pricing agreements, provide for the establishing of unit prices for goods or services (including personal services) when the County knows it will need them, but is unable to determine the quantity in advance. Generally, the vendor agrees to supply some or all of the County's requirements within a specified period of time. Competitive selection and contract/amendment execution authority is governed by the rules which apply to the underlying contract type, i.e., materials, materials and services, services, personal or professional services.

(1) In conducting competitive selection, the County shall inform all potential bidders/proposers:

(a) Whether it will consider awarding and executing more than one requirements contract for a single type of service or good; and

(b) If it anticipates awarding more than one contract, the method to be used in selecting which contractor will perform specific services or provide certain goods.

(2) All requirements contracts shall provide that:

(a) The County will purchase a specified minimum amount of goods or services; or

(b) A maximum, not to exceed amount of goods or services; and

(c) The contract may be canceled upon 30 days written notice by the County; and

(d) The term of the contract, including renewals, shall not exceed three years.

(3) The County departments shall determine a reasonable estimate of the total dollar amount of a requirements contract, including from all amendments, throughout the term of the contract. That dollar figure shall be the basis for determining contract/amendment execution authority under LM 21.145 and 21.147.

(4) When the price of goods and services has been established by a requirements contract including standard contract provisions such as County protection from risk and liability as appropriate, and has been processed and approved by the Board or County Administrator, the County may purchase the goods and services from the supplier without subsequent competitive selection. In order to purchase or pay for goods and/or services under an executed requirements contract, the following steps apply:

(a) For a services/requirements contract, if the scope of work is originally defined in general terms, and the parties anticipate further defining of the work as it arises, i.e., personal services on a project by project basis, the additional defining of the scope of work shall be in writing and executed as an amendment. For contracts approved by the Board, the County Administrator shall have authority to execute any amendment which does not exceed \$100,000. Subject to (b) below, for contracts with a total estimated cost of less than \$300,000, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$50,000 to a Director of the department originating the contract, and for Public Works also to the County Engineer for transportation projects. Subject to (b) below, for contracts with a total estimated cost of \$300,000 or greater, the County Administrator may delegate authority to execute an amendment for a project not exceeding \$100,000 to a Director of a department originating the contract, and for Public Works also to the County Engineer for transportation projects. For contracts approved by the County Administrator, the County