

Executive Committee

November 13, 2024 | 3:30 p.m.



Onsite:

Greater Portland Transit District
114 Valley Street, Conference Room A | Portland, ME 04102

Remote:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84142523243?pwd=RjBWTStDV2R3enB6MzA0Q1haZVFQZz09>

Passcode: 344764 | Webinar ID: 841 4252 3243

Phone: (646) 931-3860 | Telephone participants: *9 to raise hand, *6 to unmute

MEETING AGENDA

AGENDA ITEM	PRESENTER	ACTION or INFORMATION
1. Call Meeting to Order (3:30)	Ed Suslovic, Board President	N/A
2. Public Comment (3:30-3:35) The Board of Directors welcomes public comments at this time for items <u>not listed</u> on this agenda at this time. For items listed on the agenda, the chair will allow members of the public to comment following the staff presentation. There is a <i>three-minute time limit</i> per speaker. (Comments will be paraphrased in meeting minutes)	Ed Suslovic, Board President	Information
3. Meeting Minutes (3:35-3:35) Review and approve minutes from the October 9, 2024 Executive Committee Meeting.	Ed Suslovic, Board President	ACTION
4. Rock Row Easement Subordination Agreement (3:35-3:45) Waterstone Properties the owner of the Rock Row development in Westbrook is requesting Metro sign a subordination agreement to facilitate the approval of their Declaration of Environmental Covenant form with the Maine Department of Environmental Protection.	Glenn Fenton, Executive Director	ACTION
5. Bus Rapid Transit MOU with MaineDOT (3:45-3:55) Staff will review the draft MOU between Metro, MaineDOT and Maine Turnpike Authority to fund and govern phase two of the Bus Rapid Transit study.	Glenn Fenton, Executive Director	ACTION
6. Metro Board Retreat Agenda Setting (3:55-4:25) Staff are seeking input from the committee on the structure and content of Metro's planned board retreat scheduled for December 2, 2024.	Glenn Fenton, Executive Director	Information

<p>7. Future Agenda Items (4:25--4:30)</p> <ul style="list-style-type: none"> • Metro Board and Committee Structure • Metro’s Advertising Policy • Agency Strategic Planning • PACTS Initiatives and Reforms (Ongoing) 		
<p>8. Upcoming Meetings (4:25-4:30)</p> <ul style="list-style-type: none"> • Finance Committee – Nov/Dec Meetings canceled • Ridership Committee – November 20, 2024 at 3:30 pm • Board of Directors – December 2, 2024 at 10:00 am • Executive Committee – December 11, 2024 at 3:30 pm 	<p>Ed Suslovic, Board President</p>	<p>Information</p>
<p>9. Adjournment (4:05)</p>	<p>Ed Suslovic, Board President</p>	<p>ACTION</p>

As of November 9, 2022 Greater Portland METRO is holding meetings of the Board of Directors (and its committees) in hybrid format, both in person at METRO’s offices and via webinar. The remote portions of all meetings are conducted in accordance with the requirements of [METRO’s Remote Participation Policy](#) (adopted August 25, 2022) as well as LD 1772, PL 2022 Ch. 666, and 1 MRSA Chapter 13, Subchapter 1.



**Greater Portland Metro Executive Committee
Wednesday, October 9, 2024:
DRAFT Meeting Minutes:**

Member	Municipality	Role	Status
Ed Suslovic	Portland	President & Chair	Present
Hope Cahan	Falmouth	Vice President & Vice Chair	Present
Paul Bradbury	Portland	Treasurer	Present
John Thompson	Westbrook	Secretary	Present

Staff Present	Identified Members of the Public
Glenn Fenton – Executive Director, Interim Chief Transportation Officer Shelly Brooks – Chief Financial Officer Mike Tremblay – Director of Transit Development	

- I. With a Quorum in place, this meeting was called to Order By: Ed Suslovic at 3:30 pm**

- II. Public Forum:**
No members of the public present

- III. Approval of September 12, 2024 Meeting Minutes:**
Hope Cahan motioned to approve the September 12, 2024 meeting minutes. It was seconded by John Thompson. After a roll call vote, the September 12, 2024 meeting minutes were unanimously approved.

- IV. South Portland Merger:**
Glenn Fenton presented on the terms of an MOU that will facilitate South Portland joining Metro. Glenn Fenton explained the proposed changes to Metro’s bylaws to add South Portland as a member of the Greater Portland Transit District. Hope Cahan motioned to recommend adoption of the MOU and changing Metro’s bylaws to the full Board of Directors. It was seconded by Paul Bradbury and approved unanimously.

- V. CTO Recruitment**
Glenn Fenton informed the committee of the selection of Chad Heid for the vacant Chief Transportation Officer position. Chad is expected to start on November 12, 2024.

- VI. Future Agenda Items:**

- Agency Strategic Planning (Ongoing)
- Metro Board and Committee Structure
- Metro's Advertising Policy
- PACTS Initiatives and Reforms
- Bus Rapid Transit Study

VII. Upcoming Meetings:

- Finance Committee – October 15, 2024 at 4:00 pm
- Ridership Committee – October 16, 2024 at 3:30 pm
- Board of Directors – October 24, 2024 at 4:00 pm
- Executive Committee – November 13, 2024 at 3:30 pm

VIII. Adjournment: Paul Bradbury moves, Hope Cahan seconds. Adjourned at 4:13 pm.



EXECUTIVE COMMITTEE

AGENDA ITEM 4

DATE

November 13, 2024

SUBJECT

Rock Row Easement Subordination Agreement

PURPOSE

Seek approval of a subordination agreement with Dirigo Center Developers (Waterstone Properties).

BACKGROUND/ANALYSIS

Following board approval of a Memorandum of Understanding (MOU) in November 2018, Metro executed a thirty-year lease agreement in June 2020 in which Metro serves as a lessee of the interior roadway infrastructure associated with the Rock Row development in the City of Westbrook. The site is bordered by Main Street, Larrabee Road and Rand Road.

The agreement allowed Dirigo Center Developers, LLC (DCD) to access tax-exempt financing for the site's phase 1 build-out while creating a revenue opportunity for Metro. Following lease execution in June 2020, Metro was paid one-time lump sum of \$175,000. The lease agreement stipulates that Metro has no expenses, no operating or maintenance obligations, and limits the agency's liability to the maximum extent possible. Additionally, the MOU stipulated that DCD would facilitate a pass program with Metro for tenant businesses of the Rock Row development site.

In October 2023, legal counsel representing DCD contacted Metro's legal counsel to request that Metro sign an Easement Subordination Agreement.

The reason for the request is; the Rock Row site is a former gravel pit, quarry, and asphalt plant, and so the northern half of the site (the "North Campus") is the subject of a Voluntary Response Action Program (VRAP) application to MaineDEP to permit its redevelopment under Maine's Brownfields program. As part of the VRAP application, DCD submitted a work plan so that the site either would be built upon, paved, or covered by a soil layer, therefore protecting human health and the environment by preventing contact with the contaminated soil. MaineDEP has approved that work plan and also has also approved an Environmental Media Management Plan ("EMMP") that DCD submitted.

The last step in the VRAP process is the preparation of a Declaration of Environmental Covenant (DEC) form, which we will submit to MaineDEP for its review and approval. The DEC form requires DCD to obtain a signed Easement Subordination Agreement from those who have easements

over the site; the signed Easement Subordination Agreements will become exhibits accompanying the DEC, which we will record following DEP's approval and signature of the DEC. The particular covenant that particularly might affect METRO as an easement holder with the right to excavate is:

Soils and groundwater that remain located in situ at the site and that may be disturbed during future redevelopment activities (e.g., future construction, additions, utility work, emergency repairs, etc.) may not be moved off-Site without the express written permission of the Department. In order to minimize soil disturbance and limit potential dermal and oral contact with soil, any Department-approved engineered cover systems must be maintained and Site soils and groundwater must be managed in accordance with a Department-approved environmental media management plan.

The footings installed by DCD/Waterstone for the bus shelter that was installed here have a 100-year lifetime, so that the likelihood of Metro needing to excavate to replace or maintain the bus shelter over the next 100 years is low. In the unlikely event that the bus shelter site needs to be excavated, any spoils would need to remain on site or be properly remediated with the permission of the MaineDEP.

Metro and DCD have yet to launch a pass program for Rock Row businesses. Staff have used the discussions with DCD staff about the subordination agreement as an opportunity to restart negotiations of for an unlimited ride pass program for all Rock Row businesses. DCD has acted in good faith to advance this initiative.

FISCAL IMPACT

None.

RECOMMENDATION

Recommend approval of subordination agreement with Dirigo Center Developers to Metro's Board of Directors.

CONTACT

Glenn Fenton
Executive Director
207-517-3025
gffenton@gpmetro.org

ATTACHMENTS

Attachment A – Subordination Agreement with Dirigo Center Developers

Exhibit B 2: SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT (“Agreement”), dated as of the ___ day of _____, 2024 is entered into between GREATER PORTLAND TRANSIT DISTRICT, a regional transit district and body politic and corporate pursuant to Maine law, with a mailing address of 114 Valley Street, Portland, Maine 04102 (“Easement Holder”) and DIRIGO CENTER DEVELOPERS, LLC, a Maine limited liability company with a mailing address of 250 First Avenue, Suite 325, Needham, Massachusetts 02494 (“Property Owner”).

WHEREAS, Easement Holder is the holder of an easement (the “Easement”) across property located in the City of Westbrook, Cumberland County, Maine, which property is described in a deed recorded in the Cumberland County Registry of Deeds in Book 34380, Page 164, and which Easement was conveyed by a deed dated January 26, 2021 and recorded in the Cumberland County Registry of Deeds in Book 37785, Page 78.

WHEREAS, Property Owner, who is the current owner of the property subject to the Easement, has executed the foregoing Declaration of Environmental Covenant (“Environmental Covenant”), to which this Subordination Agreement is attached as Exhibit B 2, and Property Owner is the Grantor referred to in said Environmental Covenant;

WHEREAS, the Environmental Covenant was executed pursuant to the Uniform Environmental Covenants Act (“UECA”), 38 M.R.S.A. § 3001 et seq., and the Environmental Covenant runs with the land in perpetuity and contains activity and use limitations;

WHEREAS, the Maine Department of Environmental Protection is the holder of the Environmental Covenant;

WHEREAS, without this subordination agreement, the exercise by the Easement Holder of its rights under the Easement would materially adversely affect the effectiveness or enforceability of the Environmental Covenant;

WHEREAS, as a result, the Property Owner has requested that the Easement Holder subordinate the Easement to the Environmental Covenant; and

WHEREAS, Easement Holder is willing to enter into this Agreement to subordinate the Easement to the Environmental Covenant in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, Easement Holder and Property Owner, agree as follows:

1. The Easement Holder consents to the execution and delivery by the Property Owner of the foregoing Declaration of Environmental Covenant (“Environmental Covenant”) to which this Subordination Agreement is attached as Exhibit B 2,
2. Easement Holder subordinates its rights and interests under the Easement to the provisions of the Environmental Covenant and to rights created by and under the

Environmental Covenant, with the same force and effect as if the Environmental Covenant had been executed, delivered and recorded prior to the execution, delivery and recording of the Easement, and

3. This Agreement shall run with the land and be binding upon Easement Holder and its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

GREATER PORTLAND TRANSIT DISTRICT

By: _____
Name: _____
Title: _____

STATE OF MAINE
_____ COUNTY, ss.

The above-named _____ personally appeared before me this ___ day of _____, 2024 in his/her capacity as _____ and acknowledged the foregoing to be his/her free act and deed in his/her said capacity and the free act and deed of Greater Portland Transit District.

Notary Public

Printed Name
My Commission Expires: _____

DIRIGO CENTER DEVELOPERS, LLC

By: _____
Name: _____
Title: _____

STATE OF MAINE
_____ COUNTY, ss.

The above-named _____ personally appeared before me this ___ day of _____, 2024 in his/her capacity as _____ and acknowledged the foregoing to be his/her free act and deed in his/her said capacity and the free act and deed of Dirigo Center Developers, LLC.

Notary Public

Printed Name
My Commission Expires: _____



EXECUTIVE COMMITTEE

AGENDA ITEM 5

DATE

November 13, 2024

SUBJECT

Bus Rapid Transit MOU with MaineDOT and Maine Turnpike Authority

PURPOSE

Seek approval of an MOU that will facilitate the conceptual design of the Bus Rapid Transit (BRT) corridor between Gorham and Portland.

BACKGROUND/ANALYSIS

In April 2024, the final report studying a potential Bus Rapid Transit corridor serving Gorham, Westbrook and Portland was completed. Based on this study's recommendations; PACTS Policy Board, Portland's Transportation and Sustainability Committee, Westbrook's City Council and Gorham's Town Council all endorsed this "locally preferred alternative" LPA.

With this broad support of the LPA, Metro in partnership with MaineDOT and the Maine Turnpike Authority (MTA) seek to fund a preliminary design study of the Portland, Gorham, Westbrook rapid transit corridor. The conceptual design process will include collection of engineering survey, utility information, property data, traffic counts, traffic signal documents, and roadway plans.

Metro staff have worked with MaineDOT and MTA staff to draft an MOU that explains the responsibilities of each agency, oversight of the study, timelines and funding shares.

Key Elements

- 1. Oversight:** Metro, with funding assistance from MaineDOT and MTA, will oversee the study. A Steering Committee, comprising representatives from; Metro, MaineDOT, MTA, Gorham, Portland, Westbrook and GPCOG, will guide the project at critical stages, ensuring alignment with local objectives. Additionally, an advisory committee including; representatives from Maine Health, University of Southern Maine, Portland Regional Chamber of Commerce and other stakeholders will provide input on aspects related to their organizations.
- 2. Scope of Work:** The study includes developing a preliminary design and actionable implementation plan and engaging the community. Metro will procure qualified consultant through a competitive open process to conduct the study under Metro's management.

3. **Project Management:** Metro will serve as the sole project manager and be responsible for scheduling meetings, overseeing the consultant and reporting on project milestones.
4. **Funding and Cost-Sharing:** The project budget is capped at \$600,000, shared among Metro (34%), MaineDOT (50%), and MTA (16%). Any budget increases must receive joint approval, and costs will be reimbursed based on project milestones.
5. **Timeline:** The MOU requires that the study be completed by December 31, 2025.

FISCAL IMPACT

Metro's total financial commitment for this study is \$204,000. This amount will be paid for using a mix of existing planning funding grants as well as local match already committed in Metro's Capital Improvement Plan. There will be no additional funding requested from Metro member communities for this phase of the study.

RECOMMENDATION

Recommend approval of MOU with MaineDOT and MTA for Conceptual Design of BRT corridor to Metro's Board of Directors.

CONTACT

Glenn Fenton
Executive Director
207-517-3025
gffenton@gpmetro.org

ATTACHMENTS

Attachment A – Draft BRT Conceptual Design MOU
Attachment B – Conceptual Design Elements

**GORHAM-WESTBROOK-PORTLAND
RAPID TRANSIT CONCEPTUAL DESIGN STUDY
THREE-PARTY PARTNERSHIP AGREEMENT**

This Conceptual Design Study Agreement (the "Agreement") is entered into by and among the State of Maine, acting by and through its Department of Transportation ("MaineDOT"), the Maine Turnpike Authority ("MTA"), and the Greater Portland Transit District ("Metro"). MaineDOT, MTA, and Metro are collectively referred to as the "Parties".

RECITALS

1. The Greater Portland Council of Governments ("GPCOG"), through its long-range transit plan commonly known as Transit Tomorrow, established a vision of a regional rapid transit network that, in part, includes implementing transit improvements on the Gorham-Westbrook-Portland corridor.
2. GPCOG recently completed a feasibility study known as the Gorham-Westbrook-Portland Rapid Transit Study, which resulted in a recommended "Locally Preferred Alternative" route alignment along Brighton Ave. and Rt 25 in Gorham, Westbrook, and Portland (the "GPCOG Feasibility Study").
3. The Portland Area Comprehensive Transportation System ("PACTS"), through its Policy Committee and in its role as the region's federally approved metropolitan planning organization and a component of GPCOG, adopted GPCOG's recommended Locally Preferred Alternative. The Locally Preferred Alternative was in turn endorsed by Metro's Board of Directors, the Gorham Town Council, the Westbrook City Council, and the Portland City Council's Sustainability and Transportation Subcommittee (collectively, with GPCOG, the "Project Stakeholders"), concluding GPCOG's conceptual planning project phase.
4. In response to the GPCOG Feasibility Study recommendations and the subsequent adoption and endorsements by the Project Stakeholders, Metro has applied to MaineDOT and the MTA for funding assistance to conduct a conceptual design study consistent with the recommendations set out in the GPCOG Feasibility Study (the Conceptual Design Study" and the "Project").
5. MaineDOT, and the MTA have agreed to partner with Metro to fund the Conceptual Design Study. The purpose of this Agreement is to set out the terms and conditions by which Metro will implement the Project in exchange for such funding.

AGREEMENT

In consideration of the foregoing Recitals, which are integral to, and part of, this Agreement, and the mutual covenants and conditions contained herein, the Parties hereby agree as follows:

A. Appendices

The following attachments are hereby incorporated into this Agreement and made a part hereof:

- Appendix A – Proposed Elements of a Scope of Work for Conceptual Design (May 13, 2024)
- Appendix B – Project Managers
- Appendix C – Required Federal Provisions

B. Additional Project Partners

1. The Project shall be informed by a steering committee that shall include one appointed representative from each of the following entities: the municipalities of Gorham, Westbrook, and Portland; MaineDOT; MTA; GPCOG; and Metro (the “Steering Committee”). The Steering Committee shall provide formal guidance at key Project milestones and decision points.
2. The Project shall be further guided by a Project advisory group consisting of the Steering Committee, the selected Project consultant, and additional community partners identified by Metro including without limitation the University of Southern Maine, MaineHealth, and the Portland Regional Chamber of Commerce (the “Project Advisory Group”). The Project Advisory Group will provide additional guidance and serve as a conduit for further outreach and engagement activities.

C. Project Scope of Work

1. Metro shall establish a draft scope of work consistent with those elements set out in **Appendix A**.
2. The Steering Committee will review and provide feedback to Metro on the draft scope of work.
3. The final scope of work must be jointly approved by MaineDOT, MTA, and Metro and shall serve as the basis upon which all Project work will be performed, evaluated, and reimbursed (the “Scope of Work”).
4. The Scope of Work shall include an actionable implementation strategy for advancing the Project beyond conceptual design and into additional engineering,

design, and construction. This strategy will identify various funding programs, determine which funding program(s) is most appropriate to pursue, and secure broad support from the Steering Committee.

5. Any changes to the Scope of Work shall be approved by MaineDOT and MTA in advance, to ensure satisfaction of the conditions of relevant funding sources and this Agreement.

D. Contract Procurement

1. Metro shall retain a qualified consultant to conduct the Conceptual Design Study, using the applicable selection method described in Chapter 2, "Hiring Consultants" of the *MaineDOT Local Project Administration Manual & Resource Guide* as currently in effect. MaineDOT and the MTA shall assist Metro in evaluating consultant qualifications during the consultant selection process. The selected consultant (the "Consultant") will conduct technical analyses, facilitate public outreach, and perform other tasks consistent with Project Scope as directed by Metro.
2. Metro shall be the sole administrator of the Project's Consultant contract and shall pay up front all costs incurred thereunder, subject to cost sharing between the Parties as set out in the *Project Estimate, Cost Sharing, and Invoicing* section of this Agreement. To the extent that the Parties have agreed herein to collaborate on certain Project matters, Metro shall retain final decision-making authority on such matters, provided that such decisions comply with the requirements of applicable funding sources.

E. Project Management

1. Metro shall not initiate the Conceptual Design Study until it receives MaineDOT and MTA's written authorization to proceed.
2. Metro shall establish a Project timeline by which all work will be completed.
3. The Project timeline shall account for any milestones or other deadlines required of the specific funding program(s) to be pursued.
4. During the Conceptual Design Study, MaineDOT and MTA shall actively participate in Conceptual Design Study meetings to provide planning, regulatory, and design and engineering input and guidance to Metro and its Consultant.
5. Metro shall require that its Consultant complete the Conceptual Design Study no later than December 31, 2025 (the "Completion Date") unless the Completion Date is extended by mutual written agreement of the Parties. In the event Metro foresees a delay in completing the Conceptual Design Study, Metro will promptly inform MaineDOT and MTA of the anticipated delay and the reason(s) for the delay.

6. At the completion of the Conceptual Design Study, Metro will provide MaineDOT and MTA with a draft of the Conceptual Design Study final report that demonstrates the Conceptual Design Study process, a description of the alternatives considered, the evaluation criteria for said alternatives, the preliminary preferred alternative with reasons for recommending it as such, and illustrations of conceptual designs with cross-sections for the preferred alternative. MaineDOT and MTA will review this draft to provide input and determine if it conforms to the requirements of this Agreement, after which Metro will convey this input to the Consultant so the report can be put into final form (the "Final Report"). Metro shall submit the Final Report to MaineDOT and MTA.
7. Any recommended transportation improvements resulting from the Conceptual Design Study must conform to MaineDOT's and Metro's design and engineering standards for federally funded projects and to applicable Maine law. Deviations from applicable design standards shall require Metro to seek a design exception to such standards, which shall be considered at the sole discretion of MaineDOT's Chief Engineer.
8. Metro agrees that any future capital project that results from the Conceptual Design Study shall include a local share of the costs of the resulting project, which may be a municipal, private, or other non-federal share. The Parties acknowledge and agree that the Parties' participation in the Conceptual Design Study and their entry into this Agreement do not constitute a commitment by any of the Parties to participate in any future studies or projects that may be recommended by the Conceptual Design Study, or to incur any operational or capital costs therefor.
9. In any discussion of the Conceptual Design Study in a public forum, whether in-person or virtual, or in addressing public and media inquiries concerning the Conceptual Design Study, Metro shall introduce and refer to the Conceptual Design Study as locally requested and sponsored. Metro shall arrange a public meeting space and audio-visual aids during public meetings associated with the Conceptual Design Study and lead any public discussion of the Conceptual Design Study.

F. Project Estimate, Cost Sharing, and Invoicing

1. The Parties agree to fund the Conceptual Design Study up to a maximum cost of \$600,000 (the "Full Agreed Cost") and the Parties agree to share costs under the terms outlined below.
 - MaineDOT shall provide funds to Metro for the Conceptual Design Study in a maximum amount of \$300,000 or 50% of the final, actual, eligible costs of the Conceptual Design Study (the "Final Cost"), whichever is less (the "MaineDOT Share"). Metro shall only use the MaineDOT Share for the Conceptual Design Study and for no other purpose.

- MTA shall provide funds to Metro for the Conceptual Design Study in a maximum amount of \$96,000 or 16% of the Final Cost, whichever is less (the "MTA Share"). Metro shall only use the MTA Share for the Conceptual Design Study and for no other purpose.
 - Metro shall provide funds for the Conceptual Design Study in a maximum amount of \$204,000 or 34% of the Final Cost, whichever is less (the "Metro Share") unless the Metro Share is increased in accordance with the provisions set out in *Section F.3.* below.
2. If Metro is unable to procure a contract with the selected Consultant that will result in the Final Cost being no greater than the Full Agreed Cost of \$600,000, Metro shall first secure the approval of all Parties before entering into a contract for a higher amount. If approval is unanimously granted, then the additional costs exceeding the Full Agreed Cost shall be funded by the Parties at the same percentage shares as set out above, and this updated amount shall thereafter represent the Full Agreed Cost hereunder.
 3. Notwithstanding the provisions set out in the *Project Scope of Work* section of this Agreement, any changes to the approved Scope of Work after the Consultant contract has been signed that will result in in the Final Cost exceeding the Full Agreed Cost, as such may have been amended hereunder, shall require written approval by all Parties to proceed with said changes. If approval is unanimously granted, then the additional costs exceeding the Full Agreed Cost shall be funded by the Parties at the same percentage shares as set out above. Absent such unanimous Party approval, the Metro Share shall include all Final Costs exceeding the Full Agreed Cost, as well as all costs determined to be ineligible for reimbursement by MaineDOT or MTA.
 4. Invoicing.
 - a. The disbursement of the MaineDOT Share and the MTA Share shall be made on a reimbursement basis.
 - b. Metro may begin invoicing MaineDOT and MTA for their respective shares of eligible Project costs upon 1/3rd Project completion. Thereafter, invoices shall be submitted no more frequently than on a monthly basis and shall not exceed five (5) invoice periods for the total Project.
 - c. Metro's invoices to MaineDOT and MTA shall include:
 - i. Reference to MaineDOT's Work Identification Number (WIN) for the Project, as well as any similar identifying number required by MTA, if any.

- ii. Detailed documentation of all actual amounts incurred for Project related costs during the invoice period, together with evidence of all claimed costs having been paid in full by Metro.
 - iii. The allocated dollar amount of the MaineDOT Share and the MTA Share being requested for reimbursement for the invoice period, together with a running total of reimbursements claimed to date.
 - iv. The allocated dollar amount of the Metro Share that has been applied against the Project costs incurred for the invoice period;
 - v. Metro's certification that all amounts claimed are true and correct, and not previously claimed for reimbursement.
- d. MaineDOT and MTA shall review each invoice and may, within fourteen (14) days of invoice receipt, request any additional documentation, information, or breakdowns necessary to identify, support, and/or calculate any costs included in any invoices submitted (the "Supporting Documentation"). If the Supporting Documentation is not provided by Metro, MaineDOT and/or MTA may elect to withhold funds from their respective shares, or a portion thereof, until the Supporting Documentation is provided in acceptable form.
- e. Each invoice shall be due and payable in full within thirty (30) days of invoice receipt and all requested documentation, provided that the aggregate amount invoiced does not exceed the total MaineDOT and MTA Shares.
- f. The final reimbursement request for the MaineDOT Share and the MTA Share must be submitted no later than February 28, 2026. The final reimbursement request must be accompanied by all the following:
- i. A copy of the Final Report, if not previously provided; and
 - ii. An itemized invoice showing the total amount of the Final Cost allocated between all Party Shares.

G. Termination

1. Metro may terminate the Conceptual Design Study prior to its completion with no less than ten (10) days advance written notice to MaineDOT and MTA. In such event, Metro shall be solely responsible for paying all remaining unpaid costs incurred for the Conceptual Design Study. MaineDOT and MTA shall not be responsible for paying any remaining unpaid portion of the MaineDOT Share or the MTA Share as of the date of termination. In the event of such termination by Metro, Metro will promptly provide to MaineDOT and MTA all Conceptual Design Study materials developed to the date of termination.

2. MTA may terminate this Agreement in the event of a material failure by Metro to carry out its responsibilities under this Agreement. In the event of such termination, Metro shall be solely responsible for paying all remaining unpaid costs incurred for the Conceptual Design Study. MTA shall not be responsible for paying any remaining unpaid portion of the MTA share or any other amount in connection with the Conceptual Design Study. In the event of such termination by MTA, Metro shall promptly provide to MTA all Conceptual Design Study materials developed to the date of termination.
3. MaineDOT may postpone, suspend, abandon, or otherwise terminate this Agreement upon thirty (30) days written notice to the other Parties and, in no event, shall any such action be deemed a breach of contract. Postponement, suspension, abandonment, or termination may be taken for any reason by MaineDOT or specifically as the result of any failure by Metro or MTA to perform any of the services or fulfill any of the obligations required under this Agreement to MaineDOT's satisfaction. In the event of termination by MaineDOT, Metro will promptly provide to MaineDOT all Conceptual Design Study materials developed to the date of termination.
4. This Agreement may be terminated at any time by mutual written agreement of all Parties, provided that such written agreement shall address the allocation between the Parties of any costs, expenses, penalties and/or liabilities expended, committed or imposed in connection with the Project as of such date of termination.

H. Appropriation of Funds

1. Notwithstanding anything herein to the contrary, Metro and MTA acknowledge and agree that although MaineDOT's execution of this Agreement manifests its intent to honor its terms and to seek funding to fulfill any obligations arising hereunder, by law any such obligations are subject to available budgetary appropriations by the Maine Legislature and the federal government, if federal funds are involved, and, therefore, this Agreement does not create any obligation on MaineDOT's behalf in excess of such appropriations.
2. Metro and MaineDOT acknowledge and agree that MTA's obligations under this Agreement are conditioned on the availability of funds to MTA and on MTA's continued authorization under applicable laws, regulations, or appropriations to use such funds for the purposes described in this Agreement. In the event such funds become unavailable or may not legally be used by MTA for the purposes described in this Agreement, MTA shall have the right to terminate this Agreement with ten (10) days advance written notice to Metro and MaineDOT. In such event, MTA shall not be responsible for paying any remaining unpaid portion of the MTA Share.

I. Term of Agreement

This Agreement shall take effect as of the date last signed as indicated on the signature pages below and shall expire at 11:59 p.m. EST on December 31, 2025.

J. Compliance with Federal, State, and Local Laws and Regulations

1. Metro acknowledges that MaineDOT may be funding the Project using Carbon Reduction Program funds administered by the Federal Highway Administration (“FHWA”) and that, as a recipient of such funds, Metro shall carry out the terms of this Agreement in compliance with all applicable federal laws and regulations, including without limitation those set out in 2 C.F.R. part 200, as supplemented by 2 C.F.R. parts 1200 and 1201, as well as those more specifically set out in **Appendix C** attached hereto.
2. Metro shall comply with all applicable State of Maine and local laws, ordinances, and regulations affecting the work performed in connection with this Agreement. Metro shall keep itself informed of all applicable laws, rules, regulations, orders, and decrees affecting such work.

K. General Provisions.

1. Project Records Retention, and Audit. Metro shall retain all Project records (the “Project Records”) for at least three (3) years from either the date of MaineDOT’s acceptance of final invoice or the termination of this Agreement, whichever is sooner. If any litigation, claim, negotiation, or audit has begun before the end of this retention period, all Project Records shall be kept at least until all related issues are resolved. Metro and any contracted party working on its behalf shall allow authorized MaineDOT and FHWA representatives to inspect and audit Project Records. Copies shall be furnished at no cost to the agencies requesting them. Audits shall be performed in accordance with generally accepted government auditing standards.
2. Authority. The Parties individually represent that they have received all necessary approvals or authorizations by their respective governing authorities to enter into this Agreement and fulfill their obligations set out herein.
3. Assignment. No assignment of this Agreement is contemplated, and in no event shall any assignment be made without the express written permission of all Parties.
4. Amendment or Modification. This Agreement, together with all Appendices, may only be amended through a written modification signed by all Parties.
5. Independent Capacity. Metro, its employees, agents, representatives, consultants, and contractors shall not act as officers, employees, or agents of MaineDOT or the MTA.

6. Entire Agreement. This document represents the entire Agreement between the Parties. No Party shall be bound by any statement, correspondence, agreement, or representation not expressly contained in this Agreement.
7. Contact Information. MaineDOT's Project Manager, MTA's Project Manager, and Metro's Project Manager for this Agreement are set forth in Appendix B hereto, together with their respective contact information.
8. Notices. Any communications, requests or notices required or appropriate to be given under this Agreement shall be in writing and sent via email and shall satisfy the delivery requirements of this section through express acknowledgement of receipt by the receiving Party.
9. Counterparts and Electronic Signatures. This Agreement may be signed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. The Parties agree that this Agreement and any related documents may be signed electronically and that any electronic signatures appearing on this Agreement and any related documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

In witness whereof, MaineDOT, MTA, and Metro have executed this Agreement by their respective duly authorized representatives.

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Date

By: _____
Jennifer Grant
Director, Bureau of Planning

MAINE TURNPIKE AUTHORITY

Date

By: _____
Peter Merfeld, Interim Executive Director,
Turnpike Authority

Maine

GREATER PORTLAND TRANSIT DISTRICT

Date

By: _____
Glenn Fenton
Executive Director, GP Metro

**I certify that the foregoing signature is true and accurate, and if electronic, I further certify that it (a) is intended to have the same force as a manual signature, (b) is unique to me, (c) is capable of verification, (d) is under my sole control, and (e) is linked to data in such a manner that it is invalidated if the data are changed. 10 M.R.S. § 9501, et seq.*

DRAFT

APPENDIX A

**PROPOSED ELEMENTS OF A SCOPE OF WORK FOR CONCEPTUAL DESIGN
(MAY 13, 2024)**

DRAFT

APPENDIX B

PROJECT MANAGERS

WIN Number:

Metro Project Manager & Contact Information

Project Manager: Michael Tremblay
Mailing address: 114 Valley St, Portland Maine 04102
Tel.: (207) 517-3023
Email: mtremblay@gpmetro.org

MTA Project Manager

Project Manager: Peter Merfeld
Mailing Address 2360 Congress St, Portland, ME 04102
Tel.: 207-871-7771
Email: pmerfeld@maineturnpike.com

MaineDOT Project Manager

Project Manager: Claire Winter
Mailing Address 16 State House Station, Augusta Maine 04330
Tel.: (207) 592-1152
Email: claire.winter@maine.gov

Conceptual Design Study Completion Date: Not later than December 31, 2025

APPENDIX C

Required Federal Regulations For a Non-Construction Project using Carbon Reduction Program Funds

Capitalized terms not otherwise defined in this Appendix shall carry the same meaning assigned to them in the agreement to which this Appendix is attached.

MaineDOT is funding the Project using federal Carbon Reduction Program (CRP) funds awarded to MaineDOT by the Federal Highway Administration (“FHWA”). As a subrecipient of such funds, Metro shall:

- carry out the terms of this Agreement in compliance with all applicable federal laws and regulations, including without limitation those set out in 2 C.F.R. part 200, as supplemented by 2 C.F.R. parts 1200 and 1201, as well as those more specifically set out below; and
- ensure that the following provisions are included in all contracts made by Metro in connection with the Project. Metro will evaluate and monitor the consultant hired for compliance with such federal laws and regulations.
 1. **Contracting and Procurements** Notwithstanding 2 C.F.R. § 200.317, all contracting and other procurements conducted by Metro or its consultants in connection with the Project shall follow such policies and procedures allowed by the State of Maine when procuring property and services under a federal award (2 C.F.R. § 1201.317).
 2. **Nondiscrimination** The nondiscrimination provisions of 23 C.F.R. parts 200 and 230 and 49 C.F.R. part 21, with respect to Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, apply to the use of FHWA CRP funds, and Metro and its consultants must comply with such provisions. Metro shall not, and shall ensure that its contractors shall not, discriminate on the basis of race, color, national origin, or sex in the performance of the Project.
 3. **Suspension and Debarment.**
 - a. If Metro, its consultants, contractors, or subcontractors contract with an entity in connection with the Project, such entity, along with its principles, shall be required to certify that it (a) has not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (federal, state, or local); violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery,

bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility; (b) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the aforementioned offenses; and (c) has not had one or more public transactions (federal, state, or local) terminated for cause or default. (2 C.F.R. part 180 as supplemented by 2 C.F.R. part 1200)

- b. Notwithstanding the specificity of the foregoing, Metro shall comply with, and shall require its consultants, contractors, and subcontractors to comply with, Subpart C of 2 C.F.R. part 180. (2 C.F.R. §§ 180.435 and 1200.437)
 - c. Metro, its consultants, contractors, and subcontractors may not enter into any contract with an entity shown with an "Exclusion" in the federal government's System for Award Management database at sam.gov. (2 C.F.R. § 180.305)
4. **Conflicts of Interest.** No official or employee of Metro, who is authorized in their official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with the Project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for Metro in connection with the Project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by Metro in any contract or subcontract in connection with the Project. No officer or employee of such person retained by Metro shall have, directly or indirectly, any financial or other personal interest in any real property acquired for the Project unless such interest is openly disclosed upon MaineDOT's and Metro's public records, and such officer, employee or person has not participated in such acquisition for and in behalf of MaineDOT or Metro. (23 C.F.R. § 1.33)
5. **Termination Provisions.** All contracts entered into by Metro in excess of \$10,000 in connection with the Project must address termination for cause and for convenience by Metro, including the manner by which it will be affected and the basis for settlement. (Appendix II to 2 C.F.R. part 200)



Memo

To	Gorham-Westbrook-Portland Rapid Transit Project Partners
From	Chris Chop and Andrew Clark; GPCOG Glenn Fenton and Mike Tremblay; GP Metro Dale Doughty and Claire Winter; MaineDOT
Date	May 13, 2024
Subject	Proposed Elements of a Scope of Work for Conceptual Design

GPCOG's Gorham-Westbrook-Portland Rapid Transit Study has identified a locally preferred alternative (LPA): bus rapid transit along "Alternative 1—Brighton Avenue" as shown in Figure 1. The LPA represents the mode and alignment of service at a conceptual planning-level, subject to further study throughout project development. The LPA was adopted by the PACTS Policy Board at its January 2024 meeting. GP Metro's board of directors, Portland's Sustainability and Transportation Committee, and the University of Southern Maine have also endorsed the LPA.

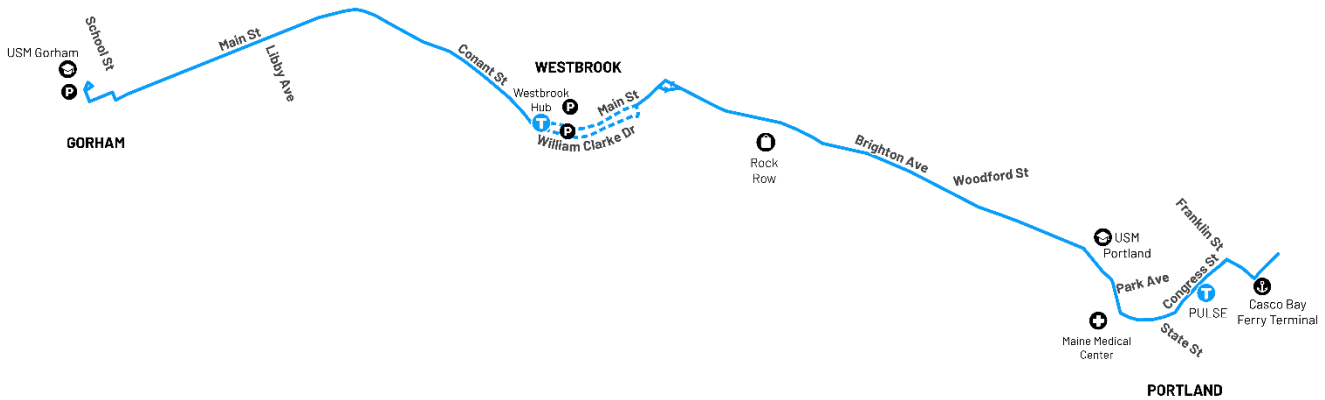
GP Metro and MaineDOT are ready to move forward in partnership and execute an agreement to work on the next phase of the project. The objective of this memo is to provide details of this next phase and gain the support of the remaining municipal councils to start this work.

An LPA identifies only two broad characteristics of the future service: **mode** and **alignment**. In closing out the conceptual planning phase of the project, two key considerations have been raised by the project team and partners:

- *What is the best strategy to advance to project development and implementation?*
- *What topics will be addressed in project development?*

By addressing the strategy for project development, implementation, and a general scope of work, we aim to gain the support of all project partners for conceptual design and beyond. With the project partners aligned with the outlined project sequencing, the project team will seek to secure endorsement of the LPA from remaining municipal elected officials and other key stakeholders. This step is key in closing out the GPCOG-led conceptual planning phase of the project. Thereafter, GP Metro will assume lead project management responsibilities.

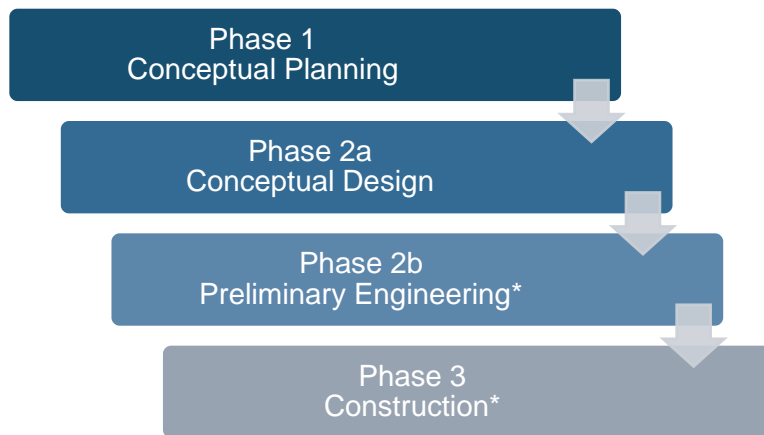
Figure 1
Alternative 1—Brighton Avenue



Proposed project approach

To advance the project, the project team proposes a hybrid approach to project development as shown in Figure 2: a "conceptual design" phase funded locally, and a "preliminary engineering" phase, likely funded through federal sources.

Figure 2
Gorham-Westbrook-Portland Rapid Transit Project Sequencing



* Could be combined into a single design-build contract.

This memo also outlines a scope of work for the conceptual design phase, with potential elements to be included. The project team welcomes feedback on these elements from project partners.

Proposed Elements of a Scope of Work for Conceptual Design

Interagency Coordination

- Assemble a project advisory group—including Gorham, Westbrook, Portland, MaineDOT, GPCOG, USM, etc.—to guide the project team at key decision points
- Review the LPA: alignment, station locations and amenities, operational characteristics, etc.
- Review the benefits of rapid transit in achieving regional goals related to mobility, sustainability, equity, and more
- Anticipate key hurdles in securing support from local elected officials in advancing the project to preliminary design and/or construction, and develop strategies to address these hurdles
- Present findings to municipal councils and other stakeholders as needed to secure project support, funding commitments, etc.

Public Engagement

- Continue to engage the public by actively seeking feedback on the project, and use this feedback to guide decision making throughout concept refinement
- Facilitate the public understanding of how BRT would operate along the corridor

Data Collection

- Conduct a traffic study to evaluate impacts on key segments and at key intersections
- Collect engineering survey to determine right-of-way, historic, environmental, and other physical constraints at key locations

Concept Refinement

- As informed by interagency coordination and public engagement, determine specific alignments where multiple options were identified in the conceptual planning phase:
 - College Ave versus State St in Gorham
 - Main St versus William Clarke Drive in Westbrook
 - USM Portland to Congress Street in Portland
 - Congress Street to Eastern Waterfront in Portland
- Develop typical cross sections for key segments and intersections
- Determine initial right-of-way and property impacts
- Evaluate multimodal impacts, including impacts to bike-ped level of service and safety, opportunities for shared multimodal use of the corridor, and opportunities to reroute bike-ped connections to alternative parallel road or trail segments
- Identify necessary improvements: segments, intersections, widths, traffic control, bike-ped, etc.

- Determine station locations (subject to change in preliminary engineering) and identify opportunities for transit-oriented development
- Determine Gorham park & ride location and define responsibilities for construction, operations, and maintenance of the facility
- Surface possible critical issues or locations of concern, including issues related to right-of-way

Operational Assessment

- Refine operational assumptions: station, turnaround, and layover locations, schedule, run time, fleet needs, etc.

Financial and Economic Analysis

- Refine construction cost estimates
- Conduct economic analysis calculating anticipated economic/fiscal impacts of the project

Initiate NEPA

- Work with FTA to confirm National Environmental Policy Act (NEPA) Class of Action (assumed to be "categorical exclusion")
- Depending on FTA guidance, begin CE Environmental Checklist (but, complete NEPA under preliminary engineering phase)

Advance to Preliminary Engineering

- Develop a scope of work with an anticipated timeline
- Develop a memorandum of understanding between Metro, the three communities, MaineDOT, and other key partners, outlining roles and responsibilities, expected funding commitments, and an implementation plan
- Evaluate opportunities for phased/incremental approach to implementation.
- Pursue discretionary federal grant funding: RAISE, Capital Investment Grant (CIG), etc.

EXECUTIVE COMMITTEE

AGENDA ITEM 6

DATE

November 13, 2024

SUBJECT

Metro Board of Directors Retreat

PURPOSE

Set the agenda and topics for discussion at Metro's Board of Directors retreat.

BACKGROUND/ANALYSIS

Metro's Board of Directors retreat is scheduled for December 2, 2024. Staff have identified the following topics for discussion at the retreat:

1. **New Board Member Orientation** – The majority of Metro's Board members have served on the Board for less than two years. Staff will provide an overview of Metro's operations, organizational structure and the Board's role.
2. **Discuss Metro's Strategic Plan** - In September 2023, Metro's Board of Directors adopted new Mission, Vision and Values. The next step in completing Metro's Strategic Plan is to establish priorities, goals and objectives.
3. **Discuss Board and Committee Structure** – With Metro's Board of Directors growing to nineteen members with the addition of South Portland, it's a good time to assess Metro's current board structure. Discussion could include; what's working, what's not and whether or not the Board would like to consider other models of governance.

Optional Additional Topics:

Board Advocacy (Financial) – A discussion on how Board Members can assist as Metro and its transit partners continue to advocate for additional funding both in state and nationally.

Board Advocacy (Policy) – A discussion on whether Metro should be taking formal positions on topics that are not directly related to public transit like land use or infrastructure.

2025 Committee Assignments – Possibility of choosing Board member committee assignments for 2025.

RECOMMENDATION

Set agenda and time allowances for topics for Metro's Board of Directors Retreat.

CONTACT

Glenn Fenton
Executive Director
207-517-3025

gfonton@gpmetro.org

ATTACHMENTS

Attachment A – Draft Board Retreat Agenda

Board of Directors

December 2, 2024 | 10:00 am – 2:00 pm



Onsite:

Greater Portland Council of Governments
970 Baxter Blvd, #201, Portland, ME 04103

Remote:

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81569993494?pwd=MUQ2SzV3UzBuSkFFSmdsN1k3aVFhUT09>

Passcode: 131272 | Webinar ID: 815 6999 3494

Phone: (646) 558-8656 | Telephone participants: *9 to raise hand, *6 to unmute

MEETING AGENDA

AGENDA ITEM	PRESENTER	ACTION or INFORMATION
1. Call Meeting to Order (10:00)	Ed Suslovic, Board President	N/A
2. Public Comment (10:00-10:05) The Board of Directors welcomes public comments at this time for items <u>not listed</u> on this agenda at this time. For items listed on the agenda, the chair will allow members of the public to comment following the staff presentation. There is a <i>three-minute time limit</i> per speaker. (Comments will be paraphrased in meeting minutes)	Ed Suslovic, Board President	Information
3. Meeting Minutes (10:00-10:05) Review and approve meeting minutes from the October 24, 2024 Board of Directors meeting.	Ed Suslovic, Board President	ACTION
4. Authorization for Tax Anticipation Borrowing of \$X,XXX,XXX for 2025 (10:05-10:15) Authorize issuance of a Tax Anticipation Note (TAN) of \$X,XXX,XXX to provide operating cash flow for 2025 through short-term borrowing.	Shelly Brooks, Chief Financial Officer	ACTION
5. Rock Row Easement Subordination Agreement (10:15-10:25) Waterstone Properties the owner of the Rock Row development in Westbrook is requesting Metro sign a subordination agreement to facilitate the approval of their Declaration of Environmental Covenant form with the Maine Department of Environmental Protection.	Glenn Fenton, Executive Director	ACTION
6. Bus Rapid Transit MOU with MaineDOT (10:25-10:35) Seeking approval of MOU between Metro, MaineDOT and Maine Turnpike Authority to fund and govern phase two of the Bus Rapid Transit study.	Glenn Fenton, Executive Director	ACTION

7. Board Workshop <ol style="list-style-type: none"> 1. New Board member orientation (10:35-11:00) 2. Strategic Plan discussion (11:00-12:30) 3. Lunch break (12:30-1:00) 4. Board/Committee structure discussion (1:00-2:00) 	Glenn Fenton, Executive Director	Discussion
8. Future Agenda Items (2:00-2:00) <ul style="list-style-type: none"> • Board and Committee Structure • Agency Strategic Planning • PACTS Initiatives and Reforms 	Ed Suslovic, Board President	Information
9. Upcoming Meetings (2:00-2:00) <ul style="list-style-type: none"> • 2025 Board and Committee Meeting Dates TBD • 	Ed Suslovic, Board President	Information
10. Adjournment (2:00)	Ed Suslovic, Board President	ACTION

As of November 9, 2022 Greater Portland METRO is holding meetings of the Board of Directors (and its committees) in hybrid format, both in person at METRO's offices and via webinar. The remote portions of all meetings are conducted in accordance with the requirements of [METRO's Remote Participation Policy](#) (adopted August 25, 2022) as well as LD 1772, PL 2022 Ch. 666, and 1 MRSA Chapter 13, Subchapter 1.