Henderson,
Young &
Company

MEMORANDUM

TO: Clackamas County CRC Project Management Team

FROM: Randy Young

DATE: October 29, 2015

RE: Funding Alternatives for a Multimodal Mixed-Used Area in Clackamas County

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Highlights

This memo summarizes funding alternatives that could be used for a Multimodal Mixed-Used Area (MMA) in Clackamas County ("County" throughout this memo).

There is no single source of funding that can pay for all of the MMA project costs. The MMA could be funded by a core group of three primary funding sources and an ancillary group of two secondary sources:

Core Funding Sources for MMA

- Transportation System Development Charges for all modes of travel and some safety projects
- Road Service District or Special Road District for projects benefitting current residents and businesses
- Grants for all modes of travel

Ancillary Funding Sources for MMA

- Business License Fee for Transportation for projects benefitting businesses
- Fines for Red Light Violations for safety projects

In addition, the MMA could accelerate the construction of its projects by issuing bonds that would be repaid by one or more of the core or ancillary funding sources.

Background

Clackamas County engages in an ongoing process of planning for development and transportation systems that are needed for existing and future development. As part of its planning process the County is an active member of regional planning efforts, and coordinates its plans with cities within the County, and with other counties, regional and state transportation system providers.

Clackamas County's transportation planning process includes active consideration of innovative strategies that have the potential to improve transportation in ways that accomplish the County's goals for a robust economy and an environmentally sustainable community.

In 2011, the State of Oregon modified its Transportation Planning Rule (TPR) to allow the creation of multimodal mixed-use areas (MMAs) in counties and/or cities. MMAs can use different approaches to reviewing the need for transportation systems, and the effect of development on mobility and transportation infrastructure. The revised TPR included criteria for establishing MMAs.

The Clackamas Regional Center Design Plan Area (CRCDPA) is a major hub for commercial development, business and jobs in the County and the region. This area is a candidate for designation as an MMA.

In 2013, Clackamas County applied for and was subsequently awarded a grant to study the creation of an MMA for the CRCDPA. The study includes identification of MMA boundaries, alternative transportation performance and safety standards, transportation system improvement projects and alternative funding approaches for the transportation projects. The study will identify the opportunities and challenges of applying the MMA designation in the CRCDPA area.

The study of an MMA and the identification of needed transportation infrastructure for the MMA present the County with the opportunity to consider alternate approaches to funding transportation capital improvements to support development within the MMA.

Introduction To Funding Alternatives Memo

This memo was commissioned by Clackamas County as one element of the larger study described above. The purpose of this memo is to examine alternative funding approaches for MMA transportation capital improvements. Some of the funding strategies in this memo could be useful in other parts of Clackamas County, or if the County adopts a different approach than an MMA.

Directions Provided by Clackamas County

The County specified that this memo accomplish the following:

- Outlines at least two approaches to an MMA alternate funding methodology.
- Researches Clackamas County's concept of replacing a fee-in-lieu with a Safety Based Transportation SDC to fund identified improvements in the CRC area, and also researches a Fee-in-lieu-of improvement process options.
- Uses the inventory of existing, planned and needed transportation infrastructure for the MMA to provide a planning level estimate of the total project cost as the basis for developing the MMA Transportation Project Improvement Fee (TPIF) or other fee. (Project cost estimates will be developed using County infrastructure costing methodologies established in the 2013 Transportation System Plan update.)
- Includes a draft method for spreading these infrastructure costs over forecast development in the MMA. The draft method will describe the concept(s) and variables for spreading infrastructure costs, but will not include calculations of cost spreading.

Issues Addressed As A Result Of This Memo

The County identified the following issues that may be addressed as a result of the preparation of this memo:

- Address recent changes to State law that allow for the identification and adoption of MMAs to balance transportation and economic development during comprehensive plan changes.
- Enhance and implement a portion of the 20-Year Capital Improvement Project List developed as part of the County's Transportation System Plan (TSP) Update. (These projects could be linked to the alternative performance standards used in the Clackamas Regional Center MMA.)
- Allow a more flexible approach to addressing the impacts of new development of different sizes.
- Allow funding of pedestrian, bicycle, and transit projects to ensure consistency with the desired multimodal characteristics of the MMA.

- Provide more certainty to local business leaders, developers and community representatives when considering future development opportunities.

Variables That May Affect Identification of Appropriate Funding Strategies

There are several variables that affect the identification of appropriate funding strategies.

- Applicability to MMA area:
  - This memo assumes that the MMA boundaries will be the same as, or very similar to the boundaries of the Clackamas Regional Center (CRC).
  - Funding strategies for the MMA must be limited to the MMA, or must be capable of apportionment so the MMA receives its identifiable share.
- Availability for multiple modes of travel:
  - This memo assumes that the MMA will need to fund capital improvements for all modes of travel, including motor vehicles, bicycles, pedestrian, and transit.
  - Funding strategies for the MMA must be available for all modes of travel, or if one or more funding strategies are limited to specific modes of travel, there must be a package of funding strategies that include funding for each mode of travel.
- Project Types:
  - This memo assumes that the MMA will need to fund capital improvements for capacity, safety, operations, and capital maintenance (repair, renovation) for all modes of travel.
  - This memo assumes that funding strategies for operations and non-capital maintenance are provided from other sources of revenue.
  - Funding strategies for the MMA must be available for all types of capital projects, or if one or more funding strategies are limited to specific types of projects, there must be a package of funding strategies that include funding for each type of project.

Guiding Principles for Funding Strategies

Identification of appropriate funding strategies for the MMA will be guided by answers to the following questions:

- One funding strategy for all projects or more than one strategy?
- Who should pay? Users, property owners, taxpayers, others? Should one group pay for everything, or should costs be apportioned among different groups?
- How should they pay? User fees, taxes, assessments, system development charges, other.?

- Should there be any exemptions, discounts, rate differentials, and/or special rates? If so, for what purpose (i.e. what public policy is advanced)?

MMA Projects and Costs

The funding strategies for the MMA will be used for part of the transportation capital improvement projects proposed for the MMA. Table 1 summarizes the County's projects and costs, and Table 2 summarizes the City of Happy Valley's projects and costs. Additional projects and costs have been identified, primarily for bicycle and pedestrian modes. Costs will be added to the tables when the review of the additional project is complete.

Table 1: MMA Transportation Projects: Clackamas County

Type of Project*	Cost of Funded Projects	Cost of Planned Projects	Total Cost of All Projects
Active Transportation	$ 150,000	$ 42,899,318	$ 43,049,318
Bridge		2,030,000	2,030,000
ITS	558,000	4,260,419	4,818,419
Multi-Use Path		5,062,188	5,062,188
New Roadway	10,900,000	67,408,203	78,308,203
Plan / Construct	15,000,000		15,000,000
Safety	255,000	228,807	483,807
Study	185,000	201,502	386,502
Upgrade	4,450,000	31,883,211	36,333,211
Vehicle Capacity		11,060,000	11,060,000
Total	31,498,000	165,033,648	196,531,648

*The following are definitions of each "Type of Project":

Type of Project	Definition
Active Transportation	Bicycle and/or pedestrian project
Bridge	Bridge
ITS	Intelligent transportation system
Multi-Use Path	Multi-use path
New Roadway	New roadway
Plan / Construct	Planning and design project that will construct improvements
Safety	Safety related projects including minor roadway enhancements, signage, new markings, and/or studies
Study	Planning and/or analysis, but no construction
Upgrade	Auto capacity plus active transportation (bike / ped) component
Vehicle Capacity	Auto capacity project

The purpose of this memo is to address funding alternatives for the unfunded projects in the MMA. The funded projects will be paid for by $29,755,000 of Tax Increment Financing (TIF), $893,000 of a combination of Grants and Road Fund, $700,000 of Jobs and Transportation Act funds, and $150,000 of Grants, Road Funds and TIF combined. This memo provides funding strategies for the $166.5 million of MMA projects that are planned, but not yet funded.

Table 2: MMA Transportation Projects: City of Happy Valley

Type of Project	Cost of Funded Projects	Cost of Planned Projects	Total Cost of All Projects
Intersection Improvement	$ xx	$ xx	$ xx
New Roadway (includes bike lanes and sidewalks)			
Roadway Widening (fills bike lane and sidewalk gaps)			
Bike Lanes on Existing Arterials & Collectors			
Sidewalks on Existing Arterials & Collectors			
Regional Trails			
Local Paths and Multi-Use Trails			
Total			

Funding Alternatives for the MMA

Table 3 lists 29 funding alternatives for transportation capital improvements. The funding alternatives are listed in alphabetical order. Table 3 contains the following information about each alternative:

- Name of each funding alternative
- Who pays the money – property owners, new development, or other specific groups
- Travel mode – can the funding source be used for capital improvements for motor vehicles, bicycle and pedestrian facilities, and/or transit

Four of the funding alternatives are being actively considered by the County for use for maintenance of transportation infrastructure (numbers 9, 17, 27 and 29 in the descriptions below). They are included in this memo because the County may not use them for maintenance, but they are considered unavailable for MMA funding at this time.

Table 3: Funding Strategies for an MMA in Clackamas County

#	Funding Source or Strategy	Who Pays?	Travel Mode		
			Motor Vehicles	**Bike/Ped**	**Transit**
1	Bicycle license fees	Bicycle owners		bike	
2	Bonds / debt	Property owners	motor vehicles	bike/ped	transit
3	Business license based on census of employees	Businesses	motor vehicles	bike/ped	transit
4	Conditions of approval (COAs) - developer construction as direct mitigation	New development	motor vehicles	bike/ped	
5	Construction excise tax	New development	motor vehicles	bike/ped	transit
6	Cost recovery - zones of benefit (latecomer agreements)	Property owners	motor vehicles	bike/ped	
7	Districts – community facilities (special assessment or tax)	Property owners	motor vehicles	bike/ped	transit
8	Districts – local improvement	Property owners	motor vehicles		
9	Districts – road maintenance	Property owners	motor vehicles		
10	Districts – road service	Property owners	motor vehicles	bike/ped	
11	Districts – special road district	Property owners	motor vehicles	bike/ped	
12	Fee in Lieu of (FILO) frontage improvements	New development	motor vehicles	bike/ped	
13	Fee – aggregate (natural resources)	Businesses that produce aggregate	motor vehicles		

#	Funding Source or Strategy	Who Pays?	Travel Mode Motor Vehicles	 Bike/Ped	 Transit
14	Fee – solid waste haulers	Businesses that haul solid waste	motor vehicles		
15	Fines for traffic violations (current law)	Drivers who violate traffic laws	motor vehicles	bike/ped	transit
16	Fines for red light violations (cameras)	Drivers who violate traffic laws		ped	
17	Gas tax – local option	Vehicle operators	motor vehicles	at least 1% for bike/ped	
18	Grants	Grantor agency	motor vehicles	bike/ped	transit
19	Loading dock door excise tax	Businesses with loading dock doors	motor vehicles	bike/ped	
20	Lodging tax	Guests at lodging	motor vehicles	bike/ped	transit
21	Parking tax	Users or of parking facilities	motor vehicles	bike/ped	transit
22	Property tax for transportation – local option levy	Property owners	motor vehicles	bike/ped	transit
23	Real estate excise tax	Sellers (or buyers) of real estate	motor vehicles	bike/ped	transit
24	System development charges	New development	motor vehicles	bike/ped	transit
25	Tax increment financing – property tax set asides	Property owners	motor vehicles	bike/ped	transit
26	"Transportation Project Improvement Fee (TPIF) in place of TSDC"	New development	motor vehicles	bike/ped	transit
27	Utility fee – road or street utility	Vehicle owners or operators	motor vehicles	bike/ped	transit

#	Funding Source or Strategy	Who Pays?	Travel Mode Motor Vehicles	Bike/Ped	Transit
28	Utility tax - tax on utilities	Utilities (or their customers)	motor vehicles	bike/ped	transit
29	Vehicle registration fee – local option	Vehicle owners or operators	motor vehicles	bike/ped	transit

Descriptions and Suitability of Funding Alternatives for MMA

The following descriptions summarize key features of each of the 29 funding alternatives for an MMA in Clackamas County[1] and identify the suitability of each funding alternative for the MMA. The funding alternatives are presented in alphabetical order.

1. Bicycle License Fees

Licensing bicycles is typically a local regulatory function, but it is possible to license bicycles and use the proceeds for capital improvement projects for bicycles.

Suitability for MMA: Not suitable because it would not generate enough money and it would be difficult to enforce. However, if the County decided to charge the local option vehicle registration fee for the MMA, a bicycle license fee would be an equitable treatment of that mode of travel.

2. Bonds / Debt

Debt funding is available for transportation improvements when the County borrows money for the project, and then uses other sources of revenue to repay the debt. There are two types of bonds: general obligation bonds and revenue bonds. The collateral used to secure the repayment of the bonds distinguishes the two. General obligation bonds are repaid by an additional property tax that is approved by the voters when they approve the issuance of the bonds. Revenue bonds are repaid by other sources of revenue that must be pledged as collateral for future payments. Examples of revenue bonds include local

[1] Some of the information in the descriptions is from the following Clackamas County documents: "Filling the Gap" (May 22, 2012), "Section 7 TSP Funding Analysis" (Section 7 of September 2013 Transportation System Plan), and "Road Maintenance Funding Options" (October 2, 2013 memo).

improvement districts or road districts that collect special assessments from property owners to repay the bonds.

Borrowing money for transportation projects allows the costs to be repaid over the useful life of the improvement, but it increases the cost by the amount of interest paid on the debt. However, when interest rates on government debt are less than the rate of inflation of project costs, there is no net increase in project costs from borrowing.

ORS 287.052-075 and 370.010-240 contain authorization and limitations on bonded indebtedness. General obligation bonds must be approved by voters. Revenue bonds can be issued by County Commissioners and City Councils without a public vote.

Suitability for MMA: Only suitable for the MMA if the bonded debt is paired with a revenue source from the MMA that will repay bonded debt used for transportation projects in the MMA. Examples could include property taxes charged by a road service district or a special road district, both of which are described below as other funding alternatives for the MMA. Revenue bonds might be feasible for some other sources of funding approved by the elected officials. A countywide bond is unlikely to be suitable for the MMA unless the County Commission asks all taxpayers to pay for projects that are primarily for the MMA's benefit.

3. Business License Fee for Transportation

Two cities in Washington have used their authority to license businesses to impose a license fee per employee that is used to build transportation improvements that benefit businesses. Renton charges $55 per employee per year, and uses 80% of the license revenue for transportation. Redmond charges $83.25 per employee and uses 66% for transportation. The fees are per full-time equivalent employee in order to pro-rate the cost for part time employees. The cities do not charge the fee to governmental or non-profit agencies.

The programs were developed in active consultation with the business community. There was a sunset for the first program in each city. After the initial sunset periods, the business communities felt that the cities were putting the money to good use and agreed to continue the programs, and to remove the sunset clauses.

The legal authority for a business license fee for transportation in Oregon has not been determined. In Washington, the authority is based on County and City authority to regulate and register businesses. The fee can be established by the elected County Commissioners and City Councils, and does not require voter approval.

Suitability for MMA: Could be suitable if applied to businesses in the MMA and the revenue is dedicated to specific projects in the MMA that clearly benefit the businesses.

4. Conditions of Approval

The County's approval of development could include conditions that require the developer to construct specific improvements as a direct mitigation of specific impacts. These conditions of approval would be in addition to frontage improvement requirements or fees-in-lieu pursuant to Zoning Development Ordinance 1007.10. The County also has a concurrency ordinance that imposes conditions on development. County Commissioners and City Councils have the authority to develop or modify conditions of approval without voter approval.

At the County's request, we reviewed 2011 draft white papers "Alternative to Traditional Development Review and Transportation Funding Approach" by Kittelson & Associates for the City of Ashland, and for Clackamas County. One component proposed requiring developers to mitigate safety issues on-site and at their points of access to the transportation network. Such an approach could help Clackamas obtain small mitigations of localized safety concerns. Larger safety elements may be included in transportation projects that are eligible for transportation system development charges (TSDCs) that are described later in this memo.

As a practical matter, conditions of approval are typically associated with direct impacts of development on adjacent streets. It is difficult to associate conditions of approval with major transportation project improvements, such as those listed for the MMA.

Suitability for MMA: Not suitable because the conditions of approval would be limited to portions of projects on the MMA project list, and would only be available if and when a specific development is proposed. Would not provide funding for MMA projects in advance of development.

5. Construction Excise Tax

An excise tax would be charged on new construction, typically based on the value of the construction. Oregon law does not currently authorize construction excise taxes. Enabling legislation, if passed, would also determine whether the tax could be adopted by County Commissioners and City Councils, or that voter approval would be required.

Suitability for MMA: Not suitable until state legislation is adopted that authorizes construction excise taxes. If a construction excise tax is authorized, suitability for the MMA would depend on the ability of the County to charge the construction excise tax only in the MMA, or to develop a formula that allocates a portion of a countywide construction excise tax to the MMA.

6. Cost Recovery - Zones of Benefit (Latecomer Fees)

Clackamas County Code 4.03 allows for developer to apply to the County to create a process by which a developer can make improvements to roads and then recover part of the costs. The County's process authorizes the developer to negotiate with surrounding properties to pay the developer for the cost of improvements that would have been a condition of approval for their own development. The zone of benefit district expires after 15 years. One zone of benefit cost recovery has been approved by Clackamas County.

Suitability for MMA: Not suitable because they have been difficult to establish, and they expire after 15 years.

7. Districts - Community Facilities

Community facilities districts were created in California in 1982 as a tool local governments have used to help finance needed community facilities by levying a special tax on properties within the district and using the tax to repay debt that was incurred to build the facilities for the district. Oregon law does not currently authorize community facility districts. Enabling legislation, if passed, would also determine whether the districts could be created by County Commissioners and City Councils, or that voter approval would be required. California requires voter approval, but Florida does not.

Suitability for MMA: Not suitable until state legislation is adopted that authorizes community facility districts. If community facilities districts are authorized, they would likely be suitable for the MMA because district boundaries would likely be authorized to be the same as the MMA.

8. Districts - Local Improvement

Local improvement districts (LIDs) are available only for transportation improvements that cause an increase in the value of property adjacent or near the transportation improvement. A group of property owners ask the County to form a district for their properties, and to build the transportation improvement for the district. The County later collects annual special assessments on the properties in the district. The special assessments are typically calculated as an amount per lineal foot of property frontage. LIDs often require a technical study to calculate the amount of the assessments. There are a few local improvement districts in Clackamas County.

ORS 371.605-660 contain authorization and limitations on local improvement districts. The districts can be established by County Commissioners and City Councils or by a vote of 60% of landowners.

Suitability for MMA: Not suitable for the MMA because few, if any, of the MMA transportation projects are likely to attract the willingness of nearby property owners to incur special assessments on their property since substantial benefits from the MMA transportation projects are to traffic not originating from or destined to the nearby properties. Local improvement districts are not suitable for the MMA for the additional reason that the County would need to build and pay for the project and wait to be reimbursed by the special assessments, typically over a period of many years.

9. Districts - Road Maintenance

Clackamas County may form a road maintenance district boundary over the entire County. Residents can then form assessment districts to ensure their roads are kept at a specified level of service. The district would resemble Clackamas County's street lighting district and the library operating district. The district can include incorporated cities if they choose to participate.

ORS 451.010-990 contain authorization and limitations on road maintenance districts. The districts can be created only if approved by voters.

Suitability for MMA: Not suitable because the districts raise money for maintenance, not for capital construction.

10. Districts - Road Service

Clackamas County may form a road service district on any contiguous territory in any unincorporated area of the county. The district levies and collects a property tax for capital construction and/or maintenance of roads.

A road service district may not be imposed within cities or drainage districts 5,000 acres or greater, unless voters in those areas agree to be included within the County's district.

ORS 198 and 371.055-110 contain authorization and limitations on road service districts. The districts can be established by County Commissioners and City Councils.

Suitability for MMA: May be suitable for the portion of costs that benefit residential and commercial properties in the MMA. May be feasible to use the property tax revenue to repay debt that would allow the MMA to construct some MMA projects without waiting for the cash flow of future property taxes.

11. Districts - Special Road District

Clackamas County may form a special road district on any contiguous territory in any unincorporated area of the county. All property owners situated within the road district will be assessed a property tax levy. Clackamas County created a special road district in the Government Camp area.

ORS 198 and 371.305-385 contain authorization and limitations on special road districts. The districts can be established by County Commissioners and City Councils.

Suitability for MMA: May be suitable because a zone could be created for the MMA to collect property taxes for the MMA projects.

12. Fee in Lieu of (FILO)

Clackamas County Code 1007.10 provides for a fee in lieu of (FILO) required frontage improvements on County roads. The frontage improvement requirement is primarily for sidewalks. The amount is specified as $25 per lineal foot, adjusted for inflation.

Clackamas County included a policy in the Transportation System Plan that contemplates an expanded FILO for transportation capital improvement funding in the MMA. "Revised TSP Policy 5.AA.6 - Urban - Evaluate creating a transportation facility funding program that establishes a "fee in lieu of" process that may be used by developers to pay for all on-site and off-site transportation facilities required as part of the land development process."

In order for this policy to be implemented, it would be necessary to require developers to build "...all on-site and off-site transportation facilities required as part of the land development process", and then to offer the developer the option to pay a fee in lieu of the required improvements. It is unlikely that such a sweeping requirement could be imposed as a condition of approval under current Oregon law. Furthermore, there is an existing mechanism, transportation system development charges (TSDCs) that can accomplish the same result.

Suitability for MMA: Not suitable because of limited ability of the County to require non-monetary mitigation of "all on-site and off-site transportation facilities". A "fee in lieu of" has to be an alternative to ("in lieu of") another requirement that can be imposed by the County. The only non-monetary requirements the County can impose are very limited in scope (see "conditions of approval", above, and frontage improvements). These requirements apply only to very small portions of the MMA project list.

13. Fee - Aggregate (Natural Resources)

Clackamas County can charge a fee per ton of aggregate (natural resources) transported into or within the County. Natural resources include coal, clay, soil, stone, shale, sand, gravel, metallic ore or aggregate. The premise for the fee is that trucks hauling aggregate cause disproportionate wear and tear on County roads. The fee can be used for capital construction and/or maintenance.

ORS 203.035-055 contain authorization and limitations on fees on natural resources. The fees can be created only if approved by voters.

Suitability for MMA: Not suitable because there are very few natural resources in the MMA, therefore the fee would generate very little money for MMA transportation projects.

14. Fee - Solid Waste Haulers

Clackamas County currently charges a disposal fee per ton of solid waste. The County could increase the fee and use the increase for road construction and/or maintenance.. The premise for the fee would be that trucks hauling solid waste cause disproportionate wear and tear on County roads.

ORS 203.035 and 459.125(1)(d) contain authorization and limitations on fees on solid waste haulers. The fees can be established by County Commissioners and City Councils.

Suitability for MMA: Not suitable because the disposal fee is charged regardless of the source of the solid waste, therefore it would not be possible to charge the fee, or an increased fee, on solid waste from the MMA.

15. Fines for Traffic Violations (current law)

Traffic fines from the justice court are primarily deposited to Clackamas County's general fund to pay part of the budget for the Sheriff. Approximately $250,000 per year is provided to DTD for the Safe Communities Program.

Suitability for MMA: Not suitable because the existing fine revenue is not available for MMA projects.

16. Fines for Red Light Violations

The City of Fife, Washington has a separate fund, the "Public Safety Fund" in which it deposits the fines it receives from the photo red light enforcement program. Expenditures from the public safety fund are used first for costs of the red light enforcement program, including the City's administrative costs.

When there are surplus monies in the public safety red light enforcement fund, the surplus is expended for: (1) purchase and installation of school zone signs and lights; (2) pedestrian overpass/underpass design and construction costs; (3) sidewalk design and construction costs; (4) streetlight acquisition, operation and maintenance; (5) signalized pedestrian crosswalks; (6) the purchase, design and construction of pedestrian trails that serve to redirect pedestrian traffic off of streets with high traffic volumes; and (7) the design and construction of similar pedestrian safety oriented improvements. The City of Fife nets at least $1.2 million per year for transportation improvements.

City governments in Oregon have the authority to adopt local regulations pertaining to local traffic. The regulations can be established by the elected City Councils, and do not require voter approval. Counties in Oregon do not have the same authority at this time.

Suitability for MMA: Not suitable until state legislation is adopted that authorizes counties to collect photo red light fines. Could be suitable if applied to traffic signals in the MMA and the revenue is dedicated to specific projects in the MMA.

17. Gas Tax - Local Option

Clackamas County's portion of state gas taxes are used for transportation capital maintenance, operations and non-capital maintenance of the transportation network.

A local option gas tax can be used for capital construction and/or maintenance. The tax can be either a countywide tax, or unincorporated area only, or some mixture in between. The gas tax is normally levied as a cents-per-gallon tax, but it could be levied as a percent of sales amount instead of cents per gallon. The tax could be a permanent increase, or tied to a specific transportation project with a sunset clause that ends the tax once sufficient revenue has been raised.

If the gas tax is imposed countywide, the County would need to decide if revenue should be shared with the cities. And if the tax is not charged countywide, some residents may choose to purchase gas in cities to avoid the added cost per gallon.

ORS 319.010-430 and 320.345-350 contain authorization and limitations on local option taxes on gasoline. The taxes can be created only if approved by voters.

Suitability for MMA: Not suitable because local option gas taxes are levied countywide, not just in the MMA. At best, the County could develop a formula that allocates a portion of the countywide local option gas tax to the MMA. In addition, the local option gas tax is not suitable for the MMA at this time because Clackamas County is actively considering using it for transportation maintenance costs.

18. Grants

Grants are made by the U.S. Government, the State of Oregon and other governmental agencies to help counties and cities pay for a variety of transportation improvements. There are several different grant programs. Each grant program has its own focus on different aspects of transportation, and each has its own criteria for selecting which projects it will support with its grant funds. Grants are typically competitive: many counties and cities submit applications and compete for the grant awards, but not all applications are awarded a grant.

Grant revenues are becoming more and more competitive, and the amount of money available for grants is declining due to budget issues at both the Federal and State level, and decreases of gasoline purchases which reduces gas taxes, one of the main sources of funding for grants for transportation. Furthermore, federal "earmarks" (a direct appropriation, rather than a competitive grant) used to be common, and now are virtually nonexistent.

Most grants require a share of the project cost to be paid by the County. The County's share of project costs would need to come from other County revenues, such as those described elsewhere in this memo. Clackamas County has received many grants for transportation capital projects.

Local governments in Oregon have the authority to apply for and receive grants for transportation capital improvements. The applications are received pursuant to the authority of the elected County Commissioners and City Councils, and do not require voter approval.

Suitability for MMA: Very suitable for MMA transportation projects.

19. Loading Dock Door Excise Tax

An excise tax on loading dock doors could be used to pay for some of the costs to the transportation system caused by the heavy vehicles that typically use the loading dock facilities. The revenue could be used for transportation capital projects.

The excise tax could be based on the number of loading dock doors subject to the excise tax. One proposal exempted the first 2 loading doors at each business, and the remaining loading dock doors would be subject to the excise tax. That study, for a city in Washington, proposed a tax of $179 per door.

The legal authority for an excise tax on loading dock doors in Oregon has not been determined.

> ***Suitability for MMA:*** Not suitable because there are very few businesses with loading dock doors in the MMA.

20. Lodging Tax

A lodging tax would be paid by customers who lodge in a hotel, motel, bed and breakfast facilities, RV sites, resorts, inns, cabins, short term rental apartments or condominiums, vacation rental housing and other dwelling unit used for temporary overnight human occupancy. The tax is paid by out of town residents using county roads on a temporary basis.

Clackamas County has a countywide lodging tax. Only 30% may be used for County services. The remainder must be used for tourism.

ORS 203.035 and 320.345-350 contain authorization and limitations on lodging taxes. The taxes can be created only if approved by voters.

> ***Suitability for MMA:*** Not suitable because the County has an existing lodging tax and only a limited amount of the revenue can be used on services or projects other than tourism.

21. Parking Tax

Some counties and cities tax commercial parking businesses based on gross proceeds or the number of stalls or tax the customer, similar to an admissions tax. Tax exempt carpools, vehicles with handicapped decals, and government vehicles may be exempt from the tax. Expenditures can be for roadways, bicycle and pedestrian facilities, and transit facilities, as well as for TDM functions and general transportation planning activities. The legal authority for a tax on commercial parking in Oregon has not been determined.

An alternative form of parking tax would be to tax businesses for free parking spaces they provide on their property. The legal basis for such a tax has not been determined.

Suitability for MMA: Not suitable because there are very few commercial parking lots or structures in the MMA.

22. Property Tax for Transportation - Local Option Levy

Counties can ask their voters to increase property taxes in either of two ways: a "tax rate" or a "uniform amount."

The tax rate method authorizes a pre-determined tax rate each year of the levy, and the County would receive whatever amount of revenue is generated by the taxable value of property within the County each year.

The uniform amount method authorizes the County to receive the specified amount every year, and the tax rate would change from year to year, based on the taxable value of property within the County each year.

The revenue can be used for capital construction and/or maintenance, but the levies are limited to 10 years for capital projects, and 5 years for non-capital costs. Not less than 50% of the revenue must be shared with cities.

ORS 280.040-145 and 368.705-710 contain authorization and limitations on local option property taxes. The taxes can be created only if approved by voters.

Washington County has a voter-approved property tax for transportation called the Major Streets Transportation Improvement Program (MSTIP). The MSTIP program began as a series of serial levies (1986, 1989 and 1995) and voters rolled it into the county's fixed tax rate in the late 1990s. The Board of County Commissioners decides upon MSTIP funding amounts as part of the annual budget process. While the county manages MSTIP projects, most of the money goes back into the local community—to private sector planning and engineering firms, and to construction contractors on a competitive bid basis to build projects under county supervision. MSTIP funds can also be used to leverage other local, state and federal funds to provide even more benefit across the county.

Suitability for MMA: Not suitable because the levy and the use of the revenue from the levy are not limited to the MMA, although the County might be able to develop a formula to allocate a portion of the levy to the MMA, The levy is only collected for 10 years, and there may be tax rate compression issues in the urban area that would make this unsuitable for the MMA.

23. Real Estate Excise Tax (REET)

Washington state authorized counties and cities to adopt real estate excise taxes (REET) of 0.25% or 0.50% of the sale price of all real estate transactions. The money is required to be used for infrastructure improvements, including transportation projects, but also parks and other public facilities. A portion is allowed to be used for maintenance of public facilities.

Oregon law does not currently authorize real estate excise taxes. Enabling legislation, if passed, would also determine whether the tax could be adopted by County Commissioners and City Councils, or that voter approval would be required.

Suitability for MMA: Not suitable until state legislation is adopted that authorizes real estate excise taxes. If a real estate excise tax is authorized, suitability for the MMA would depend on the ability of the County to charge the real estate excise tax only in the MMA, or to develop a formula that allocates a portion of a countywide real estate excise tax to the MMA.

24. System Development Charges

TSDCs are one-time fees charged to new development to help pay a portion of the costs associated with building transportation facilities to meet needs created by growth. The amount of TSDCs is based on a capital improvement program (CIP) that lists specific capital projects that increase capacity of transportation facilities. TSDCs can be used for all modes of travel (vehicular, bicycle, pedestrian and transit). TSDCs can be charged for projects that include safety features as long as the overall project increases the capacity of the transportation system. TSDC revenue may not be used for maintenance. TSDCs are paid at the issuance of the building permit. TSDC revenue is used only for the capital projects in the CIP list.

TSDCs equitably spread the cost of increased capacity road projects to new development. New and expanded development in the County will use existing excess road capacity and therefore the development should contribute to the funding for increasing the capacity of these facilities based on the trips being generated.

SDCs have been in use in Oregon since the mid-1970's and state legislation regarding SDCs was adopted in 1989. The purpose of the Oregon Systems Development Act (ORS 237.297 - 314) is to "...provide a uniform framework for the imposition of system development charges…." Additions and modifications to the Oregon Systems Development Act have been made in 1993, 1999, 2001, and 2003. Together, these pieces of legislation require local governments that enact SDCs to:

- adopt SDCs by ordinance or resolution;
- develop a methodology outlining how the SDCs were developed;
- adopt a capital improvements program to designate capital improvements that can be funded with "improvement fee" SDC revenues;
- provide credit against the amount of the SDC for the construction of "qualified public improvements";
- separately account for and report receipt and expenditure of SDC revenues, and develop procedures for challenging expenditures; and
- use SDC revenues only for costs related to capital expenditures (operations and maintenance uses are prohibited).

The Oregon Systems Development Act provides for the imposition of two types of SDCs: (1) "improvement fee" SDCs, and (2) "reimbursement fee" SDCs. "Improvement fee" SDCs may be charged for new capital improvements that will increase capacity. Revenues from "improvement fee" SDCs may be spent only on capacity-increasing capital improvements identified in the required Capital Improvements Plan (CIP) that lists each project. "Reimbursement fee" SDCs may be charged for the costs of existing capital facilities if "excess capacity" is available to accommodate growth.

Washington County has a fee similar to a TSDC, called the Transportation Development Tax (TDT). The difference is that the TDT was approved by the voters, and was authorized by them to perform in a few ways that are different than system development charges, such as applying uniform rates in multiple jurisdictions. Because the TDT is so similar to a TSDC, its characteristics are summarized in this SDC section of this memo:

- The TDT collects fees from new development based on the development's projected impact on the transportation system. Developing properties are required to pay based on the number of trips they are projected to generate.

- Developing properties pay based on their category of use. The rates stipulated in the TDT Ordinance are based on the average trips for a use of that category as identified in the Institute of Transportation Engineers Trip Generation Manual. TDT rates are dependent on a development's land use category.
- The TDT is based on a uniform rate structure assessed by all jurisdictions within Washington County. The tax is charged to a developing property the same whether it is located within cities, unincorporated urban or rural areas.
- Proceeds from TDT are used to fund highway and transit capital improvements that provide additional capacity to the major transportation system. The program does not fund minor reconstruction or maintenance projects.
- Proceeds from the program pay for a portion of transportation needs. The county and cities rely on other revenue sources to fund the majority of transportation improvements.

Clackamas County has a Transportation System Development Charge (TSDC), and the County and the City of Happy Valley have a Joint Area TSDC. The majority of the revenue in both districts is dedicated to debt service in the near-term to repay loans from the Oregon Transportation Infrastructure Bank that enabled the construction of SE Sunnyside Road and SE 172nd Avenue.

The two existing TSDC districts collect SDCs for projects in their service areas. One alternative for the MMA would be to change the existing district boundaries so that there would be three districts: the MMA, the remainder of the Joint Area, and the remainder of the County. A different approach would be to leave the existing district boundaries in place, but create an additional overlay district for the MMA. Development in the MMA would pay two TSDCs, one to the existing district (County or Joint) and a second TSDC to the MMA. The City of Portland has two overlay TSDC districts in which development pays the Citywide TSDC and also the overlay TSDC.

The TSDCs imposed in the Clackamas County and Joint areas primarily benefit motor vehicles because the projects in the TSDC methodologies are mostly for street and road segments and intersections. Oregon law allows TSDCs to include other modes of travel, such as bicycle and pedestrian. The City of Portland has included significant multi-modal projects, including bike, pedestrian, and streetcar, since 1997.

Suitability for MMA: Suitable for the MMA if the transportation system development charges (TSDCs) are based on the MMA project list, and if the resulting TSDC revenue is spent on the MMA project list. The MMA is currently included in the County and Joint Area TSDCs. The MMA could be established as a third TSDC service area, or it could be created as an overlay TSDC in addition to the current TSDCs. The TSDC could also be revised to include other modes of travel.

25. Tax Increment Financing (Property Tax Set Asides)

Tax increment financing (or Urban Renewal) is a tool for financing improvements and encouraging private investments in an area otherwise overrun by blight. The investments in infrastructure, such as roads, sidewalks, bike paths, water lines, and sewer, promote development. One result of the development is an increase in the value of properties, which generates more taxes that can be used to pay for the infrastructure investment.

An urban renewal district is created to make the investment in infrastructure, and to pay for the investment by collecting the increase in property taxes in the district. Many urban renewal districts borrow money to make the initial investment, then use the subsequent property tax "increment" to repay the debt.

When an urban renewal district is created the assessed value at that time is "frozen" as the basis for future property taxes paid to pre-existing governments and districts during the life of the urban renewal district. When the assessed value increases in the urban renewal district, the additional "increment" of property tax revenue generated by the increased value is paid to the urban renewal district.

Clackamas County has an urban renewal area with tax increment financing for $48 million for the Clackamas Town Center. There are three other urban renewal areas in Clackamas County, but they are not in the MMA area. Urban renewal areas and tax increment financing are authorized by ORS 457.

Suitability for MMA: Not suitable because the existing Clackamas Town Center urban renewal area uses up most of the potential revenue from tax increment financing in the MMA.

26. Transportation Project Improvement Fee (TPIF)

Clackamas County developed the following description of an idea for a fee that it calls a Transportation Project Improvement Fee (TPIF).

> *Such a fee would be developed with the intent of funding the development of projects necessary to meet the alternative transportation performance*

standards within the MMA. The new TPIF would replace the Transportation System Development Charges within the CRCDPA.

The process of developing a MMA Transportation Project Improvement Fee would begin with the determination of transportation projects needed to insure that forecast development is able meet the alternate transportation performance standards set for all modes of travel in the MMA. The MMA Transportation Project List could be based in part upon the projects included in the recent TSP Update and may include additional transportation projects not previously identified. These projects would be described in more detail than the projects listed in the TSP. Project cost estimates would be developed using county infrastructure costing methodologies.

The MMA Transportation Project List total project cost would be the basis for developing the MMA Transportation Project Improvement Fee (TPIF), if such a fee is identified as a viable approach to the implementation of alternate development standards for capital improvements in the MMA area.

The County requested that this memo consider a TPIF as a potential funding strategy for the MMA, and asked whether or not comparable strategies may have been developed for Ashland and/or Washington County.

The City of Ashland and Clackamas County both received draft white papers in 2011: "Alternative to Traditional Development Review and Transportation Funding Approach" by Kittelson & Associates. One component proposed requiring developers to mitigate safety issues. This proposal is discussed earlier in this memo under #4, Conditions of Approval. The conditions of approval proposed for Ashland and Clackamas County are not a fee, and do not form the basis for a TPIF as envisioned by Clackamas County. The other component of the Kittelson white paper is to revise the transportation system development charge (TSDC) so that it includes bicycle, pedestrian and transit modes of travel. An expanded TSDC could function like the TPIF described by Clackamas County. Full multimodal TSDCs are authorized under current Oregon Law. We developed fully multimodal TSDCs for the City of Portland in 1997, updated them in 2007, and added two multimodal overlay TSDCs in 2009 and 2011. More information about multimodal and overlay TSDCs is provided in this memo under #24, System Development Charges. Oregon law does not explicitly authorize transportation project improvement fees, but existing law authorizing multimodal TSDCs could produce the same results.

Washington County has two transportation funding strategies that are described in more detail elsewhere in this memo. Washington County's voter-approved property tax for transportation, the Major Streets Transportation Improvement Program (MSTIP), Is described in this memo under #22, Property Tax for Transportation. Property taxes are not the same as a fee.

Washington County's Transportation Development Tax (TDT), Is called a "tax" but it is an Impact fee, similar to a system development charge (see #24). System development charges and impact fees, including the TDT, function as a fee, so they have some of the features envisioned for a TPIF that would be paid by new development.

When considering a new fee, it is important to determine who will pay the fee. If a TPIF fee is paid only by new development, its function is similar to other fees charged to new development, such as system development charges (see #24 in this memo), and/or fees-in-lieu-of (see #12). If the fee is paid by all properties or users of the transportation network, its function is similar to special assessments charged by districts (see #8 – 11).

Suitability for MMA: Not suitable until state legislation is adopted that authorizes transportation project improvement fees (TPIF). If TPIFs are authorized, suitability for the MMA would depend on the ability of the County to charge the TPIF only in the MMA, or to develop a formula that allocates a portion of a countywide TPIF to the MMA.

27. Utility Fee (Road or Street Utility)

Users of the transportation system would be charged for their use, much like water and energy utilities are charged. A road utility fee is a monthly fee collected on all residences and businesses in unincorporated areas of the County. In essence, the transportation system infrastructure is treated like a public utility and fees are charged to recover a portion of the cost of maintaining the utility's assets (other portions of the cost are paid by other sources, such as gas taxes in the Road Fund.

The amount of the fee is often a flat rate, but the fees can be based on the average number of trips generated by each developed property. The weight of vehicles can also be a factor in calculating utility fee rates (similar to the weight mile tax paid to the state). Seven cities in Clackamas County have street utility fees. The 7 cities have 73% of the population of all 16 cities in Clackamas County.

Utility fees are typically used only for maintenance costs, although some utilities include a capital component in the utility rates.

Suitability for MMA: Not suitable because road utility fees are primarily for maintenance costs, and Clackamas County is actively considering using it for transportation maintenance costs, making it not suitable for the MMA at this time.

28. Utility Tax for Transportation

An earnings tax on utilities could dedicate the proceeds to be used for Clackamas County's transportation system. Cities have the authority to charge a 1.5% convenience tax on utility providers.

Suitability for MMA: Not suitable until state legislation is adopted that authorizes utility taxes for transportation. If a utility tax is authorized, suitability for the MMA would depend on the ability of the County to charge the utility tax only in the MMA, or to develop a formula that allocates a portion of a countywide utility tax to the MMA.

29. Vehicle Registration Fee – Local Option

All passenger cars, commercial vehicles, trailers and motorcycles must be registered through the Oregon Department of Motor Vehicles. The registration is required to be renewed every two years.

Clackamas County could impose a vehicle registration fee surcharge on all vehicles in the County. The County receives 60% of collected revenue, and the other 40% is allocated to the cities based on population. Some vehicles are exempt, including buses, farm trailers, light trailers, campers, and governmental vehicles. The money can be used for capital construction and/or maintenance. The amount of the fee cannot exceed the State's fee (currently $43 for low-weight vehicles), and must be charged in whole dollar amounts.

ORS 801.040-041 contains authorization and limitations on local option vehicle registration fees. The fees can be adopted by County Commissioners and City Councils.

Suitability for MMA: Not suitable because local option vehicle registration fees are charged countywide, not just in the MMA. At best, the County could develop a formula that allocates a portion of the countywide local option vehicle registration fees to the MMA. In addition, the local option vehicle registration fee is not suitable for the MMA at this time because Clackamas County is actively considering using it for transportation maintenance costs.

Conclusion

It appears that the Clackamas County has several viable options for raising significant revenue for an MMA. It is unlikely that all of the MMA project costs can be funded by one source of funding. The MMA could be funded by a core group of three primary funding sources and an ancillary group of two secondary sources. In addition, the MMA could accelerate the construction of its projects by issuing bonds that would be repaid by one or more of the five funding sources.

Core Funding Sources for the MMA

There are three sources of funding that would provide most of the funding for MMA transportation capital improvement projects:

- Transportation System Development Charges (#24)
- Road Service District or Special Road District (#10 or 11)
- Grants (#18 in the alphabetical list of funding alternative descriptions)

These three funding sources are each available under current law and are suitable for the MMA, as described in the descriptions provided earlier in this memo. The rationale for using these three sources as the core funding for the MMA is:

Transportation System Development Charges (TSDCs) are a core funding strategy for transportation capital improvement projects that are needed because of the impact of new development on the transportation system. The MMA anticipates substantial new development, and TSDCs could fund a significant portion of projects needed for that growth. TSDCs can be charged for each mode of travel, although Clackamas County's current TSDCs are only for roads and streets for vehicular traffic. An MMA TSDC could include projects for bicycle, pedestrian and transit. TSDCs are typically charged for projects that add capacity to the transportation network, but safety components can be included in capacity, projects, and some purely safety projects may enhance the performance and level of service of the transportation network in ways that would make them eligible to be included TSDCs.

As noted earlier in this memo, the MMA is currently included in the service areas of the existing TSDCs. The existing boundaries could be revised to establish the MMA as a third TSDC service area. Alternatively, the two existing TSDC service areas could be retained, and an overlay TSDC could be created for the MMA transportation capital improvement projects. A TSDC for the MMA would require approval by local elected officials, but not by voters.

A **Road Service District or Special Road District** is the core funding strategy for the portion of transportation capital improvement projects that are needed by existing property owners, and which are not funded by grants or TSDCs. Depending on the specific law under which a district is created, the property taxes and/or assessments collected by the district may be available for all modes of travel, or may be limited to traditional road and street projects. District revenues are available for safety, capacity, and other types of transportation projects. The districts may be established by local elected officials, but voter approval is required for some funding sources, such as a permanent rate of property taxes.

Grants are a core funding strategy for most transportation capital improvement projects. Although grant funding is highly competitive, and difficult to forecast for specific MMA projects, grants provide significant portions of the cost of the projects to which they are awarded. Grants are available for each mode of travel. Grants are also available for safety, capacity, and other types of transportation projects. In addition, they do not require approval by local voters or elected officials.

Ancillary Funding Sources for the MMA

There are two sources of funding that could provide significant funding for some MMA transportation capital improvement projects:

- Business License Fee for Transportation (#3 in the alphabetical list of funding alternative descriptions)
- Fines for Red Light Violations (#26)

These funding sources may be available under current law and are suitable for the MMA, as described in the descriptions provided earlier in this memo. The rationale for using these two sources as ancillary funding for the MMA is:

Business License Fees for Transportation could be used for projects, or portions of projects, that provide important benefits to existing stable businesses as well as growing and/or new businesses in the MMA. Business license fee revenue can be used for each mode of travel, and for a variety of project needs, including safety or capacity. However, all projects funded by business license fee revenue need to have a demonstrable connection to businesses in the MMA. Business license fees do not require approval by local voters or elected officials, but the experience in communities that established such fees for transportation projects shows that the fees need the consent and participation of the businesses.

Fines for Red Light Violations could be used for safety projects, or portions of projects, that provide important safety improvements that are not funded by other funding sources. The red light cameras and finse for the MMA would require approval by local elected officials, but not by voters.

Acceleration of Projects Funded by Core or Ancillary Sources for the MMA

Bonds / Debt could be issued to build MMA transportation projects in the near term without waiting for the cash flow of future revenues, and to repay the bonds from future revenue from one or more of the five sources identified above for the MMA. As noted earlier in this memo, examples could include property taxes charged by a road service district or a special road district. These could be in the form of voter approved general obligation bonds. Alternatively, the debt could be revenue bonds issued by elected officials who commit future revenue from SDCs, business license fees, or red light violation fines to repay the revenue bonds.

Apportioning Costs for the MMA

Apportioning of costs to funding sources within the MMA will depend on a number of variables concerning existing sources of funding, including:

- The availability of grants. Since 2001, federal grants have provided about 17 percent of funding for transportation projects in the County (per the Transportation System Plan.)
- Whether any of the improvements will be funded directly by developers via the County's Zoning and Development or Concurrency Ordinances.
- The nature of the projects being funded and how they relate to capacity needs of growth vs. addressing existing system deficiencies (in order to determine the improvement SDC-eligible amount)
- The ability to establish a reimbursement SDC costs basis (to the extent that existing system available capacity may be demonstrated and valued)

In addition, apportionment of costs to funding sources within the MMA will be affected by whether or not additional funding sources are adopted for a road district, a business license fee and/or fines for red light violations.

Finally, apportioning costs among MMA funding sources will depend on legal limits on amounts that can be raised by each funding source, including:

- Growth's proportionate share of projects that are eligible to be included in SDCs.
- Property tax rate limits and compression limits on property taxes for road districts.
- Any limits on amounts of business license fees or red light violations.